HANDLING OF INDUSTRIAL DISPUTES IN THE PUBLIC SECTOR INDUSTRIES IN BANGLADESH

by

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To the memory of my late mother
whom I lost in the course of
working on this study abroad

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ABSTRACT

Public sector industries play a very significant role in the economy of Bangladesh. A cordial labour-management relationship as a pre-condition to uninterrupted production in such industries is therefore highly desirable. In the privatisation policy in early industrialisation, pursued during the pre-liberation days, a contradiction between private owners and workers was inherent. Under the policy of massive nationalisation pursued after the independence, improved industrial relations in the public sector industries could reasonably be expected. But the published sources suggest an opposite picture. With this background, the present study has been undertaken to examine the general trend, causes and methods of handling of industrial disputes in the public sector industries and to make some policy recommendations for improving future public sector industrial relations based on a review of the Government policies and the objective and subjective perspectives of the various institutional machineries of dispute resolution.

The study covers all aspects of dealing with both individual and collective disputes in certain public sector industries selected to represent the various sub-sectors of public sector industry. In addition to using secondary data from various published sources a field investigation has also been conducted. This field study is based on two types of data -the first comprising interviews with the people who are directly involved in resolving the disputes at various levels and the second comprising records of the actual dispute cases at each level of the dispute resolution process. In total, 96 respondents have been interviewed and 614 cases analysed.

By all measures, industrial conflict in the public sector industries in Bangladesh shows an increasing trend. As to causes of disputes, financial issues and wage scale anomalies seem to be the major issues. Real wages of the workers show a decreasing trend upto 1975 but due to severe political suppression of union activities during this period, the various measures of strikes didnot increase. From 1976 onwards real wages show an increasing trend at a slow rate;

however such increases were too low compared to workers' needs and levels of expectation and as a result man-days lost due to strikes increased. Thus, perhaps contrary to general expectation, a positive correlation between real wages indices and man-days lost due to strikes in public sector industries has existed. Union membership strength explains 22%, 32% and 43% respectively of the variation in the number of strikes, workers involved in strikes and man-days lost due to such strikes in the sample public sector industries. Although the underlying data suffer from certain basic weaknesses, the indications are that real wages and union membership strength are the two key independent variables influencing the incidence of industrial conflict in the Bangladesh public sector industries.

Disputes arising in the public sector industries are not handled effectively. A number of facets contribute to the present situation. Workers and their unions in the public sector industries have allthe characteristics of early industrial development, including multiplicity of unions, serious inter-union rivalries and allegience of workers to different unions. Appropriate managers are not placed at appropriate points in procedures. Both unions and managements hold adversarial views against each other. No plant has any formal grievance procedure. The administrative hierarchy of the public sector industries consists of three tiers: the Ministry at the top holding major decision-making powers, the corporation management at the middle holding all administrative and controlling powers and the plant management at the bottom having very little operational freedom due to the policy of excessive centralisation being pursued. Authority, responsibility, the issues to be resolved at each level, and the methods of negotiation have not been clearly spelt out. Many disputes are, therefore, raised at inappropriate levels, and negotiations naturally fail. Economic conditions of service of the workers in these industries are governed by a uniform and standardised wage scale fixed by the Government, irrespective of inter-industry and inter-plant diversity of situation. Continued change occurs in the cost of living. All

these act as a deterrent to healthy labour-management relations and increased productivity. Under such conditions negotiations and conciliation fail to bring any acceptable outcome to the reasonable satisfaction of the parties concerned.

The centralised Government control of the wages and fringe benefits and the peculiarity of management structure of the public sector industries have significantly reduced the scope for institutional dispute resolution machineries. The Industrial Relations Ordinance, 1969, governing industrial relations and dispute resolution in Bangladesh, though equally applicable for both public and private sectors, is inappropriate for the public sector industries in many respects. Plant managements usually do not accept negotiation on economic disputes on the plea of a lack of authority. The corporations have only limited and ambiguous authority, and are overburdened with bureaucratic rules. A very few cases are refered to conciliation and still fewer ultimately come out successful. Labour courts mainly handle "rights" disputes of an individual nature. The arbitration machinery exists in law but not in practice. Not even a single case from the sample public sector industries has been referred to the labour appellate Tribunal since 1974. The limited scope for settlement of collective issues by the formal institutional machineries leaves only one method for settling such issues -the direct intervention of the Government in the face of a corporation-wide workstoppage by the workers.

Contrary to general assumptions all external machineries of dispute resolution - conciliation, labour court and labour appellate tribunal - are found to be very underloaded. Nevertheless none of the machineries except conciliation could adhere to statutorily provided time limits in disposing of the disputes referred to it. Labour courts seem to be most negligent in this respect. All institutional machineries suffer from certain objective and subjective problems which diminish their effectiveness of operations. Depending on the varied nature of such problems, tentative solutions to them are suggested over short, medium and long-term perspectives. Based on the tentative solutions to

problems identified and the applicability of certain Western models, three sets of industrial relations are conceptualised - one at the plant level, one at the corporation level and the other at the national level. Considering both the present and conceptual situations, three contingency path models (one for the plant, one for the corporation and the other for the conciliation level negotiations) are exemplified. Finally, in view of the three-tier organisational structure of the public sector industries and the suggested tentative solutions to present problems of the institutional methods of resolving disputes, the last Chapter suggests a model, consisting of three levels, for improving future industrial relations and productivity in these industries. Under this suggested model, industrial relations at the three levels would be governed mainly by three types of agreement - the basic agreement at the national level, the substantive agreement at the corporation level, and the procedural agreement at the plant level.

In a developing country like Bangladesh where prices are rising rapidly, the unemployment rate is very high and the workers are organisationally very divided and weak, much depends indeed on the attitudes and policies of the Government which is the major industrial employer and final decision-maker of the policies affecting the employment of workers in the public sector industries. But it is not heartening to note that over the industrial relations history of Bangladesh, workers got as many as six labour policies, each full of big promises for improving the fate of workers, however, due to their non-implementation, all of these have turned into "Sleeping Beauties" within the four walls of the Labour Ministry.

CHAPTER I
INTRODUCTION

Bangladesh is basically an agricultural country. About three-fourths of the total civilian labour force of the country are engaged in agriculture,[1] while agriculture contributed nearly 50 per cent of the gross domestic product (GDP) in 1977-82.[2] The industrial sector contributed around 10.5 per cent only (large scale industries contributed 6 per cent and the small scale industries 4.5 per cent) of the total GDP over the same period.[3] The relative insignificance of the extent of industrialisation in Bangladesh is also evident from the distribution of employment Out of the 25.3 million employed labour force in 1979-80, those engaged in industry (of all sizes - large, medium and small) accounted for only 1.9 million (i.e. 4.7 per cent of the total employed labour force). The breakdown of the industrial employment as to the size of industries showed that only 0.4 million people are engaged in modern industries, and 0.79 million in small and cottage industries.[4] Thus on all considerations, Bangladesh is indeed one of the least industrially developed nations of the world.

But this should not minimise the role of industrialisation in the economy of Bangladesh. The world is now entering a new age - the age of total industrialisation. Industrialisation is now universally accepted as a powerful catalyst for economic growth irrespective of the political, social and economic systems prevailing in a country.[5] This equally applies to Bangladesh as well. In fact, in her specific economic and demographic contexts, the role of industrialisation in Bangladesh is all the more important. The strong arguments for industrialisation in Bangladesh are: import substitution, domestic availability of raw materials, higher value added in manufacturing, forward and backward linkages, absorption of surplus labour from agriculture and attempts to minimise adverse effects arising from instability of international demand for primary goods.[6]

Economic history of the industrially developed countries reveals that there are many roads to industrialisation - capitalist or

socialist or mixed. The choice of a particular route depends mainly on the policies and strategies of the industrialising elites leading the industrialisation process of a country at a particular point in time. The policies and strategies of the elites, in turn, are shaped by the interaction of a large number of variables - political, economic, social, historical and cultural.[7]

Irrespective of the political and economic systems, the industrial system everywhere has its managers, its managed and a pattern of interactions between them.[8] In the process of interactions between the two parties - management and workers - industrial conflict emerges to be an inevitable component. Having recognised the inevitability of the industrial conflict, the task before us is its proper institutionalisation and effective handling.

Although Bangladesh adopted a dual policy of industrialisation - industrialisation through public and private sectors - the public sector, however, plays a dominant role. The role of public sector industries in the economy of Bangladesh will be briefly described in Section 1 of this Chapter. The present state of industrial relations in the public sector industries will be highlighted, in brief, in Section 2. In the context of the present industrial relations pattern, and a few related studies in this regard, the significance of the present study on the "Handling of Industrial Disputes in the Public Sector Industries in Bangladesh" will be taken up in Section 3. Section 4 will outline the plan of the study.

1.1. Role of Public Sector Industries in the Bangladesh Economy

1.1.1. Past role

As a point of departure to describing their role in the Bangladesh economy, the evolution of the public sector industries should be viewed in terms of a historical perspective. The part of the world now constituting Bangladesh was a part of British India up to 1947, and of undivided Pakistan up to 1971. The public sector in British

India was largely confined to administrative and regulatory activities, devoted primarily to providing limited social goods in the form of communication, education, health, broadcasting, posts, telegraph and telephone, roads and railways, a limited banking facility and certain defence establishments, largely dictated by the needs of the governing class.[9]

In 1947, when Bangladesh emerged as a part of the then Pakistan, her industrial base was very small. Large scale industries were virtually absent, though a large number of small and cottage industries were operating in the country. In 1949-50, the contribution of the whole industrial sector to the GDP was about 3 per cent only - the large scale enterprises contributing just over half a per cent.[10] During the Pakistan period, the industrialisation was a fundamental goal of the government and it was achieved primarily through private enterprise, and the government pursued policies and carried out activities designed to develop private entrepreneurs and created a favourable environment within which the private sector could undertake industrial investment.[11] Over the years public enterprises in the then East Pakistan (now Bangladesh) were brought into being on account of the following reasons:[12]

1. That there was the need to fill up the entrepreneurial vacuum in the economy for which the private sector had neither the resources nor the technical know-how (viz., East Pakistan Industrial Development Corporation).

2. That there was the need for appropriate agencies to absorb the aids for industrial development received from the aid-giving countries.

3. That there was the need for an agency which had the full credit of the government to qualify for international credits.

4. That there was the need for a specialised body to carry out the expensive projects with extensive implications requiring mainly foreign and partially local investment (viz., East Pakistan Water and Power Development Authority for flood control and infrastructure of power).

5. That there was the need for developmental and promotional agencies in essential sectors of the economy like agriculture, where private sector agencies could not operate (viz., Agricultural Development Corporation).

6. That there was the need for standard setting in particular fields (viz., East Pakistan Road Transport Corporation and East Pakistan Shipping Corporation).

7. That there was the need for rendering financial and technical services where they were needed (viz., East Pakistan Small Industries Corporation, Industrial Development Bank of Pakistan, Pakistan Industrial Credit and Investment Corporation etc.).

8. That there was the need for nursing some particular business or industry (viz., Film Development Corporation, Forest Industries Development Corporation etc.).

Thus the goal of the public sector enterprises in Pakistan days was to supplement the private sector, not to supplant it. Indeed with the direct and indirect government patronisation to the private capitalists, a rapid rate of industrialisation was achieved. The rate of industrial growth averaged at 6.6% per annum during 1955-70. Obviously owing to the new start and small base, the large scale industry grew at a rate of 14.5%, compared to only 2.5% per annum for the small scale industry, which was accorded less priority by the government. By 1970, the industrial sector contributed about 10% of the GDP.[13] Although industrialisation through private entrepreneurs was the primary goal of the government during the Pakistan period, under the considerations stated above, the public

sector still controlled (under the ownership of the East Pakistan Industrial Development Corporation) 53 large industrial units representing about 34 per cent share of the value of fixed assets in the modern industrial sector in 1969-70 (Table 1.1).

TABLE 1.1

Relative Position of Private and Public Sector in Industry before and after Nationalisation *

Categories of Units	No. of Units	Value of Fixed Assets (in Million TK)	Percentage Share of Fixed Assets
Situation before Nationalisation (1969-70):			
A. Total No. of units (Total Industrial Sector)	3051	6137.5	100
B. Relative Position:			
1. Under EPIDC (public) Ownership	53	2097.0	34
2. Under Private Non-Bengali Ownership	725	2885.7	47
3. Under Private Bengali Ownership	2253	1118.8	18
4. Under Private Foreign Ownership	20	36.0	1
5. TOTAL INDUSTRIAL SECTOR	3051	6137.5	100
Situation after Nationalisation (March 26, 1972):			
A. Total No. of Units (Total Industrial Sector)	3051	6137.5	100
B. Relative Position:			
1. Units under Former EPIDC Nationalised	53	2097.0	34
2. Nationalised Abandoned or Absentee Units	263	2629.7	43
3. Nationalised Foreign Enterprises	1		
4. Nationalised Bengali Units	75	910.8	15
5. TOTAL NATIONALISED UNITS (1 + 2 + 3 + 4)	392	5637.5	92
6. Bengali-owned Private Units	2178	208.0	3
7. Abandoned Units for Disinvestment	462	256.0	4
8. Units with Foreign Participation	13	36.0	1
9. TOTAL PRIVATE SECTOR (6 + 7 + 8)	2659	500.0	8
10. TOTAL INDUSTRIAL SECTOR (5 + 9)	3051	6137.5	100

* Includes all industries registered under the Factories Act.
Source: [18]

The Pakistan government's policies of giving direct and indirect concessions to the private sector helped to create a first generation of industrial entrepreneurs most of whom were non-Bengali. The extremely generous government patronage and protection given to these non-Bengali capitalists contributed to

the transfer of resources from Bangladesh to (West) Pakistan to the amount of US $6,000 million.[14] This situation resulted in serious income inequality and inequity and consequent social tensions, which, combined with other political and cultural factors, ignited the separatist movement ultimately leading to the birth of Bangladesh in 1971.

1.1.2 Role after the emergence of Bangladesh

There occurred a radical change in the industrialisation policy immediately after the emergence of Bangladesh as an independent country. The previous privatisation policy adopted by the Pakistan government was discontinued particularly in the case of large and medium scale industries. The once strong private sector was suddenly rendered a very weak partner of industrial progress in Bangladesh. The role of the public sector may be examined under three broad heads - (a) its role in the field of modern industries, (b) its role in the major commercial sectors, and (c) its role in the other semi-commercial sectors.[15]

(a) Public sector in modern industries:

The new government of independent Bangladesh announced its nationalisation programme on 26 March 1972. Under this programme, all jute mills, cotton mills, sugar mills and all the industrial and commercial undertakings abandoned by the Pakistani owners were taken over under the direct ownership and control of the government. The taking over of the abandoned enterprises was a situational necessity for the government. Because they were enemy properties, it was the government's responsibility to take them over and put them back into operation. The nationalisation of the mills owned by the Bengalis was made in accordance with the political commitment of the Awami League, the first political party in power, which also promised a gradual transformation of the economy into a socialist one, free from exploitation of man by man, and thereby to ensure an equitable distribution of wealth among citizens.[16]

Sobhan and Ahmed estimated the relative position of the public and private sectors in the field of modern industries [17] before and after the nationalisation programme was brought into effect. They found that the share of the public sector increased from 34 per cent of the ownership of fixed assets in the modern industrial sector in 1969-70 to 92 per cent in the post nationalisation period (Table (1.1).[18]

It is evident from the Table that out of a total of 3051 modern units, 2659 units (87%) remained in the private sector; but all of these private sector units together accounted for only 8% of the value of fixed assets. Understandably, all of these were small scale units. It is to be noted that, in addition to the units registered under the Factories Act, a much larger number of small and cottage industries also exist in the private sector, but the exact number of such small and cottage industries is not available. The fact, however, remains that the private sector enterprises are all small and cottage types.

To run the nationalised industrial sector, nine industry-wide sector corporations were established. They were:

(1) Bangladesh Jute Mills Corporation
(2) Bangladesh Textile Mills Corporation
(3) Bangladesh Sugar Mills Corporation
(4) Bangladesh Food and Allied Industries Corporation
(5) Bangladesh Steel Mills Corporation
(6) Bangladesh Engineering and Ship-Building Corporation
(7) Bangladesh Paper and Board Corporation
(8) Bangladesh Fertilizer, Chemical and Pharmaceutical Corporation
(9) Bangladesh Tanneries Corporation

Under an administrative reorganisation in 1976, the number of sector corporations was reduced to the following five:

(1) Bangladesh Jute Mills Corporation (BJMC)
(2) Bangladesh Textile Mills Corporation (BTMC)
(3) Bangladesh Chemical Industries Corporation (BCIC)
(4) Bangladesh Steel and Engineering Corporation (BSEC)
(5) Bangladesh Sugar and Food Industries Corporation (BSFIC)

That the public sector industries played a more significant role than those in the private sector is also evident from their comparative performance during 1973-74 to 1981-82. Figure 1.1 shows the industrial production indices for all industries, public sector industries and private sector industries during 1973-74 to 1981-82 using 1973-74as the base year. Graph (a) shows the indices for all industries, (b) for public and (c) for private sector industries. Although the rise in the private sector seems substantial, the relative slowness of the public sector should be interpreted with caution. Because the private sector is much smaller, compared to the public sector, a relatively small change in quantity produces a relatively sharp change in the index. The close proximity of graphs (a) and (b) clearly indicates that the combined performance of both the public and private sectors is largely dependent on the performance of the public sector.

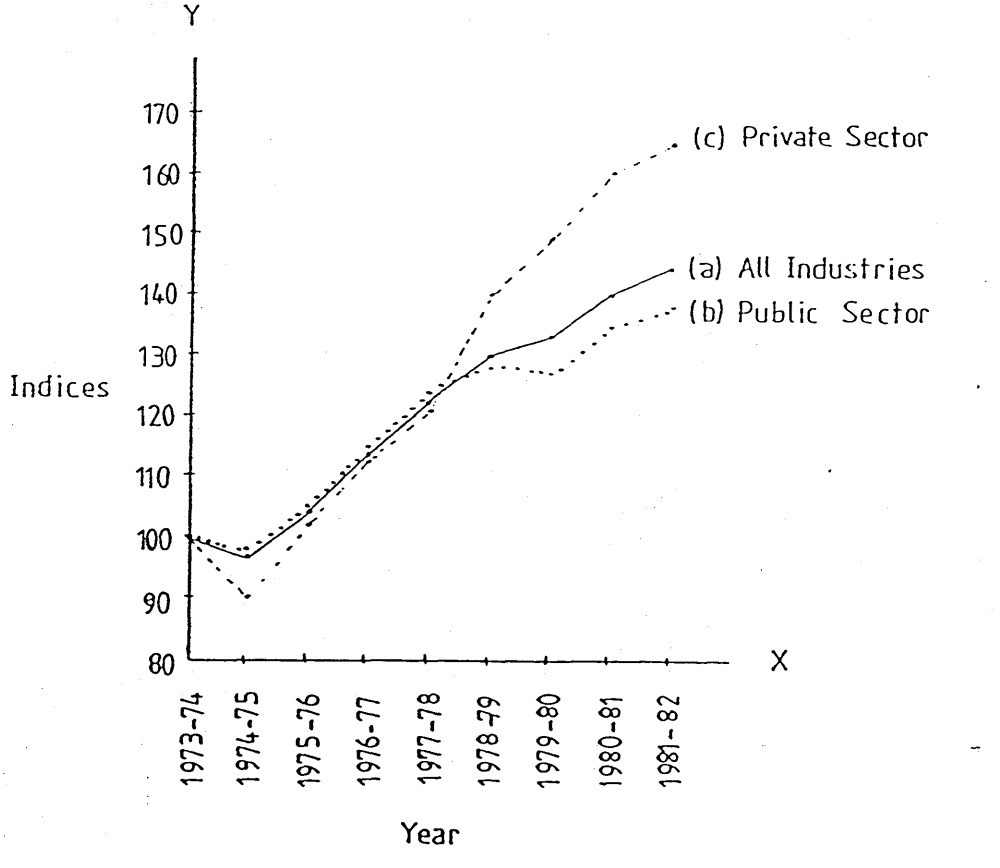

Fig. 1.1 COMPARATIVE PERFORMANCES OF PUBLIC AND PRIVATE SECTORS
BASE YEAR 1973-74 = 100

Source: Monthly Statistical Bulletin of Bangladesh, December 1982, Bureau of Statistics, Dhaka.

(b) Public sector in major commercial fields:

Banking: Of the Pakistani commercial banks operating in Bangladesh, 10 out of 12 were abandoned enterprises which controlled 1,175 bank branches. At the time of nationalisation, the abandoned banks controlled 70% of the deposits. The two Bengali commercial banks in operation accounted for about 18% of the deposits.

The 1970 Awami League Party Manifesto had committed itself to nationalisation of banking, and accordingly after liberation, the whole banking sector was nationalised. Six commercial banks were set up to run the nationalised banking sector. Only three foreign banks, accounting for only 8.4% of the deposits, survived nationalisation.[19]

Insurance: According to the commitment of the Awami League Party Manifesto, 1970 for the nationalisation of insurance companies, the whole insurance business was also nationalised. Two corporations were set up to run the nationalised insurance sector:

(1) Jiban Beina Corporation : for doing all life insurance business, and
(2) Sadharan Beina Corporation : for doing all insurance business other than life.

Transport: In road transport, there is one public corporation, Bangladesh Road Transport Corporation, which handles only about 15% capacity in passenger service. In the case of inland water transport, about 50% of the mechanised cargo carrying capacity is in the public sector.[20] The public sector has 100% monopoly in shipping, railway and air transport.

Foreign Trade: Major import items, such as cement, cotton yarn, cotton goods, iron and steel products, and baby foods have all been taken over by the Trading Corporation of Bangladesh (TCB), a public corporation. Import of industrial raw materials, such as raw cotton, pig iron, steel scrap etc. have been given to the industrial corporations. The largest share of imports in Bangladesh is made up of food items, including food grains and edible oil. These are

handled by the Ministry of Food. Import of petroleum products and crude oil are all handled by the Bangladesh Petroleum Corporation. In recent years, however, import of consumer goods are being allowed also to the private sector.[21]

Following nationalisation, the public sector has acquired an overwhelming preponderence in the area of exports. Of Bangladesh's main exports, the public sector has now a 100% monopoly of raw jute, jute goods, newsprint and paper, which cover more than 86% of the total exports.[22]

(c) Other semi-commercial public enterprises:

The above is an account of the major public sector industries in Bangladesh. Apart from these, many other public sector enterprises[23] and institutions[24] also exist in Bangladesh. Among other public sector enterprises, the following may be mentioned:

List of Semi-Commercial Public Enterprises in Bangladesh

Industry	Public Enterprises in Operation
Agriculture and Fishing	1. Tea Industries Management Committee 2. Bangladesh Fisheries Development Corporation (BFDC)
Mining and Quarrying	3. Takerhat Limestone Mine 4. Bijoypur Whiteclay Extraction Unit
Wood and Wood Products (manufacturing)	5. Bangladesh Forest Industries Development Corporation (BFIDC)
Non-metallic minerals	6. Bangladesh Mineral Exploration and Development Corporation (BMEDC)
Petroleum and Gas	7. Bangladesh Petroleum Corporation (BPC)
Electricity, Water and Gas	8. Bangladesh Power Development Board (BPDB) 9. Water and Sewerage Authority (WASA) 10. Titas Gas Transmission and Distribution Company
Construction	11. Dhaka Improvement Trust (DIT) 12. Chittagong Development Authority (CDA) 13. Khulna Development Authority (KDA)
Trade	14. Bangladesh Consumer Supplies Corporation (BCSC) 15. Bangladesh Jute Trading Corporation (BJTC) 16. Bangladesh Jute Export Corporation 17. Bangladesh Jute Price Stabilisation Corporation
Finance and Real Estate	18. Bangladesh Krishi (Agricultural) Bank (BKB) 19. Bangladesh Shilpa Rin (Industrial Credit) Sangstha (BSRS) 20. Bangladesh Shilpa (Industrial) Bank (BSB) 21. Bangladesh House-Building and Finance Corporation (BHBFC)

Source: [18], pp.283-85

Contribution to GDP:

One way to assess the importance of public sector in the national economy would be to see the contribution of the public sector to the GDP. Recent data in this regard are not available. Since situations have not changed so much after 1973-74, data in Table 1.2, relating to the position in 1973-74, may give a general idea about the present situation. Table 1.2 confirms that the contribution of the public sector agriculture in the GDP is very modest. In contrast, in the case of mining and manufacturing, the share of the public sector is more significant. For modern manufacture, the public sector enterprises account for about 80% of the value added. Private sector is predominant in the construction sector. On the other hand, there is virtually no private sector in the power and gas sector. Also, in the field of banking and insurance, the predominance of the public sector is evident. In the field of transport and communication, the share of the public sector is more than one-third of the total contribution from the sector.

TABLE 1.2

Share of Various Public and Private Sectors in GDP of 1973-74 at 1972-73 Factor Cost (in Percentage)

Sectors	Share of Public Enterprises	Share of Government Institutions	Share of Private Sector	Sector Total
1. Agricultural	0.70	8.40	90.90	100
2. Mining and Manufacturing	56.40	3.60	40.00	100
(Large Scale	(80.42)	(1.80)	(17.68)	100
3. Construction	1.05	.40	98.55	100
4. Power and Gas	31.39	68.11	-	100
5. Transport and Communication	19.80	15.40	64.80	100
6. Trade	9.80	2.60	87.60	100
7. Housing	-	10.50	89.50	100
8. Public Administration	-	100.00	-	100
9. Banking and Insurance	86.50	8.20	5.30	100
10. Professional Service	-	-	100.00	100
TOTAL	8.20	8.10	83.70	100

Source: [18], p.369.

The totality of the picture shows that the public enterprises account for only 8.2% of the GDP, and the public sector, inclusive of the government institutions, contributes only 16.3% of the GDP. The private sector is still predominant with a share of 83.7%.

Savings generation:

Some of the public enterprises have not been able to generate savings. But on the whole, public enterprises have been able to generate savings, measured in terms of net profit after tax. The estimated rate of the national savings, accounted by the public enterprises, is about 10%[25].

Contribution to Government Exchequer:

Public enterprise in Bangladesh is a major contributor to the government exchequer. In 1973-74, the manufacturing units contributed 38% of the customs duty, sales tax, excise tax and business income taxes. If public sector trading like banks, insurance and transport organisations were also included, the contribution of the public sector rose to as high as 86% of revenues.[26] Except for some minor changes, this trend still holds today.

Employment:

According to 1974 census, about 29% of the total population is in the civilian labour force,[27] about 75% of whom are employed in the agricultural sector and the rest in various non-agricultural sectors.[1] Public enterprises employ an estimated 1.75% of the total civilian labour force. If government institutions are also included, it may rise to 3%. Thus, the public sector is not the main employer of labour.[28]

From the above discussion, it becomes clear that public enterprises in Bangladesh have assumed a significant role in the non-agricultural modern sector of the economy, even though this as yet accounts for only a minor part of the total economy. The potential for surplus generation in the form of savings, fiscal revenues, and net foreign exchange earnings is significant. The indirect effects of the public sector on growth in the agricultural and non-

agricultural sectors are also not less significant. The performance of the public sector is thus of greater significance than is apparent from its immediate share of the GDP and employment.

1.1.3 The present position

During the later half of the Awami League regime, the increasing role of the private sector was being gradually recognised. After the fall of the Awami League Government in 1975, the policies of the new elite in power moved towards a mixed economic system with more emphasis on privatisation. A number of small units other than jute, textiles and sugar were disinvested during the period 1976-81. The privatisation policy got highest manifestation in mid-1982, when the present Martial Law regime decided to denationalise, among other enterprises, some of the jute mills, cotton mills and banks on the grounds of continued mismanagement, inefficiency and financial losses of the public sector industries. During 1983 and 1984 some such enterprises were indeed denationalised. However, even after this denationalisation, the dominance of the public sector still continues.[29] But because the denationalisation measures are largely in transition and also because up-to-date data about the latest relative position of the public and private sectors are not available, the present study relates particularly to the period up to 1982.

1.2. The Present State of Industrial Relations in the Public Sector Industries

That the public sector industries play a very significant role in the national economy of Bangladesh is evident. The efficient operation of the industries under the public sector is, therefore, highly desirable. One very important prerequisite, among others, for the unhindered operation of these industries is the harmonious relationship between workers and management which, in turn, depends on good industrial relations. This section will attempt to briefly review the state of industrial relations now prevailing in these industries.

It is indeed difficult to measure the "goodness" of industrial relations, because what is good to the management may not be good to the workers and vice versa. One way to measure the quality of industrial relations may be the extent of conflict between the concerned parties. The less the conflict, the better the industrial relations and vice versa. But the problem is: there are many ways of conflict manifestations - low morale, absenteeism, overtime ban, non-cooperation, work to rule, formal and informal negotiations, strikes etc. - most of which are not directly measurable, and where measurable, adequate records are not available. Because of the unavailability of required information on the other manifestations, strikes, data on which are readily available and measurable, may be taken as an indicator of industrial conflict and of the state of industrial relations.

As already noted, the industrial sector in former East Pakistan (now Bangladesh) was owned and managed primarily by private capitalists, most of whom were non-Bengali and different from the majority of the workers in respect of culture, language and mores. Thus the normal conflict of interest under capitalism between workers and private owners was sharpened by the ethnic differences between them. Consequently the entire history of industrial relations during the Pakistan period was characterised by prolonged strikes, retaliatory lockouts and picketing which sometimes led to pitched battles. [30]

The comprehensive nationalisation, pursued after liberation, was reasonably expected to bring a different industrial relations setting, as compared with that of the pre-nationalisation period. It was usually thought that the sharp contradictions between workers and management of the private enterprise system would not equally apply under the public sector, because if the profits were still to be maximised, they were to be maximised on behalf of the state, and for a collectivity. The potential for conflict should thus be relatively lessened; the possibility of amicable settlement of divergent issues should become more real.[31]

But unfortunately, public sector industries did not witness any better scene in the field of industrial relations. [32] Post-nationalisation Bangladesh experienced increasing trends of antagonism and strife. Industrial unrest mounted with a resultant loss in man-days. Workers suffered financial losses in terms of loss of wages and the economy suffered in terms of loss of productivity.[33] Bhattachargee et al. argued that one of the factors responsible for low level of labour productivity in some of the large scale industries was the upward tendency of labour disputes.[34]

Appendix A.1 shows data on industrial disputes involving stoppages of work in Bangladesh during the period 1947-82. Data up to 1971 relate to the pre-nationalisation period (Pakistan period) and those from 1972, to the post-nationalisation period.[35]

The number of industrial disputes during 1947-82, shown in Figure 1.2, indicates a clear increasing trend immediately after nationalisation (1972-73), then a declining trend during 1974-75, and again an increasing trend from 1976. A very small number of

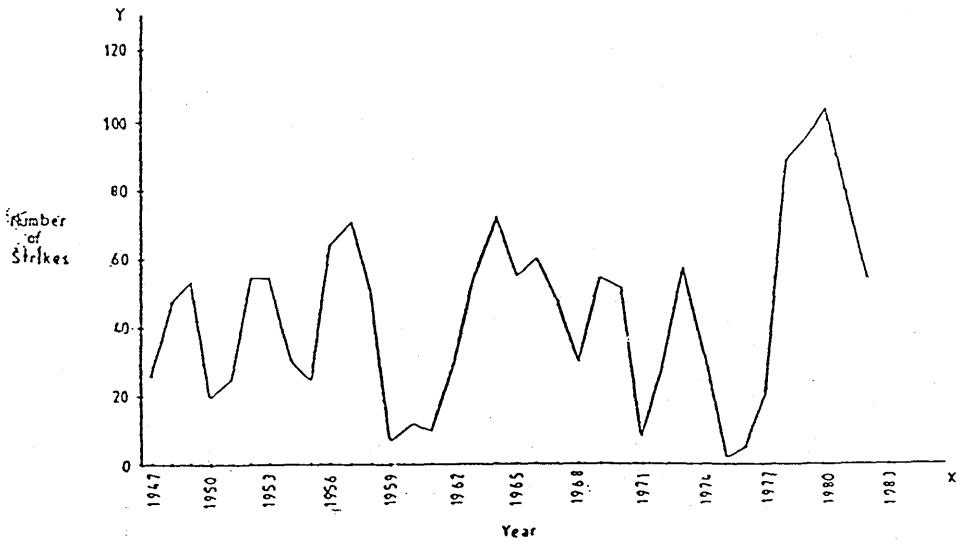

FIG.1.2 NUMBER OF INDUSTRIAL DISPUTES INVOLVING STOPPAGE OF WORK IN BANGLADESH, 1947-82

disputes in 1975 and 1976 was the consequence, perhaps, of a strict strike ban imposed by the national emergency, declared by the Awami

League Government in the later half of 1974, and by the Martial Law in mid-1975. The number of disputes reached its highest peak in 1980, with 104 strikes being registered, followed by 1979 with 96 strikes. 1978-81, the period of BNP (Bangladesh Nationalist Party) administration, experienced the highest number of strikes over the last 36 year period of industrial relations history of Bangladesh. Due to the strike ban imposed by the second Martial Law in March, 1982, frequency of strikes again came down in that year.

The absolute number of disputes depicts only one dimension of industrial conflict and does not tell the whole story. The number of workers involved and man-days lost in the disputes measure other dimensions. Workers involved and man-days lost are shown in Figures 1.3 and 1.4 respectively. The workers involved graph (Figure 1.3) indicates a similar increasing trend after

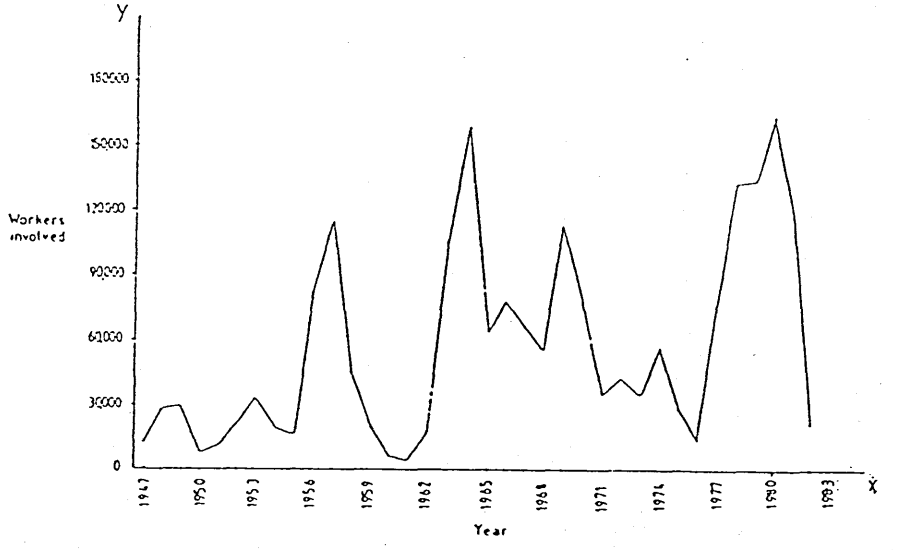

FIG 1.3 NUMBER OF WORKERS INVOLVED IN INDUSTRIAL DISPUTES INVOLVING STOPPAGE OF WORK IN BANGLADESH, 1947-82

nationalisation with only slight variations from Figure 1.2. In post liberation Bangladesh, whereas the lowest number of disputes occurred in 1975, the lowest number of workers were involved in 1976. Compared to the number of disputes in 1982, workers involved were relatively low. 1980 witnessed the highest number of workers involved over the last 36 years.

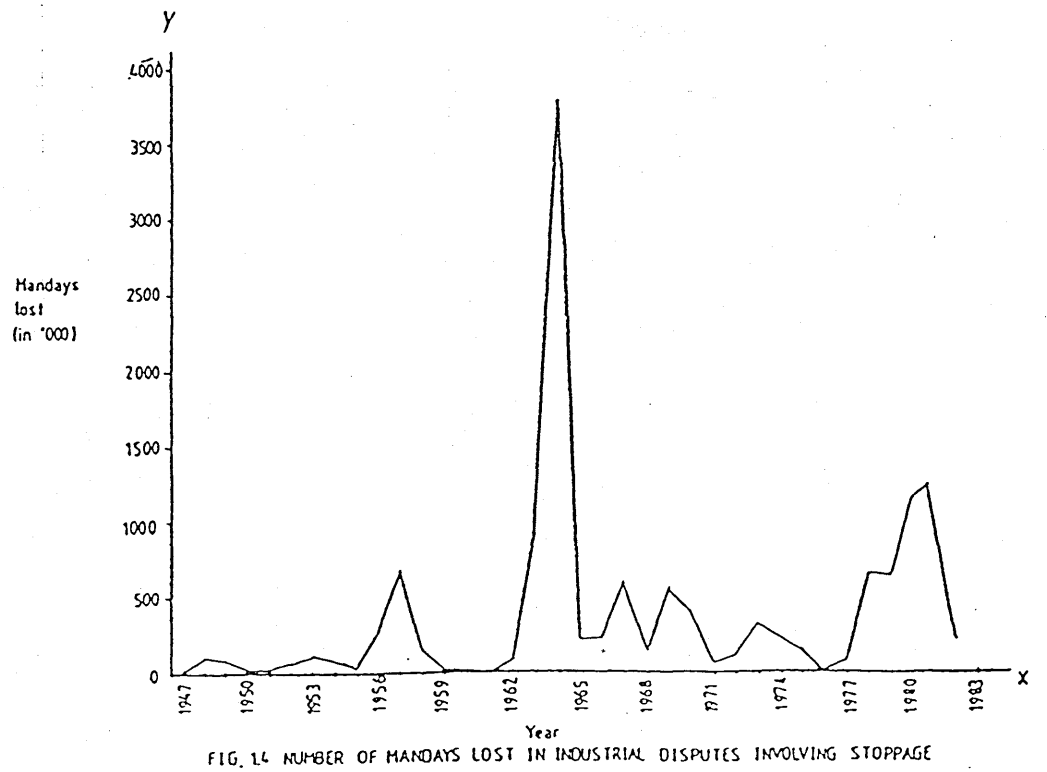

FIG. 1.4 NUMBER OF MANDAYS LOST IN INDUSTRIAL DISPUTES INVOLVING STOPPAGE OF WORK IN BANGLADESH 1947-82

The man-days lost graph (Figure 1.4) also indicates a similar increasing trend with only a few variations from the other two graphs. During the period after nationalisation, the highest number of man-days were lost in 1981, followed by 1980. Over the last 36 years, the highest number of man-days were, however, lost in 1964.

All of the three graphs presented in this section are clear indicators of the fact that, contrary to the general expectations, industrial conflict rose up after nationalisation. This, in turn, tells upon the quality of industrial relations in the public sector industries. One limitation of these graphs should be noted, however. Each of these graphs reveals only one distinct aspect of industrial conflict and does not give an overall picture. The three distinct aspects will be examined in some greater depth in both composite and multiple forms in Chapter V.

1.3. Significance of the Present Study

That the quality of industrial relations in the Bangladesh public sector industries has deteriorated is evident from the increasing trend of work stoppages after the emergence of Bangladesh. The effect of these work stoppages on the workers in terms of the loss of wages and on the economy in terms of the loss of productivity is appalling [36] Apart from the direct effect of strikes, its indirect effects (worsened labour-management relations) are more appalling. A dispute could linger on with incalculable damage to management-labour relationships and the morale of both. This would have its effect on poor operating performance, slow-down in work and increase in wastage, or spoilt work. None of these effects could be reflected in figures for number of disputes, workers involved in disputes and man-days lost, but would manifest themselves in decline in output per man-hour. The loss attributable directly to poor industrial relations can, unfortunately, not be quantified, so that the specific impact of deteriorating relations goes unrecorded. [37]

Industrial conflict, though inherent in the work environment, has two aspects - one normal and the other abnormal Whereas abnormal conflict is undesirable, normal conflict has a functional value.[38] Walton terms this functional aspect as the productivity of confrontation. It arises from the fact that conflict leads to change, change leads to adaptation, and adaptation leads to survival.[39] Disputes, if properly managed, may even have a positive contribution to productivity. But proper management of disputes presupposes a proper diagnosis of the nature of the conflicts, an identification of the practical problems standing in the way of their effective settlement - and appropriate solutions of the problems so identified.

What factors are responsible for the unpleasant state of industrial relations in the Bangladesh public sector industries? What are the sources of disagreements and disputes between the workers and management of these industries? How are the disputes resolved?

What are the limitations and problems of the institutional methods of dispute resolution? How can their operational effectiveness be enhanced? A study covering all these topics may be expected to be very useful both from the practical and the academic viewpoints.

1.3.1 Past Studies

At this point, a brief review of the studies which have been made on the Bangladesh public sector industries in their relation to industrial relations and dispute resolution is thought to be appropriate. Unfortunately the number of such studies is not many. Reza's study on the "Industrial Relations System of Pakistan", [40] based on Dunlop's model of industrial relations, [41] though relevant in some respects in explaining the growth and behaviour of workers and their organisations, has little or no relevance with respect to the role of management in the context of public sector industries in Bangladesh.

A comprehensive study on public sector enterprise is that by Sobhan and Ahmad.[42] Their study, concentrated mainly on the performance of public enterprises, has been divided into two phases - the first phase has sought to study public enterprise at th macro-level and the second has made a micro-study of a selected number of public enterprises. The macro-study has examined the overall environment within which public enterprise functions and related its role and performance to this environment. They have computed the share of public enterprise in terms of such macro-indicators as GDP, investment, savings, foreign trade and employment. At the micro-phase they have made an in-depth study of a number of enterprises to quantitatively relate performance to various identified variables. Among other variables, they have also identified the problem of labour militancy and the failure of the ruling class to define the role of the working class to the public sector as constraining performance of industries in that sector.

Ahmad's study on "Labour Management Relations in Bangladesh"[43] is oriented towards workers' participation in decision making. It has attempted to bring together a historical perspective of the

labour management relations through its interaction with political development in Bangladesh. It has also brought into focus the social perspective through an analysis of the class character of labour, employer/management, labour leader and policy maker. He has compared the findings of his study, done in Bangladesh context, with an earlier study, made by Hussain and Farouk,[44] done in the Pakistan context, with particular respect to the characteristics of workers and found no significant differences in many respects. Ahmad's study, being concentrated on participation, naturally has not examined the specific causes of disputes and their methods of resolution.

Quddus et al have also made a study on labour management relations in Bangladesh.[45] This has been an opinion type of survey and confined to jute and cotton textile industries. It has described the general characteristics of workers and management in these two public sector industries and concentrated on a broader relationship between the parties without identifying the specific reasons for disputes between them and methods of settlement of such disputes. Another study on the industrial relations system in the jute industry has been done by Choudhury.[46] His study has identified some reasons for dispute between the actors of the industrial relations system. His findings were also based on a survey of opinions of some workers and management people of the jute industry. He did not make any examination of the records of the personnel and labour departments of the sample mills in an attempt to find the specific causes of industrial disputes, how the disputes arose and how they were ultimately settled.

In his paper on industrial relations in Bangladesh, Islam[47] has concluded, on the basis of his observations of some secondary sources and unsystematic and informal personal talks with some labour leaders, that most of the problems at the labour front emanated from the government, which is both the law-maker and the largest industrial employer in the country. Some others[48] have observed that the nature of the working class in Bangladesh was such that it could not provide its own leaders because of the mass poverty of the workers, their widespread illiteracy, the threat of

unemployment, the negative attitude of management and so on, so that it was relatively easy for interested "outsiders" to take positions of leadership in the working class organisations. Usually such leaders were also active members of political parties. Thus the trade unions were inevitably drawn into politics from the moment of their inception. The molecular divisions among the political parties in Bangladesh had its reflection over similar divisions in the trade union movement. The political role of the union and the interpenetration of political and union structures acted as a factor associated with the multiplicity of unions at all levels of the public sector management. It was thus probably inevitable that the severe competition and rivalries among these unions/federations stood as a bottleneck in the way of determining representative bargaining agents and hence of effective negotiation over actual or apprehended disputes between workers and management.

Some economists of the country have made some studies on the achievements, problems and prospects of the public sector industries and they have attributed poor relationship between labour and management as one bottleneck, among many others, in the way of achieving higher productivity. But none of them have investigated the causes and methods of settlement of disputes between the parties concerned.[49]

Choudhury has attempted to analyse the trend of industrial conflict in Bangladesh by using published data and found, except for a brief spell in the second half of the 1960s, deteriorating conflict situations during the period 1947-75. He has concluded that a wage based explanation for the observed magnitude of industrial conflict was the most appropriate for the post-liberation period in Bangladesh.[50] Das has, however, found, in his attempts to analyse the published data during the period 1973-79, an insignificant correlation between real wages and dispute indices and hinted for the existence of variables other than a mere wage based explanation of industrial conflict in Bangladesh.[51] Neither of these two studies have made any field investigation to substantiate the secondary data.

None of the studies referred to so far were concerned with the institutional methods of dispute resolution. Only two studies are found as being directly involved with the dispute resolution process - one done by Alam[52] and the other by Bhattacharjee et al.[53] Alam's study is concerned with the first institutional method of dispute resolution (collective bargaining) in the jute industry only. Thus the study is not representative of the whole public sector, on the one hand, and does not give a total picture of the entire dispute resolution process, on the other. The study by Bhattacharjee et al, on the other hand, describes the legal framework of dispute settlement in general and examines the operations of subsequent bodies of the dispute settlement process (conciliation and labour courts), on the basis of some data published by the Department of Labour of the Bangladesh government. They could not examine the bipartite negotiation process in the absence of any enterprise level empirical data. Without doing a systematic field study, they could not examine the practical problems of the various dispute settlement machineries.[54] In the absence of any indication in the published data regarding the categorisation between the public and private sector disputes, their study does not exclusively represent the public sector.

Thus it is evident from the above literature review that until now no comprehensive study has been undertaken on the handling of industrial disputes, particularly in the public sector industries, covering the nature and causes of disputes in these industries and the structure, working methods, operational effectiveness and problems of all the institutional machineries involved in the resolution of such disputes. The significance of the present study on the handling of industrial disputes in the public sector industries in Bangladesh covering all these aspects, supported by both the primary and secondary data, can thus hardly be over-emphasised.

1.3.2 Objectives of the Study

The following are the specific objectives of the present study:

(1) To evaluate the policies of the government towards workers in the public sector industries.
(2) To examine the general trend and explain the causes of industrial disputes in the public sector industries.
(3) To find how the industrial disputes in the public sector industries are handled by the existing institutional methods.
(4) To examine the effectiveness of operations of the various dispute settlement machineries and in due course to determine the factors constraining their effective operations.
(5) To attempt to develop a contingency model of dispute resolution for the Bangladesh public sector industries in the light of the identified problems of the institutional machineries and their tentative solutions and of a review of some Western models of industrial relations and labour negotiations.
(6) And finally, to make some policy recommendations based on the main findings of the study.

1.4. Plan of the Study

The study consists of ten Chapters. The introductory Chapter describes the background and rationale of the study by emphasising the role the public sector industries play in the national economy of Bangladesh and the deteriorating state of the industrial relations now prevailing in these industries, and by briefly reviewing the studies so far made in the context of Bangladesh public sector industrial relations and dispute resolution. Before moving to the specific aspects of the study, the general theories and practices of industrial conflict are summarised in Chapter II. Chapter III evaluates the government polices towards labour and describes the legal framework of dispute handling with particular reference to the public sector industries. Chapter IV presents the

research design and methods of data collection and analysis. After making a review of the patterns and causes of industrial conflict in the public sector industries, some hypotheses about the operations and effectiveness of dispute procedures are presented in Chapter V. Chapters VI to VIII analyse the operation of the institutional machineries of the dispute resolution process and hence constitute the core of the study. These three Chapters are based primarily on the field data. Each of these three Chapters deals with a specific institutional machinery -Chapter VI with the direct negotiation, VII with conciliation and VIII with the labour courts. A contingency model of dispute resolution for the Bangladesh public sector industries, based on the tentative solutions to problems identified by analysing the operations of institutional machineries and the applicability of certain Western models of labour relations in the context of the Bangladesh situation, is attempted in Chapter IX. Finally, Chapter X ends the study by drawing the main conclusions derived from the previous Chapters.

NOTES

1. Statistical Yearbook of Bangladesh, 1982, Bangladesh Bureau of Statistics, Government of Peoples Republic of Bangladesh, p.157.
2. Ibid. p.533
3. Ibid. loc.cit.
4. The Second Five Year Plan, 1980-85, Planning Commission, Government of the Peoples Republic of Bangladesh, Dhaka, May 1980, p.VI-4.
5. Kerr, C. et al, Industrialism and Industrial Man, (London: Heinemann Educational Books Ltd., 1962), passim.
6. Ahmed, S. "Management of Public Corporations in Bangladesh", a paper presented at the Second Alumni Day observed by the Institute of Business Administration, University of Dhaka, May 18, 1980.
7. Kerr, C. et al, op.cit., Chs. 2 and 3.
8. Ibid. p.15.
9. Ahmad, H., "The Historical Perspective of Public Sector Enterprises in Bangladesh", Journal of Management Business and Economics, Vol.2, No.3, August, 1976, Institute of Business Administration (IBA), University of Dhaka, p.252.
10. Alamgir, M. and Berlage, L.J.J.B., Bangladesh: National Income and Expenditure, 1949-50 - 1969-70, Research Monograph No.1, Bangladesh Institute of Development Studies (BIDS), Dhaka, 1974; quoted by Ahmad, Q.K.[11]
11. Ahmad, Q.K., "The Manufacturing Sector of Bangladesh - An Overview", Bangladesh Development Studies, Vol.VI, No.4, Autumn, 1978, p.388
12. Haleem, S.A. et al, "Labour Management Relations in Public Enterprises in Bangladesh", in Wehmhoerner, A. (ed.), Labour-Management Relations in Public Enterprises in Asia, (Bangkok: Friederich-Ebert-Stiftung (FRG), 1978), pp.28 and 29.
13. Siddiqui, H.G.A., "Industry", in Choudhury, S.I. et al.(eds.), Bangladesh Yearbook, 1983, (Dhaka: Progoti Prokashani, 1983), pp. 84-85.

14. Government of Pakistan : Reports of the Advisory Panels for the Fourth Five Year Plan, Vol.1; quoted in Ahmad, M.,[45], p.40
15. The Semi-commercial sectors include those organisations which are owned and operated by the government more on social grounds than commercial. Part of the cost of their operation is realised from the market and the rest is provided by the government in the form of subsidies, aids and grants.
16. The Constitution of the Peoples Republic of Bangladesh, 1972, arts. 10-20.
17. The Factories Act, 1965 was used as a basis of differentiating between modern and traditional industries. Units registered under the Factories Act are covered by Section 2(f) which includes any premises whereon ten or more workers were or are working on any day of the preceding twelve months and in any part of which a manufacturing process is being carried on with or without the use of power.
18. Sobhan, R. and Ahmad, M., Public Enterprise in an Intermediate Regime : A Study in the Political Economy of Bangladesh, (Dhaka: Bangladesh Institute of Development Studies, 1980), pp.191-93.
19. Ibid. pp.135-6.
20. Ibid. p. 194.
21. Ibid. p.195.
22. Ibid. loc.cit.
23. An enterprise has been defined to be an entity which produces some goods or services with some sort of marketing or commercial objectives.
24. An institution has been defined to be a government department or organisation having basically some research, promotional and social objectives, and no/little commercial objectives. They are not treated as industries for our purpose.
25. Sobhan, R. and Ahmad, M., op.cit., p.382.
26. Ibid. p.393.
27. Statistical Yearbook of Bangladesh, op.cit., p.143.
28. Sobhan, R. and Ahmad, M., op.cit., pp.388-89.
29. Siddiqui, H.G.A., op.cit.

30. Ahmad, K., Labour Movement in Bangladesh, (Dhaka: Inside Library, 1978), pp.31-49. Islam, M.M., "Industrial Relations in Bangladesh", Indian Journal of Industrial Relations, Vol.19, No.2, October, 1983, p.166.
31. Choudhury, N., "Industrial Conflict in Bangladesh 1947-75 : A Preliminary Analysis", Bangladesh Development Studies, Vol.V, No.2, April, 1977, p.212.
32. Islam, M.M., loc.cit.
33. Das, J.C.S., "Work-Stoppages and their Effects on the Economy of Bangladesh", Dhaka University Studies, Part C, Vol.2, No.1, June, 1981, p.32.
34. Bhattacharjee, D. et al, "Dispute Settlement and Promotion of Industrial Peace", ILO Dhaka Office, 1981 (mimeo).
35. Data on work-stoppage were collected from the Labour Journal (various issues), published by the Department of Labour, Government of the Peoples Republic of Bangladesh, wherein all data were presented in a combined form without making any distinction between public and private sectors. Thus part of the data after 1972 related to the maligned private sector. But since private sector workers in smaller units are largely unorganised and usually unable to resort to direct industrial actions, it may be assumed that some small private sector disputes which might have been included in the overall data, would really have little effect on the trend of data representing the public sector. This may also be evident from the industrial classification of the strike data, further examined in Chapter V.
36. Das, J.C.S., op.cit., p.33; Ahmad, Q.K., The Jute Manufacturing Industry in Bangladesh, dissertation approved for PhD. by LSE (unpublished), 1976.
37. Sobhan, R. and Ahmad, M., op.cit., p.514.
38. Kornhauser, A. et al (eds.), Industrial Conflict, (New York: McGraw-Hill Book Co., 1954), passim.
39. Walton, R., Interpersonal Peace Making : Confrontation and Third Party Consultation, (Reading Mass: Adison-Wesley, 1969), p.46.

40. Reza, M.A., The Industrial Relations System of Pakistan, (Karachi: Bureau of Labour Publications, Government of Pakistan, 1963).

41. Dunlop, J.T., Industrial Relations Systems, (New York: Henry Holt & Co., 1958).

42. Sobhan, R., and Ahmad, M., op.cit.

43. Ahmad, M., "Labour Management Relations in Bangladesh : A Study in Participation", National Reports, Vol.I, International Centre for Public Enterprises in Developing Countries, Ljubljana, Yugoslavia, 1980.

44. Hussain, A.F.A. and Farouk, A., Social Integration of Industrial Workers in Khulna, (Dhaka: Bureau of Economic Research, University of Dhaka, 1963).

45. Quddus, M.A. et al., Labour Management Relations in Bangladesh, (Dhaka: Bureau of Economic Research, University of Dhaka, (unpublished) 1982).

46. Choudhury, M.A., Industrial Relations System in the Jute Industry, (Dhaka: University Grants Commission (unpublished) 1978).

47. Islam, M.M., op.cit.

48. Martuza, G., "Causes of Weak Trade Union Movement in Bangladesh", the Personnel, Vol.2 December,1982, pp.78-81; Imam, A., "Industrial Relations - Retrospect and Prospect in Bangladesh", paper presented at the ILO/NORAD Symposium held in Manila (26th August to 6th September 1975); Ahmad, K., Labour Movement in Bangladesh, Ch.VIII, op.cit.

49. Ahmad, Q.K., op.cit.; Ahmad, M., "Prospects and Problems of Nationalised Industries : A Critical Review of Views", Journal of Management, Business and Economics, Vol.I, No.1, January, 1975, IBA, University of Dhaka; Alamgir, M., "Nationalised Industries of Bangladesh : Problems and Prospects", Bangladesh Development Studies, Vol.II, No.3, July, 1974; Ahmad, Q.K., "Aspects of the Management of Nationalised Industries in Bangladesh", Bangladesh Development Studies, Vol.II, No.3, 1974; Ahmad, Q.K., "The Jute Manufacturing Industry in Bangladesh", op.cit.; and Sobhan, R. and Ahmad, M., op.cit.

50. Choudhury, N., "Industrial Conflict in Bangladesh 1974-75", op.cit.

51. Das, J.C.S., "Work-Stoppages and their Effects on the Economy of Bangladesh", op.cit.

52. Alam, M.F., "Collective Bargaining in Bangladesh's Jute Industry", Punjab University Management Review, Vol.IV, Nos. 1 and 2, Jan.-Dec., 1981, pp.59-78.

53. Bhattarcharjee, D. et al, "Dispute Settlement and Promotion of Industrial Peace", op.cit.

54. The singular form of the term "dispute resolution machinery" includes all levels of the dispute resolution process (viz., direct negotiation, conciliation and labour courts. But under the plural form of the term, "dispute resolution machineries", each level of the dispute resolution process is treated as a separate machinery.)

CHAPTER II
THEORIES AND PRACTICES IN INDUSTRIAL CONFLICT

The purpose of this chapter is to make a general review of the existing conflict literature with a view to summarising the various theories and practices of industrial conflict. The chapter is divided into three sections. The first section defines the nature and functions of industrial conflict. The second section describes the general conflict process in terms of how an industrial conflict arises, develops and manifests. The final section, divided into three sub-sections, examines the various conflict theories in terms of the three elements of conflict - the first sub-section deals with the conflict emergence, the second with the conflict manifestation and the third with the conflict resolution (outcome).

2.1 The Nature and Functions of Industrial Conflict

2.1.1. The Nature of Industrial Conflict

It is generally accepted that, whether one likes it or not, conflicts continually occur in our social life. There have always been conflicts between the ruler and the ruled; between parents and children, between husbands and wives and between employers and employees. A conflict exists whenever incompatible activities occur.[1] This study is concerned not with social or political conflict, but with industrial conflict, although much of the theories and practices in social or political conflict also apply to industrial conflict.

The nature of industrial conflict is complex and difficult to understand. Sometimes it remains covert, and sometimes it becomes overt. At times it appears to be quite organised but at other times it turns out to be very unorganised. At times it may be a one-to-one situation - one employee with one management representative - at other times the members of a given working group or organisational unit may be at odds with management, and still at other times, the whole class of workers, whether in one plant or an

industry at large may be in conflict with management. Its forms of expression are really many. The strike is, however, the most common and visible expression. But conflict between management and workers may also take the form of peaceful bargaining and grievance handling, of boycotts, of political action, of restriction of output, of sabotage, of absenteeism or of personnel turnover.[2] Lockyer has excellently presented the various expressions of industrial conflict in the form of a chart,[3] which is also reproduced here with slight modification in the Bangladesh context (Figure 2.1).

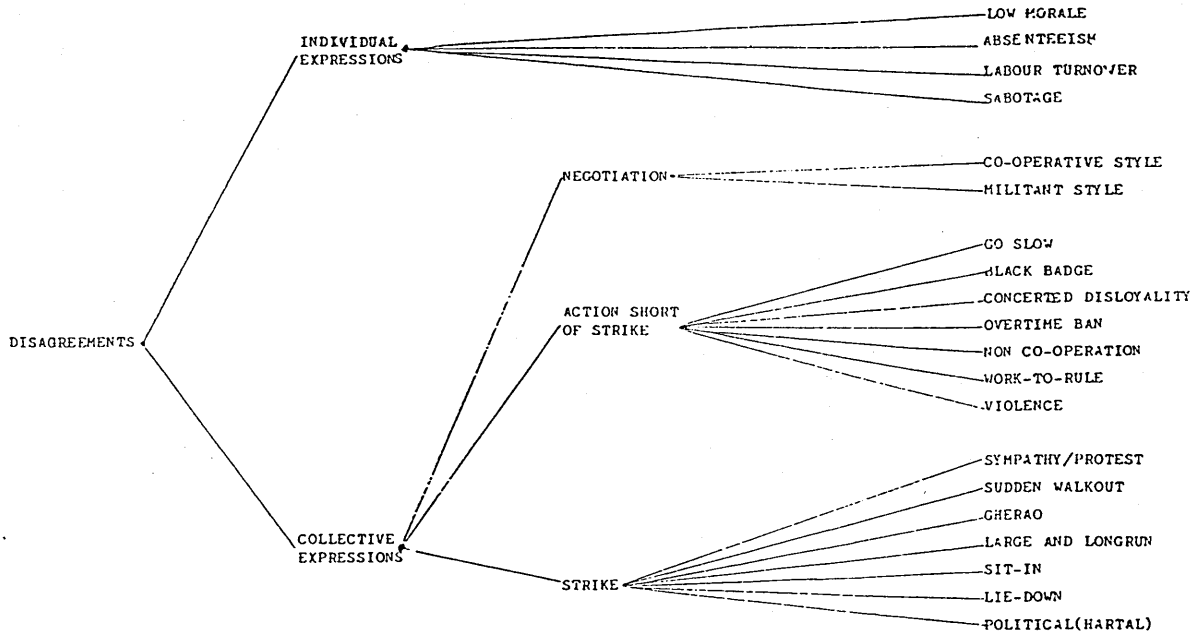

FIG. 2.1 EXPRESSIONS OF INDUSTRIAL CONFLICT. Source: [3, P. 42]

Whatever may be its form and expression, the important point to be noted, however, is that its generation is innate to the industrial relations system. Data on all forms of conflict are hard to obtain and analyse. Only strikes are visible and large amounts of strike statistics are available in published form. Modern computer processing techniques have greatly facilitated the analyses and measurement of these strike data in the researchers' frame of reference. Because of these reasons, most of the researchers in industrial conflict have tended to follow the "Gresham's law" of

social science research, which states that the presence of low-cost and readily available data tends to drive out the collection of high-cost and hard-to-obtain data. Under this pretext, they have relied on strikes as the preferred indicator of industrial conflict.[4] But if one seeks to examine the state of industrial relations in a company or industry, one needs to look at all forms of conflict, not just those which are easiest to measure. Some industries have few strikes but high rates of labour turnover and absenteeism. Are they more peaceful than those which have the reverse? Similarly if we seek to understand the industrial relations, we must be aware of the influences that lead to conflicts, the factors that determine the way in which they are expressed and the way they are handled.

2.1.2. Functions of Industrial Conflict

Barbash categorises industrial conflict into two classes - normal and abnormal. Normal conflict is the conflict which is essential to the maintenance of the industrial relations system and without which the system is largely incapable of functioning. Normal conflicts are the functional conflicts. Abnormal conflict, on the other hand, is not essential to the maintenance of the system; it may even be destructive of it. Abnormal conflicts are dysfunctional.[5] Thus conflicts have both positive and negative aspects. Kornhauser et al. state the following as the main positive functions of industrial conflict: [6]

1) Conflicts provide stability to the parties concerned.

2) A conflict situation helps and often forces the parties to bring out the issues of difference into the open. When issues are brought into the open, it becomes easier to resolve them.

3) When an open conflict takes place, the parties involved usually get the public limelight.

4) During a situation of conflict, the parties involved tend to bring out all the power at their command. Also within a party, activities and decisions hinge mainly on persons or sections who wield maximum power. Hence conflict helps in the identification of the power centres in and between the parties.

5) Tensions among workers are ventilated through certain types of conflict which, in turn, help in their later adaptation into an integrated system.

On the negative side, however, some forms of conflict (e.g., prolonged and frequent strikes) are obviously dysfunctional for the parties concerned and the economy as a whole.

2.2 The General Conflict Process

Industrial conflict does not occur out of a vacuum. The process of its origination, manifestation and resolution follow in a sequence. The general conflict process may be depicted in the form of a chart (Figure 2.2), prepared on the basis of a general framework developed by Pondy,[7] and later applied by Thomson and Murray in their attempt to describe the grievance process.[8]

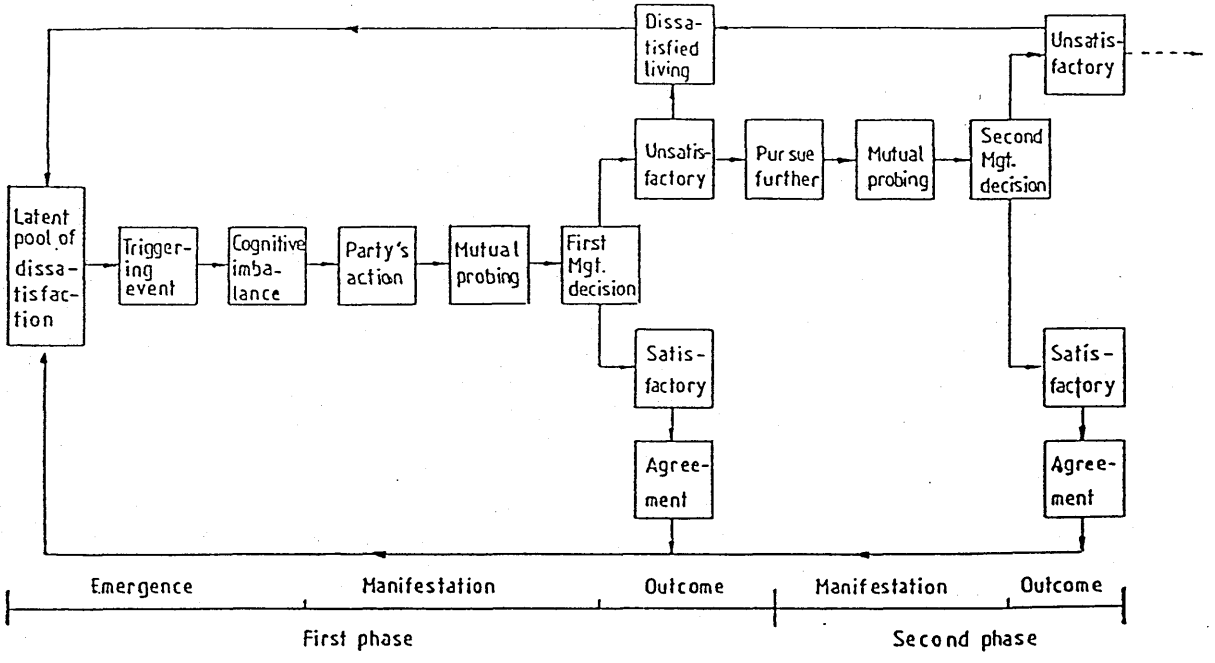

FIG. 2.2. PONDY'S MODEL OF CONFLICT PROCESS

Figure 2.2 exhibits two phases. The first phase contains three dimensions of the conflict process - conflict emergence, conflict manifestation and conflict outcome and the second phase contains only two dimensions - manifestation and outcome, assuming that it has already emerged in the first phase. The conflict process may also involve subsequent phases (as indicated by the broken line at the upper right hand corner) but these have not been shown in the Figure. Now follows a brief discussion on the specific stages of the process.

First Phase

Emergence

1. Triggering event: As a potential source of conflict, a latent pool of dissatisfactions is always present in industrial situations. A change, proposed or imposed by management, or occuring within or outside the plant triggers a latent issue and makes it realised by the party.[9]

2. Cognitive imbalance: The triggering event creates a cognitive imbalance in the mind of the party. He then makes an internal evaluation of "What, why and who" of the wrong and thus identifies the specific reasons for dissatisfaction and perceives the opponent.

Manifestation

3. Party's action: After the party has identified the causes of conflict and the opponent, the action phase begins. He may choose one or more of the following actions:
   a) He may seek the support of the fellow workers around the conflict;
   b) He may approach a management representative to resolve the conflict;
   c) If the party is a worker, he may approach a union leader to act on his behalf to get the conflict resolved.

4. Position clarification: Once the points of dissatisfaction are expressed to a management representative, a process of mutual-probing generally occurs between the parties and this clarifies the position of the respective parties.

5. First management decision: Once the management representative has got some clarification from the party, several decision choices are available to him:
   a) He may remain indifferent about the matter;
   b) He may handle it himself;
   c) He may consult with his colleagues about it;
   d) He may ask for a superior's advice.
   e) He may refer it upwards to be decided by his superiors.

Outcome

6. Party's reaction: The party's reaction to the first managemnt decision depends on the nature of the decision. If it is satisfactory to him, an agreement is reached. If it is unsatisfactory, however, he may react in any of the following ways:
   a) He may decide to accept the unsatisfactory decision of management and live with dissatisfaction; or
   b) He may decide to pursue the case further, either by himself or by seeking support from his allies (other workers). In this situation, his action choices may be the following:
      (i) Informal persuasion;
      (ii) Formal negotiations (positive or negative);
      (iii) Punishing actions; and
      (iv) Problem-solving.

Second Phase

Manifestation

7. Second management decision: This step involves a repetition of steps 4 and 5 for the management representative receiving the party's reaction to the first management decision. A second managemnt decision is thus reached and communicated to the party.

Outcome

8. Reaction to the second management decision: The party's reaction to the second management decision may be similar to step 6. The process of repetition of steps 4, 5 and 6 may continue to subsequent phases, as is indicated by the broken line, until finally an agreement is reached.

After-effect

9. The final agreement, whatever may be its form - a total victory for one side or a compromise involving some concessions from both sides or a mutual gain for both sides - will also have an aftermath. This will affect their future relationship. The resolved issue thus again enters into the original latent pool.

2.3 Industrial Conflict Theories and Practices

There have been many studies in the field of industrial conflict, and generally speaking, there are about as many theories of industrial conflict as there have been studies, each successive theory adding a slight new twist to previous arguments.[10] Thomson and Murray have made an excellent three dimensional summarisation of the various conflict theories[11] and put them into four procrustean beds. These are:

a) General conflict theories, which seek to offer an explanation of all kinds of conflict;[12]
b) Organisational theories, which seek to explain the overall structure and climate of behaviour in all kinds of formal organisations;[13]
c) General theories of industrial relations, which seek to analyse and explain the total system of industrial relations;[14] and
d) Specific theories of organisational conflict, which seek to explain the specific subject of vertical conflict between superiors and subordinates in organisations.[15]

Their review of these theories unfortunately reveals little of direct applicability to the phenomenon of grievances and disputes.[16] Basically following the approaches of Thomson and Murray, and Cronin,[17] the relevant industrial conflict theories and practices will be examined in the context of the three basic elements of conflict process, described in the previous section. The first of the following three sub-sections will examine the various causes for conflict emergence. The second sub-section will examine the factors determining the manifestation phase of the conflict process. The resolution (outcome) phase will be dealt with in the thirdsub-section. Figure 2.3 summarises the way this review proceeds throughout the three sub-sections.

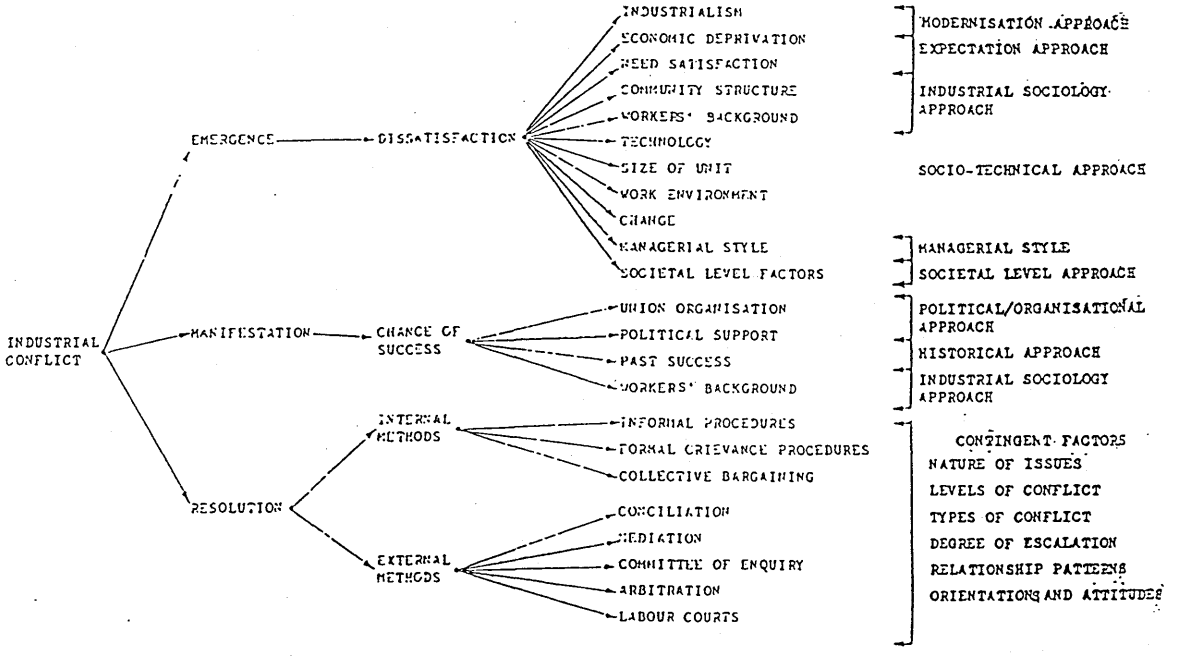

FIG.2.3 GENERAL FRAMEWORK OF THE THEORIES AND PRACTICES OF INDUSTRIAL CONFLICT

2.3.1. Emergence of Industrial Conflict

All industrial conflicts arise from dissatisfactions felt by workers. But what are the sources of dissatisfaction? Figure 2.3 lists the various determinants of dissatisfaction, obtained by summarising the relevant literature. The theories explaining these determinants may now be briefly explained as follows:

2.3.1.1. Modernisation approach

According to "modernisation theory", industrial conflict is the characteristic feature of the initial stages of industrialisation, in particular. In every case of industrialisation, there are numerous points of conflict and of accommodation. In the language of Toynbee, there is an encounter between civilisations. There is a struggle for dominance between the new industrial order and the pre-existing order. "The adjustment of institutions to changing economic circumstances may be a painful process. It is neither balanced nor complete..... The old and the new are mixed illogically and in curious proportions, which differ from society to society."[18]

The conflict between the traditional society and the new industrial society is at a variety of points and levels; for example:

a) Religious and ethical values,
b) Family system,
c) Class alignments,
d) Educational system,
e) Government structure, and
f) Legal system.[19]

Industrialisation fundamentally redesigns and reshapes the pre-existing society and its culture and customs. It develops new industrial cities. It transplants peasants, farmer and tribal groups to mines, factories and offices.[20] The immediate family of the worker is left in the village at least for a short period. New relationships based upon employment or occupation come to replace the larger family and village attachments. New methods of communication among city dwellers - newspapers, radio, television etc. - replace those of the village. The security and loyalty of the extended family disintegrate, and in their place is imposed the government of the city. The impersonal regulations of the city replace the more personal relations customs of the village.[21]

Moreover, the industrialising cities are composed of populations with great diversity in their development. They magnify contrasts. There are the rich and the poor; the employed and the unemployed;

the settled city-dweller and the new-comer; racial, language and tribal mixtures; the isolated individual and the established system; the literate and the illiterate. The city shows the mass of have-nots what they might have. The diversity and contrasts of the industrialising city excite discontent and stimulate unrest.[22]

Thus the transition from the traditional society to the industrial society involves a number of frustrations, fears, uncertainties, resentments, aggressions, pressures, new threats and risks, new problems, demands and expectations upon workers-in-process, their work groups and their families.[23]

One important aspect of the modernisation approach is that conflict is not the regular norm of industrialisation. Under this approach the conflict is seen as "pathological" and transitional. They occur primarily during the early periods of industrialisation when workers are fitted in to the new system. This follows that the more the workers become fitted and integrated to the new system, the lesser is the possibility of conflict. Thus in the extreme, it may be assumed that under advanced industrialisation, workers will be completely suited to the system and there will not be any strike then. But this extreme assumption may be far away from reality.

2.3.1.2. Expectation approach:

Workers' expectations may be of two types - economic and psychological.

Economic approach: Economists are mainly concerned with the determination of wages and price-levels, and only in that connection they are also concerned with collective bargaining and strikes.[24] According to economists, strikes occur mainly when there arises a breakdown in wage bargaining. They have found that strikes are positively correlated with the business cycle. The theoretical basis for this positive correlation is that during prosperous times unions have more bargaining power due to employers' unwillingness to forego sales and profits during strikes and therefore can press employers for more favourable terms than during

recessionary periods.[25] In examining the correlation between real wage changes and strikes, Ashenfelter and Johnson have found that strikes increase when there are increases in the rate of price changes and decrease with reduction in real wage changes and unemployment.[26] Several other authors have also showed that strike data well fit the expectational model.[26A]

Economists such as Hicks and Mauro explain the basis of wage determination and strikes through two intersecting curves - (a) an "employer concession schedule" (ECS), which indicates the highest wage an employer will be willing to pay rather than endure a strike of a given duration and (b) a "union resistance curve" (URC), which indicates the length of time a member will be willing to remain on strike rather than face a lower wage. They assume that if both parties are aware of the two curves - ECS and URC - so solution is determinate and strikes will not occur.[27] Why do strikes occur then? Hicks says that strike is a weapon in the hands of the union leaders to prove their existence and ability. Weapons grow rusty, if unused. A strike is, therefore, worthwhile to enhance future bargaining power. Other strikes are the result of faulty negotiations. Usually these faulty negotiations are due to inadequate knowledge or poor communication. From this perspective, disputes must be attributable to misapprehension and ignorance; with the knowledge of facts workers will have no desire to strike.[28] Adequate knowledge will always make a settlemnt possible.[29]

Whereas economists such as Hicks and Mauro explain strike behaviour as a function of imperfect information, misjudgement and irrational behaviour, Ashenfelter and Johnson propose a model where there are three parties - management, union leaders and union members. Union members will have some desired level of wage increase. If this is met by management no strike will occur; if this is not met, union leaders can accept a lower figure or call a strike.[30] The shock of strike will reduce union members' expectations, so that after a while the leaders can safely settle with management.[31] Under this perspective, strike is the instrument by which workers' expectations are modified.[32]

The behavioural assumption of strikes under the economic approach is, therefore, very simple. It is primarily a problem of estimating how far workers' expectations are out of line with "what the firm may be prepared to pay" at any given moment. As the gap between expectation and achievement widens, the probability of a strike occurring increases. The expectation-achievement gap may widen in two possible ways - with the increase of expectations or with the decrease of rewards. The level of expectation is set by comparison with past rewards and those of other individuals and groups.[33] As argued by Runciman, a sense of relative deprivation is the main source of dissatisfaction among people.[34]

Psychological approach: The psychological scarcity is another source of worker dissatisfaction. Once the material needs are fulfilled, other needs - for example, security, affection, esteem and self-actualisation - appear in a sequence.[35] The Hawthorne studies of Roethlishberger and his associates have shown that workers' contentment does not depend so much upon the physical conditions under which they work or the amount of money they earn as on the psychological and social relationships they build up with fellow workers.[36] Working environment in modern organisations frustrates many of the basic human needs (e.g. desire for varied and interesting work, control over the work done, freedom of social interactions, freedom of self-expression etc.) and creates dissatisfaction.[37]

2.3.1.3. Industrial sociology approach

The industrial sociology theory gives prime emphasis to the differences between various types of workers. According to this theory, different types of workers have different strike propensities. A relevant question now arises - what are the determining factors that distinguish one group of workers from another? The determining factors, according to this theory, are the following three:

a) The social structure of the communities in which workers live;

b) The technical nature of their work environment; and
c) Their past background and experience.

The main proponents of this approach are Kerr and Siegel.[38] They have found from an analysis of strike records of eleven countries that certain industries appear consistently more strike-prone than others. In particular, miners, dockers and seamen show the highest propensity to strike, with textile and lumber workers close behind. By contrast, they have also found some manufacturing industries to be less strike-prone. They attribute these differences in strike propensity to the differences in the communities in which they live. Living in separate and solid community gives the workers both the strength and the willingness to strike. By contrast, if they have to live more closely integrated with the wider society, they have to associate with people with quite different working experiences than their own and to belong to associations with heterogeneous membership. In these communities their individual grievances are less likely to coalesce into a mass dispute.[39]

Based on the hypotheses developed by Kerr and Siegel, Lockwood has developed a three-fold typology of English workers. These are:

a) Traditional proletarians: They seem to be associated with the industries which tend to concentrate workers together in solid communities and to isolate them from the influence of the wider society (e.g. miners, dockers and ship-builders). They have a high degree of job involvement and a strong attachment to primary work groups.
b) Deferential traditional: They are found in jobs that (i) involve close and frequent contact with superiors and (ii) discourage the formation of strong attachments to workers in a similar market situation. The work situation of deferential workers involves a supervised and paternalistic living arrangement.
c) Modern privatised workers: They are usually found to work in modern mass production industries. They get high wages and live in modern towns. People around them are all strangers.

> They have little chance to develop communal solidarity. They thus develop a life-style which is basically individualistic and consumption oriented.[40]

The industrial attitudes and behaviour of the modern privatised workers, as observed by Lockwood, are almost similar to those of the "affluent workers", as observed by Goldthorpe et al.[41] It is because one of the characteristics of modern privatised workers is that they earn higher wages and are affluent. Goldthorpe et al. have found that affluent workers have little interest in their work and work-mates other than pecuniary.

The above typology of workers suggests that strikers are the traditional proletarians who have strong social solidarity. Deferential workers, being under close supervision, cannot demonstrate their wish and ability to launch strike action. Affluent and modern privatised workers are all consumption oriented and individualistic and thus less concerned about strikes.

2.3.1.4. Socio-Technical approach

Many sociologists have focused on technology as a key determinant of the texture of relationships in industry. They argue that with the introduction of modern technology, industrial work becomes monotonous and dehumanised and such a situation acts as a source of conflict. Barbash has observed that the technologial features necessarily generate tensions of command and subordination, competitiveness, exploitation, physical deprivation at work and economic insecurity.[42]

Woodward, in analysing the implications for management of different degrees of technical complexity finds that the attitude and behaviour of management and supervisory staff and the tone of industrial relations are closely related to technology. In firms at the extreme of the scale, relationships are, on the whole better than in the middle ranges.[43]

It is indisputable that the technology of a firm can have a conditioning effect on labour-management relations. But a theory which sees technology as all important is certainly inadequate. One influential attempt to consider both technology and other aspects of work environment has been made by Trist and his associates. They argue that work relations should be viewed as structured within a "socio-technical system".

> "Any production system requires both a technological organisation - equipment and process layout - and a work organisation.....Although technology places limits on the kind of work organisation possible, it does not uniquely determine its form.....A work organisation has social and psychological properties of its own that are independent of technology". [44]

Technology largely determines the size of unit and a large-sized unit is a potential source of conflict. This is because the structural complexities of large scale units do not allow the development of strong communal relationships.[45] The conflict potential is still more in situations of changing technology than in situations of relatively stable technology.[46] It has further been argued that where work technology is highly constraining, small changes in work methods may provoke a much greater outcry.[47]

2.3.1.5 Managerial style approach

Workplace dissatisfaction may also arise from the style of leadership and management. If workers feel that their management is indifferent to their problems, lacks adequate skill and authority, does not have a sympathetic attitude towards the workers and maintains a low level of interaction, a mutual suspicion and mistrust develops between the parties concerned which, in turn, creates dissatisfaction and conflict. [48]

2.3.1.6. Societal approach

Finally, through a review of some American works, Thomson and Murray have identified a set of factors concerned with changes in the larger society as an explanation of conflict emergence. These are:

a) Increased educational level raises expectations of the workers.
b) Increasing geographical mobility of the workers and increasing pervasiveness of mass media makes workers more conscious about their reference groups.
c) Increasing affluence resulting from economic growth makes workers feel they deserve more.
d) The growth of union movement serves to enhance their power for engaging in conflict. [49]

2.3.2. The Manifestation of Conflict

All of the above approaches are concerned with workers' desires and attitudes for conflict. Though each approach has a different perspective, a common assumption in all of them is that the attitudes and desires of the workers are automatically translated into open conflict (e.g. strike). But, in fact, this is not the case. The manisfestation of conflict depends basically on the chances of success. When workers feel that there is little or no chance of success, the emerged conflict is usualy repressed rather than manifested. Major approaches to conflict manifestation may be briefly reviewed as follows:

2.3.2.1. Political-Organisational approach

The major proponents of this approach are Shorter and Tilly.[50] They argue that the important factor influencing conflict manifestation is the workers' organisational strength. They propose a model of strike determination that emphasises politics and organisation. They see industrial conflict as basically political and intimately linked with the broader social strategy for power. At the root of their view of strikes as a political phenomenon is the important insight that strikes require organisation and "the

existence of ..... organisation involves workers in the struggle for political power and makes the strike available as a political weapon." Thus, according to Shorter and Tilly, the critical variable mediating between industrial conflict and politics is organisation. The translation by workers of exploitation and oppression into protest and of grievances into strikes depends primarily on workers' organisational strength.[51] But what are the factors on which workers' organisational strength depend? Shorter and Tilly see this as determined by two factors:

a) The structure and technologies of the jobs at which people work,[52] and
b) The type of communities in which they choose to live.[53]

By applying their model to French strike patterns, Shorter and Tilly have found that:

a) There is a tendency for disputes to be timed to take advantage of political crises.
b) Strikes have been frequently used as political demonstrations.
c) Both sides in conflict attempt to secure government intervention in their favour.
d) There is a general link between the major strike movements and the oscillating position of labour in the polity.

Shorter and Tilly, therefore, argue that any attempt to construct models of strikes in any country must include the influence of political and organisational variables (e.g., trade union membership, violent political conflicts, governmental crises etc.) Regression analyses by researchers such as Skeels and Kaufman made on United States' early and current strike data have also shown that economic, non-economic, political and union organisation factors are important in determining the level of strike activity. [54] The theoretical basis of union organisation for conflict manifestation may lie in the argument that a group conflict is more strongly felt and manifested than an individual one.

2.3.2.2. Historical approach

The historical approach looks at the success record of past conflict manifestations. The more the past militant conflict manifestations were successful, the more it is likely to lead to their repeated use both at present and in future and vice-versa. [56]

2.3.2.3. Industrial Sociology approach

As already noted, this approach looks at workers' background and experience. Like its emergence, manifestation of conflict also depends on the types of workers - their backgrounds and experiences. Different types of work groups manifest different types of grievances and conflicts.

Kerr and his associates have categorised the workers from the viewpoint of ther commitmen to industrial work and characteristic forms of protest into four classes, as shown below: [57]

Stages of Committment	Forms of Protest
1. Uncommitted workers	Turnover Absenteeism Fighting Theft and sabotage
2. Semi-Committed Workers	Spontaneous stoppages Demonstrations & guerilla strikes
3. Committed Workers	Plant & industry strikes Political protests & activity
4. Specifically Committed Workers	Grievance machinery, labour courts and dispute settlement machinery, largely without stoppages Political party & organisational alliances

Sayles[58] has identified four different types of work groups in terms of their behaviour:

a) Apathetic group: This group usually does not possess sufficient power and hence demonstrates relatively few conflicts.
b) Erratic group: This group behaves irrationally. Sometimes it erupts over minor issues, even in violation of formal procedures, but at other times it fails to support important and genuine issues of conflict.
c) Strategic group: Workers of this group hold a strategic position in the technical flow of goods or services of the organisation. They are more vulnerable than others to shut-down or stoppage. They usually develop a strong group cohesion around the special skill required by the strategic position. Because of their strong group solidarity they can usually utilise planned and sustained pressure tactics.
d) Conservative group: In spite of their being sufficiently powerful, workers of this group try to solve all their problems through established procedures and rules.

Why do different work groups develop in an organisation and why do their behaviour patterns differ? Sayles has argued that, among others, the most important factor is the work technology which shapes group cohesiveness and power and which, in turn, is largely the basis of all work groups.

Typologies of workers made by other writers already referred to indicate strikers are traditional proletarians. Diferential, modern privatised and afflient workers are less concrned with open conflicts. [59]

The various approaches presented above lay stress on several dimensions of the occurrence of industrial conflict and each approach has its own logic. What emerges fromn this is that industrial conflict is a function, not of a single factor, but rather it is a function of a multiple of factors.

2.3.3. Theories and Practices of Conflict Resolution

2.3.3.1. Institutional methods of conflict resolution

Although industrial conflict is an inevitable component of the industrial relations system, every conflict, however, is followed by its resolution. The various institutional methods practised in almost all countries of the world, with certain variations to suit the particular conditions prevailing in particular countries, may be categorised as follows:

A. Internal Methods:
   1) Informal methods
   2) Grievance procedure
   3) Collective bargaining

B. External methods:
   1) Concilition
   2) Mediation
   3) Committees of enquiry
   4) Arbitration
   5) Labour courts

A brief discussion on each of these methods now follows:

A. Internal Methods

Internal methods refer to settlement of industrial conflict by the parties themselves without any intervention from outside.

1) Informal methods: Informal methods are more or less habitual, officially accepted (though not formally promulgated) patterns for the handling of grievances. They are, in effect, like formal procedures in that they represent understandings about how to settle grievances; yet they are not offical procedures because such understandings are only tacit, rather than explicit.

Informal methods are standard practices which sometimes evolve informally from past experience or in other times this may be presented orally by higher level management as "good general guidelines on what to do in the case of a grievance".[60] In most cases, however, such practices are quite vague and general. But there are obvious social and economic advantages of informality. From a social viewpoint, informal approach helps to maintain a cohesive and unitary concept of the organisation. From an economic point of view, informality seems to save time and effort of all concerned.[61]

2) Grievance procedure: The grievance procedure usually deals with complaints or grievances which affect one or more individual workers and which do not involve major changes in the status quo. The formal grievance procedure significantly contributes to effective and quick resolution of workers' grievances at the point of origin. In some countries, therefore, law makes it obligatory on management to have clearly written grievance procedures in their respective plants.

A grievance procedure is prepared in conformity with existing legislation, customs and practices. It is aimed, as far as possible, to settle grievances within the first one to three levels of the management hierarchy. Time limits required at different levels are set and the workers know the authorities who are to be approached when they have grievances.

3) Collective bargaining: This is a procedure by which an employer or employers and a group of employees or their union agree upon the conditions of work. The procedure is very important for solving the problems arising at the plant or industry level. The procedure is being practised in all countries, although the contents and scope of collective bargaining vary from country to country. However, the scope of collective bargaining has been expanding with the growth of industrialisation and trade unionism.

Labour legislations in each country regulate the operation of collective bargaining. However, legal provisions alone cannot ensure the effective operation of the process. Union and management have to adhere to certain principles to enhance its effectiveness of operation.[62]

B. External Methods

External methods involve third party intervention in the resolution of conflict between workers and management. The third party may intervene in different capacities e.g., conciliator, mediator, enquiry committee and arbiter.

1) Conciliation: Conciliation may be described as the practice by which the services of a neutral third party are used in a dispute as a means of helping the disputant parties to reduce the extent of their differences and to arrive at an amicable settlement. It is a process of rational and orderly discussion of differences between the parties to a dispute under the guidance of the conciliator. The practice of conciliation in industrial disputes has developed mainly in connection with disputes arising from the failure of collective bargaining. Conciliation has thus been described as an extension of collective bargaining with third party assistance or simply as "assisted collective bargaining".

The steps that a conciliator may take to bring out an amicable settlement vary from one country to another, but always his function is to assist the parties towards a mutually acceptable compromise or solution. The conciliator may suggest possible lines of solution, but it is for the parties to accept or not to accept his suggestions or proposals; he cannot impose the terms of settlement upon the conflicting parties.

2) Mediation: The approaches of conciliation and mediation generally overlap. In fact in a particular country only either of the two systems may be found to operate. One point of distinction between the two systems is sometimes drawn in terms of functional powers. A conciliator generally performs a messenger service,

while a mediator may suggest recommendations over the conflicting issues, although he cannot impose his judgement upon the parties in conflict.

3) Committee of Enquiry: Investigation in industrial dispute is sometimes conducted by a board or court of enquiry appointed by the government of a country. It may, however, be voluntary or compulsory. If investigation is conducted on an application by either or both of the parties, it is voluntary. But if, on the other hand, the government appoints a court of enquiry to investigate into a dispute without the consent of the disputant parties, it is compulsory. These investigations do not aim at bringing about the settlement of disputes directly, but by analysing and publishing the facts about a dispute, they create public opinion, and thus they aim at bringing about the settlement of the dispute indirectly in an amicable manner.

4) Arbitration: Arbitration is a means of securing an award on a conflicting issue by reference to a third party. Unlike a conciliator or a mediator an arbiter has the power to determine a dispute submitted to him. An arbiter usually conducts a hearing of the parties and makes his decision or award afterwards. Arbitration proceedings do not necessarily follow the formal course of judicial proceedings, and arbiters are not often bound by the technical rules of evidence observed by ordinary courts.

Arbitration is provided by almost all countries which have provided for conciliation. This procedure is usually used when conciliation fails. It may be provided in two forms - voluntary and compulsory. Arbitration is said to be voluntary when the parties to the dispute have the option to submit or not to submit to the decision of an arbiter. Conversely, under compulsory arbitration, the disputant parties must submit to the decision of the arbiter.

5) Labour courts: The functional basis of arbitration and labour courts is basically the same. However, an arbiter is usually a single person, while a labour court generally consists of more than one person (three in many countries - one independent person, one workers' representative and one employers' representative). Labour courts hear the labour disputes and decide them in a summary form.

2.3.3.2. Contingent Conditions Affecting Conflict Resolution

The nature of all conflicts is not the same. Each is different from others in one or more respects. Accordingly the same methods of resolution will not be appropriate in all cases. Modes of conflict resolution will depend on certain contingent conditions, as briefly stated below:

(a) Nature of the issues

The pattern of conflict resolution may depend, to a large extent on the agenda items over which the parties are in conflict. Walton and McKersie have divided these agenda items into three classes in terms of two dimensions of the underlying structure of pay-offs - (i) the total value available to both parties and (ii) the share of the total value available to each party. These are:

1) Issues: Issues are involved in those situations where total value available is a fixed sum and parties' individual shares are variable.

2) Problems: Problems are involved in those situations where a wide range of possible total values is available and the parties' individual shares are either fixed or not their immediate concern.
3) Mixed situations: Mixed situations refer to those cases where both the total value available and the parties' individual shares are variable.[63]

The above characteristics of agenda items will determine the structure of bargaining appropriate in each case. For example, in the case of an issue, where each party to the conflict attempts to maximise his own share (total value being fixed), a "distributive bargaining" will be appropriate. In the case of a problem, on the other hand, since the parties attempt to increase the size of the joint gain without respect to the division of the pay-offs (individual shares being fixed at least temporarily), an "integrative bargaining" will be more appropriate. A mixed

bargaining process that combines both an attempt to increse the size of the joint gain and a decision on how to allocate shares between the parties, will be appropriate in mixed situations.[64] The following Figure explains the three agenda items and the bargaining structure appropriate to each.

Total Value / Individual Share	Fixed	Variable
Fixed	Static Position (No conflict)	Problem (Integrative Bargaining)
Variable	Issue (Distributive Bargaining)	Mixed Situation (Mixed Bargaining)

Figure 2.4 : Agenda items and bargaining structure

Issues, problems and mixed items have different types of outcomes. Issues result in compromise solutions. Problems result in cooperative solutions. Mixed items can result in either compromising or cooperative outcomes depending on the orientation of the parties concerned.

(b) Levels of conflict

Conflict within an organisation may occur at various levels. For example: (i) it may occur within a particular employee (intrapersonal); (ii) it may occur between persons (interpersonal); (iii) it may occur within a particular group (intra-organisational); or (iv) it may also occur between groups

(inter-organisational). The methods of resolution will depend upon the level at which the conflict has occurred. Individual conflicts are easier to resolve than group/collective conflicts. Internal methods are more appropriate for intra- and inter-personal conflicts. Intra-organisational conflicts are also resolvable internally but certain special strategies and tactics have to be used in their resolution.[65] Inter-organisational conflicts are amenable to solution by both internal and external methods, depending on the situations of particular cases.

(c) Types of conflict

Different types of conflict demand different forms of resolution. It is imperative, therefore, to identify the nature and type of the conflict before attempting to resolve it. Deutsch[66] differentiates between six types of conflict:

1) "Real" conflict: This type of conflict exists objectively and is perceived accurately. It is difficult to resolve amicably unless there is either sufficient cooperation between the two parties or they can agree upon an impartial, jointly accepted institutional mechanism for resolving it.

2) Contingent conflict: Here the existence of the conflict is dependent upon readily rearranged circumstances, but this is not recognised by the conflicting parties. Contingent conflicts are difficult to resolve only when the perspectives of the conflicting parties are narrow and rigid.

3) Displaced conflict: Here the parties in conflict argue about the wrong thing. In such a situation, there are actually two conflicts - one expressed and the other unexpressed. The conflict being expressed is the manifest conflict and the one not being directly expressed is the "underlying conflict". This type of conflict is also difficult to resolve. The manifest conflict is not resolved unless the underlying conflict is also dealt with.

4) Misattributed conflict: In this type, the conflict is between the wrong parties, and as a consequence over wrong issues. "Divide and rule" is a well known strategy for weakening a goup by inducing internal conflict to obscure the conflict between the group and its conquerer.

5) Latent conflict: This is, in effect, a conflict that should be occurring but is not. A triggering event will make the party aware of it.

6) False conflict: This is the occurrence of a conflict when there is no objective basis for it. It implies a misperception or a misunderstanding. This conflict occurs in a competitive-suspicious atmosphere. Resolution of such conflicts lie in frequent and frank discussions between the parties.

(d) Degree of escalation

The pattern of resolution of conflict is also determined by the intensity of conflict. A conflict grows and intensifies stage by stage. Before using a particular technique for resolving a conflict, one has to be sure at what stage the conflict is. A conflict is easier to resolve at the earlier stages of its escalation than at the later stages.

Different writers have developed conflict escalation models of various stages.[67] Some symbolise the escalation process as climbing up a ladder but others as a boat floating more and more quickly down a river from one rapid to another. It is easy to float down the stream with the current, but it requires a tremendous effort to row against the stream. This is the kind of energy required for conflict resolution. Once a conflict starts, it is easier to intensify than to stop it. However, the internal methods can possibly be used effectively in the initial stages of a conflict situation and the potential for the use of various external methods exist in the later stages.

(e) Relationship patterns

In any particular organisation the parties in conflict always act and react in some sort of relationship patterns determined by relative power position of the parties, past events, present contextual factors, personality factors and social beliefs of the negotiators. Different writers have classified the relationship patterns in somewhat different ways. [68] But the one developed by Derber et al. [69] seems to be more typical. They have discerned five basic patterns of union management relationship, based on three basic variables - (i) an overall measure of satisfaction with the relationship (ii) relative union power and (iii) actions. Thomson and Murray have restated these in relation to grievance handling as a continuum ranging from the most to least severe. [70] These patterns are also relevant in relation to conflict resolution.

It is evident from Column 4 of Figure 2.5 that conflicts are manifested (or repressed) in different ways under different relationship patterns; methods of resolution are also accordingly different.

Relationship Pattern (1)	Characteristics		
	Overall Satisfaction (2)	Union Power (3)	Action (4)
Aggressive	Many felt and manifested dissatisfactions; low trust; low respect	High	Use of threats and force; no joint consultation
Repressed Hostility	Many felt but not manifested dissatisfactions; low trust; low respect	Low	No action; no joint consultation
Moderate	Moderate number of felt and manifested dissatisfactions; basic trust and respect exists	Moderate	Some positive bargaining; some joint consultation
Passive	Few felt and manifested dissatisfactions	Low	Little action; little consultation
Cooperative	Few felt and manifested conflicts	High	No threat or force; frequent consultation; problem-solving

Figure 2.5: Characteristics of the various relationship patterns (based on Derber et al. and Thomson and Murray).

(f) Assumptions and orientations

Related with the relationship patterns between the parties are their assumptions about the conflict and their stake about its outcome. Based on three basic assumptions of the parties about the conflict and three attitudinal stakes towards its outcome, Blake and his associates[71] discerned nine methods (3 x 3) of intergroup conflict resolution, as depicted in Figure 2.6

		Assumption about conflict		
		Conflict inevitable, agreement impossible	Conflict not inevitable, yet agreement not possible	Although there is conflict, agreement is possible
Stakes for outcome	High stakes	Win-lose power struggle	Withdrawal	Problem - solving
	Moderate stakes	Third-party judgement	Isolation	Spliting the difference (compromise, bargaining etc.)
	Low stakes	Fate	Indifference or ignorance	Peaceful coexistence ("smoothing over")

FIG 2.6 METHODS OF CONFLICT RESOLUTION CONTINGENT UPON PARTIES ASSUMPTION TOWARD CONFLICT AND STAKES TOWARDS ITS OUTCOME.

First assumption: Conflict inevitable, agreement impossible. Under this assumption if the parties have a low stake towards the oucome of the conflict, they may turn to the operation of a purely mechanical method of decision-making (flipping a coin, for example). If they have a moderate stake in the outcome, they feel, on the one hand, that resolution is necessary but, on the other hand, they also feel that no further interaction can produce a change in the disagreement. Thus it is from a desire to end the struggle that, the parties may appeal to a third party judgement. Finally, when the stake in the outcome is very high for both parties, a win-lose power struggle can provide resolution through the direct action of one group on the other in a victory-defeat sense.

Second assumption: Conflict not inevitable, yet agreement not possible. This assumption is not so much approprite for union management relationship. Under this assumption, the parties move in a direction away from interdependence towards separation and independence. The separation may be involuntary (ignorance) or it may be voluntary (isolation or withdrawal). In either case, separation reduces contact between the parties and thereby reduces the need to achieve agreement in areas of dispute.

Third assumption: Although there is conflict, agreement is possible. Under this assumption, when the parties have a lower stake in the outcome, they may prefer a peaceful co-existence. Under this situation, the parties play down differences and emphasise common interests. The rule is: "Don't fight - we have to work and live together, so let's get along." A second approach to intergroup conflict, when parties have a moderate stake in the outcome, is splitting the difference, for example, compromise, bargaining, trading and so forth. Here the mentality is: "Something is better than nothing." The genuinely sound method of resolution is problem-solving, the third approach, when parties have a high stake in the outcome. In problem-solving, each party is in a position to retain its autonomy, on the one hand, and each is able to make its full contribution to the goals they share in common, on the other.

The conflict handling modes developed by Thomas, though under somewhat different assumptions, may also be examined in this context. Thomas[72] has developed a two-dimensional model which identifies five conflict handling modes, as depicted in Figure 2.7.

Figure 2.7 depicts two independent dimensions of a person's/party's behaviour - (1) "assertiveness" defined as behaviour intended to satisfy one's own concerns and (2) "cooperativeness", defined as behaviour intended to satisfy the opponent's concerns. Combination of these two dimensions of behaviuor results in five conflict handling modes, depending on the attitude of the party involved.

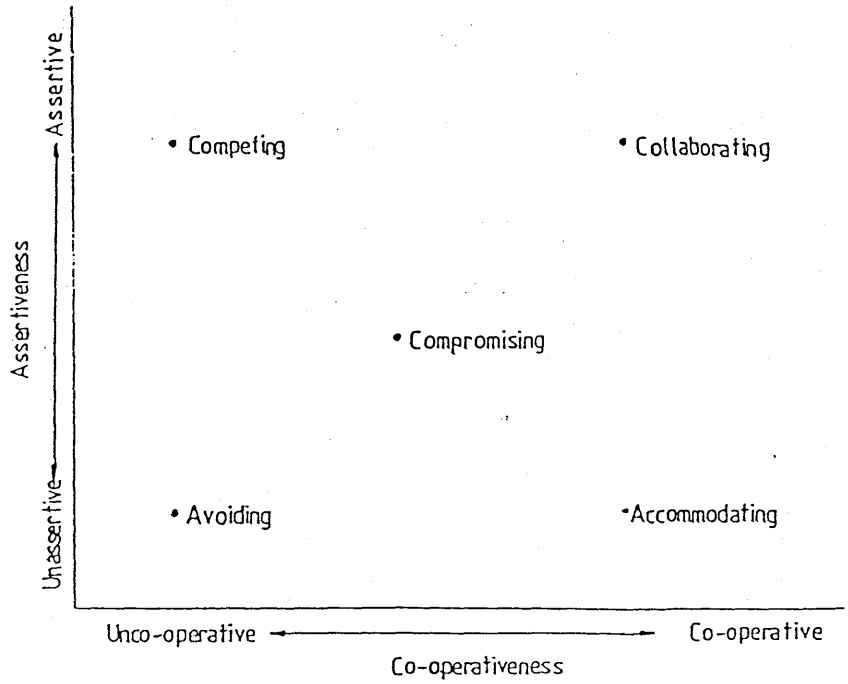

FIG 2.7 CONFLICT HANDLING MODES

Thus, if a party is neither assertive for his own concern nor cooperative for his opponent's concern, an avoiding mode will result. If the party feels a strong desire to win in the conflict and feels no empathy for the other's viewpoint, a competitive mode will exist, while low assertiveness of the party and his cooperative view of the other's position will lead to an accommodative mode. In a case in which the party feels a strong desire to assert his own interest but also feels a willingness to satisfy the other's concerns, the most constructive combination of collaborative mode will be found. Finally, a compromising mode will exist in the intermediacy of both assertiveness and co-operativeness.

Before concluding the different contingent conditions affecting conflict resolution, one point to be noted is that these conditions are not mutually exclusive. In fact, these are related to each other in one or more ways. For example, fixed sum issues (agenda items) may be seen more in the aggressive pattern (relationship

patterns) at inter-organisational level (levels of conflict); they may be more veridical (types of conflict) and may exist with strong intensity (levels of escalation) being subject to competitiveness and win-lose struggle (parties' orientations and attitudes).

2.4 Relevance of Conflict Theories and Practices to Developing Countries

Research literature on industrial conflict shows that most of the studies were carried out in the Western developed countries, althoughg the industrial scene in the developing countries is by no means free from conflict. Although most of the approaches to industrial conflict, as described in the previous sections, apply more or less to all countries irrespective of their stages of development, the ways they apply as between the developed and developing countries are not the same. An attempt is made in this section to examine the relevance of the various conflict theories and practices, evolved in Western contexts, to the contexts of developing countries with reference to the small amount of empirical material now available.

Modernisation approach

Most of the developing countries of Asia, Africa and Latin America are either in transition from traditional agriculture to industrialism or in the initial stages of industrialisation. The modernisation approach to industrial conflict, being applicable more to the early stages of industrialisation, is therefore more relevant to developing countries than to Western industrialised societies. Almost all developing countries being largely agricultural and rural, much of the industrial labour force in these countries had to be recruited from those displaced from the land. Industrial workers in most cases are not prompted by the lure of the city life or by any greater ambition.[73] Indeed, "few industrial workers would remain in industry if they could secure sufficient food and clothing in the villages. They are pushed, not pulled to the city."[74] As the UNO experts have observed:

> "The forces motivating this movement are to be found, not in the inducements of industrial employment, but in economic pressures exerted by adverse rural conditions. As a result, the industrial labour class created in underdeveloped areas in this way retains for a considerable period of time all the characteristics of a floating and unsettled rural proletariat. This lack of stability distinguishes the potential workers in most underdeveloped countries from his counterpart in developed regions where the urban wage earning class is completely divorced from the land." [75]

The urban industries in the developing countries, thus, have to depend to a considerable extent on rural labour forces that generally long to return to the village life when either the necessity or the opportunity of earning a living in the city had passed away. In this way, in most developing countries, there has been a constant flux of workers between industrial employment in towns and traditional agriculture in their home villages.[76] Thus in the first stage of modernisation, the potential for conflict is created by a lack of commitment of the labour force.

However, at the next stage of modernisation, having abandoned the static rural society and its philosophy of acceptance and patience, workers in the developing countries come to expect and are prepared for greater changes in their own environment. On seeing around them in the industrial cities the wealth that has been accumulated by others, the workers come to believe that their poverty is not inevitable. In addition, the new proletariat lives in a compact area which means it is susceptible to organisation, within itself, or by others,[77] and thus the potential for conflict is created.

Expectation approach

Unlike the Western industrialised countries where lower order needs are well satisfied and employees seek higher order needs, the quality of working life in the Third World is more linked with the satisfaction of the basic needs such as food and shelter.[78] Workers in the developing countries live either at marginal or under subsistence conditions. A high rate of inflation is usually in force in most developing countries to curb the rise in real income of the workers. In such a situation they generally give prime

importance to lower level needs of Maslow's model of need-hierarchy. Surveys conducted in India reveal that the Indian workers give top priority to such needs as income, security of job and other personal benefits.[79] Several studies conducted in the context of Bangladesh suggest that both the workers and executives in that country are mainly concerned with the physiological and safety needs, as defined by Maslow.[80] A basic needs-based explanation of industrial conflict is thus more appropriate in the case of developing countries.

Industrial sociology approach

Workers in the small and medium private sector industries in most developing countries seem to be "deferential traditional" (according to Lockwood's typology), "uncommitted" or "semi-committed" to industrial work (as categorised by Kerr et al) and "apathetic" or "erratic" (as identified by Sayles). Workers in such industries, therefore, get little scope to effectively express any feeling of conflict. In large private sector industries, and in public sector enterprises, which are also generally big in size, "traditional proletariats" (as defined by Lockwood) may be found in some sectors. Workers in the big modern industries seem to be developing relatively more commitment. But here too owing to their poor organisational strength, workers in such industries also seem to behave "apathetically", or in some cases "erratically" being motivated by the trade union leaders who are largely political.

Technological approach

That modern technology is a source of potential conflict is perhaps generally applicable to all societies, whether developed or developing. A few investigations have been made on the influence of technology on workers' attitudes and behaviour in developing countries. One study done by Sharma[81] in the Indian context is worth noting here. Of the thirteen dimensions of work technology he has experimented with, five have been found to be significantly correlated with workers' job satisfaction. Firms ranking higher in terms of job satisfaction have been found to be those in which:

(a) jobs allow workers to use their own ideas;
(b) jobs enable workers to use their own capabilities;
(c) work does not leave the workers too tired at the end of the day;
(d) jobs allow workers to change their methods of work when desired; and
(e) jobs do not make workers work too fast most of the time.

Under reverse conditions of these dimensions of work technology, job satisfaction tends to be low which, in turn, is a potential source of conflict.

Managerial style approach

With labour relatively plentiful in most developing countries, management, particularly in the private sector, has failed in most instances to show sympathetic and sustained interest in labour problems. Given the labour surpluses, the employers usually follow their own economic self-interest.[82] Habibullah's finding in the context of Bangladesh that the style of supervision practised by management is not conducive to good labour-management relations is applicable more or less to most of the developing countries:

> "The (supervisors) practise 'close' rather than general supervision..... They reprimand more workers a day than they praise..... Management considers discipline not as a means of motivating people but as a form of punishment and 'showing who is boss'. .....belief about workers' laziness, slow down and cheating habits is deeply ingrained in the minds of supervisors." [83]

The top management of private enterprises in most developing countries is essentially patrimonial. The earlier dominance of the feudal and large land-owners in most developing countries has influenced the attitudes and policies of industrialists of those countries in dealing with subordinates and workers. Just as the agricultural workers were treated as virtual serfs on the landed estates, so workers in private industrial enterprises in these countries are dealt with by a mixture of authoritarian and paternalistic managerial practices. The trend towards a professionally oriented management is, however, found in the public enterprises, where a managerial bureaucracy is developing.[84]

As observed by the ILO:

> "Many public enterprises (in the developing countries of Africa) have not yet fully realised the significance of adopting modern (personnel) policies and practices. Written statements of personnel policy exist only rarely. Even where there are written personnel policies..... they are drawn up by legal advisers and drafted in legalistic language,..... Moreover, they are often prepared in a language that the workers do not understand (English or French). In addition, the specialised personnel services.....are not given.....enough importance and attention." [85]

Obviously under such management and personnel practices, workers are more likely to get arbitrary treatment from management which might serve to be good grounds for many conflict situations.

Political/organisational approach

In developing countries the close links between political parties and trade unions are as much given factors in the situation as are the workers' poverty and social backwardness. In Western industrial societies, where a strong trade union movement has developed, trade unions are also linked with the political process, but the link is qualitatively different from that existing in the developing countries in that while in the Western countries the trade unionists largely influence the politicians, in the developing countries, on the other hand, it is the politicians who largely influence the trade union leaders. Unlike the Western countries trade union membership in the developing countries is low, particularly in the private sector and the workers have little economic strength to endure a long strike to seriously affect the employers. Because of their economic weakness trade unions in most developing countries can rarely achieve their goals by using Western trade union methods.[86]

In the industrially developed countries of the West where education is widespread and the concept of social equality is more generally accepted, the workers have been able to develop their own leaders. But in most developing countries, the working class is less educated and even illiterate and the social system is such that the workers

have less self-confidence in meeting employers than in Western countries. The inability of the workers in the developing countries to organise themselves in their own interest left a vacuum which was filled by middle class leaders from the outside who organised the workers more in the middle class leaders' own political or other selfish interests than of the workers.[87]

Workers of most developing countries, particularly of South-East Asia, are more loyal to the leaders than to ideologies or principles. This is evident from instances where self-seeking union leaders have changed from one trade union federation to another, or from one party to another, but kept their following constant. Because of this constant support towards such union leaders, political parties, whether in power or in opposition, find them to be of considerable value, especially during elections, or in the case of opposition parties particularly, when it is felt desirable to embarrass the Government by calling a token strike on some issue or another.[88] One significant feature of trade unionism in the developing countries is that in the absence of the workers' commitment to some sort of a common ideology, federations of unions, whether supporting or opposing the Government, frequently manage to secure support from the workers for short-term action. The unionists supporting the Government can secure such support by gaining tangible benefits, particularly for public sector workers. The opposition union leaders, on the other hand, secure workers' support by demonstrating that they are fighting injustices through making angry speeches and even going to prison for some time.

Conflict resolution practices

In most developing countries industrial conflict relating to small and cottage industries, which are exclusively in the private sector are generally resolved through the autocratic and unilateral decisions of the owners/managers who are largely patrimonial as a class. There is, however, a tendency towards constitutional management in the medium and big sized industries in such countries due to the interference of Government through labour legislation and some other pressures.[89]

Most of the developing countries of today have gained political independence from one or other of the West European colonisers after the Second World War. In many of these countries labour legislative patterns were not indigenous, but were inherited, borrowed or transplanted from abroad. Such transplantations have entailed some difficulties of adaptation and suitability.[90] Labour legislation systems that have evolved from and reflected an economic experience obviously different from that obtaining in developing countries have been found to be not very relevant. It is generally argued that labour legislation systems in most developing countries are not related to the stage of economic growth, the position of wage earners within the entire population, the level of national skills and the institutional development of such countries.[91]

The industrial relations laws in most developing countries provide various avenues for workers' participation in management. At the level of the undertaking works councils, joint consultation committees, and other systems of workers' participation in decisions within undertakings provide the basis for a more active involvement of workers in the running of the enterprise with a view to developing their personality and making the enterprise more efficient.[92] At the national level, the principle of tripartitism in making policies affecting labour has been accepted in most developing countries.[93] But such participation schemes have largely failed to produce the desired outcome. Employers, particularly of the private sector, are obviously against such types of workers' participation, nor, paradoxically, have the trade unions pressed for their introduction or their effective operation if already introduced under legal obligations. The lack of interest on the part of workers' organisations may be due to the fact that many trade union leaders in the developing countries feel technically too weak to assume such responsibilities, or it may well be because of fear that the traditional trade union functions may be undermined in the process of promoting such participation schemes.[94]

Although most developing countries do not make distinctions between disputes of interests and disputes of rights, a considerable number of such countries recognise the advantages of establishing suitable grievance procedures as an essential element of sound labour management relations. Accordingly, legislation in a number of countries[95] have in one way or another prescribed the establishment of grievance procedures. In some countries[96] grievance procedures are spelt out in bipartite agreements. In other countries staff representatives have been instituted for similar purposes.[97]

All developing countries have the practice of collective bargaining. But unlike the Western industrialised countries where the parties are free to negotiate wages and working conditions, the difficulties of economic development in most developing countries prompted some important changes in the tradition of free collective bargaining, giving way to more controlled systems where much is determined through national legislation or other Government measures. Actors of the industrial relations system, particularly the Government, in most developing countries stress that prolonged work-stoppages, due to a breakdown in collective bargaining, resulting in a substantial loss of man hours, is a social luxury which the developing economies can ill afford on social and economic considerations.[98] The political dimension of the developing countries is another important point in this context. Many of the developing countries either have experienced or are still under military rule. Declaration of states of emergency, which have at times lasted for lengthy periods have also been frequent in these countries. Under such conditions, trade union activities, including collective bargaining, have been restricted, and even totally banned in some cases. Moreover, even in countries with more liberal regimes, strikes and other forms of industrial action in some industries, especially essential services, are often outlawed. In such circumstances conflict resolution procedures hardly seem relevant.

With this summarisation of the general theories and practices of industrial conflict, a review of the government policies towards labour with particular reference to the public sector industries in Bangladesh is taken up in the next chapter.

NOTES

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88. Such token strikes are very frequent in countries like Bangladesh, India and Pakistan. Ibid., p.288.
89. Such pressures include social values, pressures from individual workers, labour organisations, increased size of organisation, complex technology, pressure from other managements etc. Harbison and Myers, Management in Industrial World, op.cit. pp.58-61.
90. ILO, Labour-Management Relations in Public Enterprises in Africa, op.cit.; and Wehmhoerner (ed.), Labour-Management Relations in Public Enterprises in Asia, op.cit.

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93. Ibid, p.7
94. ILO, Labour-Management Relations in Public Enterprises in Africa, op.cit., p.27; Ali, M.R. et al, A Cross-Cultural Study, op.cit., p.102; Khan, M.M. and Ahmad, M., Participative Management in Industry, (Dhaka: Centre for Administrative Studies, 1980), pp.49-72.
95. Such countries include, for example, Bangladesh, India, Pakistan, Sri Lanka, Ethiopia, Ghana, Zambia etc. Wehmhoerner (ed.), op.cit.; ILO, Labour-Management Relations in Public Enterprises in Africa, op.cit.
96. In Kenya and Sierra Leone, for example. ILO, Labour-Management Relations in Public Enterprises in Africa, op.cit., p.23.
97. This system is practised in Cameroon, Guinea, The Ivory Coast, Senegal, Togo, and in nearly all other French-speaking African countries. Loc.cit.
98. ILO, Role of Labour Law in Developing Countries, op.cit., p.13.

CHAPTER III
GOVERNMENT POLICIES TOWARDS LABOUR IN BANGLADESHI PUBLIC SECTOR ILNDUSTRIES

The purpose of this chapter is to examine the attitude of the Government towards workers, particularly of the public sector industries, in Bangladesh and also towards the various approaches to the resolution of labour disputes and workers' grievances. The chapter is divided into two main sections - the first section looks at the Government policies towards labour in terms of its declared policies and legal enactments in general, while the second specifically summarises the legal and institutional framework for the handling of labour disputes and grievances.

3.1 Government Policies Towards Labour

The Government policies towards labour have been examined in three time phases in terms of the political and social changes occurring in the territory now constituting Bangladesh - (a) the British period (pre-1947), (b) the Pakistan period (1947-70) and (c) the independent Bangladesh period (since 1971). In each time phase, in the first instance, the declared policies of the Government concerning labour have been briefly summarised, and in the second, an attempt has been made to see the extent to which those declared policies have been related with the labour laws for implementation.

3.1.1. The British Period

During the British days, there was no formal declared policy with regard to labour. The attitude of the Government of British India in respect of labour problems was mainly one of non-interference. It stepped in only for the purpose of maintaining law and order. Most often officers of the Government were biased towards the employers in dealing with industrial disputes. It was only when industrial disputes developed and created a crisis situation that the Government appointed certain committees or commisions of inquiry. Among such commissions, mention may be made of the Royal Commission on Labour appointed in July 1929.[1]

In the initial stages of industrialisation in India, the conditions of factory workers were very unsatisfactory.[2] In the absence of any clearcut Government policies for ameliorating their conditions, the workers, being stimulated by the then nationalist political leaders, stood up for their rights and tried to resist all maltreatments and exploitations by the employers. There were several clashes between workers and employers, and in the face of this large scale agitation the Workmen's Compensation Act was passed in 1923. In consonance with the conventions adopted by the International Labour Organisation (ILO), the Government passed the Trade Union Act in 1926 despite strong opposition from the employers' side.[3] Under this Act, trade unions could be registered but there was no binding on the employers to recognise the trade unions. To satisfy the growing workers' agitation, the Indian Trade Disputes Act was passed in 1929, which provided for the establishment of tribunals to adjudicate in the labour disputes. The report of the Royal Commission on Labour brought to light the glaring injustices done to labour. For implementing the recommendations of the Commission, the Indian Factories Act, 1881 was amended in 1934 to provide for remarkable improvements in working hours and working conditions and for enhanced penalties for offences committed by the employers. To stop arbitrary deduction from wages by the employers, the Payment of Wages Act, was passed in 1936. After the Second World War, the Industrial Employment (Standing Orders) Act, 1946 was enacted for drawing up standing orders governing the terms and conditions of employment of industrial workers. To handle the rising industrial disputes appearing after the War due mainly to the rising prices of food stuff and other necessities, the Industrial Disputes Act, 1947 was also enacted.

Thus although there was no formal labour policy in the British period, a number of important labour legislations were enacted during the period after the First World War which set the stage for further amendments and improvements during the Pakistan and the Bangladesh periods.

3.1.2 The Pakistan Period

After the partition of British India in August 1947, Pakistan inherited all the labour policies, legislations and regulations that were in force in undivided India. The whole of Pakistan and Bangladesh periods are characterised by more frequently declared labour policies but by less of their implementation. Both Pakistan and Bangladesh periods have experienced frequent forceful political changes, and each new regime coming to power declared one new labour policy containing similar programmes with only minor differences in emphasis, detail and phraseology. This is evident from a summary of all the labour policies, as shown in Fig.3.1.[4] As many as four labour policies were adopted over the 24-year life (1947-71) of Pakistan.

The five year programme of action

The first of these policies comprised the five-year programme of work in the field of labour drawn up in India during October 1946 and subsequently adopted by Pakistan in February 1949 in the First Labour Conference composed of the representatives of the Government, employers and workers. The actions which were to be taken under this programme may be seen in column 2 of Fig.3.1.

The five year programme adopted in February 1949 was to be completed by February 1954. In an attempt to evaluate the progress of the programme, Shafi has found that by the end of the plan period (February 1954) not even a single item of the programme had been completed. By examining the official pronouncements, he has found that the progress of the items under the programme varied from "under consideration" and "under examination" to "a bill being prepared and re-examined".[5] The words of the two important ILO conventions bearing on the labour management relations - Convention No.87 guaranteeing freedom of association and protection of the right to organise and Convention No.98 ensuring the right to organise and collective bargaining -were, however, ratified by Pakistan during the period, although their spirit was not implemented.

3. Employment and work regulation	Laws to be framed for road and water transport workers, miners and plantations workers; the Factories Act to be revised and factory inspection to be expanded	Factory inspection to be strengthened. Coverage of the Factories Act, Shops and Establishment Act and Maternity Benefit be expanded; Industrial workers' employment standing orders be provided	The Factories Act, 1934 and the Payment of Wages Act, 1936 to be amended; Laws to be strictly enforced	Workmen's Compensation Act, 1923 to be amended; Inspection service to be strengthened	
4. Trade union activities and industrial relations	Trade Union Act, 1926 and Industrial Disputes Act, 1947 to be amended (with respect to compulsory recognition of unions and elimination of unfair labour practices; Conciliation and adjudication machinery to be strengthened; Joint works committee to be constituted	Genuine trade union growth to be encouraged; Multiple unions to be discouraged. Civil servants and certain other categories of employees to be disallowed trade union activities; Outsiders to hold only 25% of the ecxecutive posts of the unions; Shop steward system to be developed; Works committees to be constituted; Conciliation service to be strengthened; Compulsory arbitration and adjudication system to be instituted	Trade unions to be encouraged; Machinery for union recognition to be established; Outsiders' exploitation of workers to be stopped; List of unfair practices to be prepared; Disputes to be settled through joint consultation, grievance procedure, conciliation and adjudication; Permanent industrial courts to be established	Need for strong trade unions recognised; Previous restrictions on trade union growth to be highly liberalised; All allowed to join trade union; Employers' recognition will not be needed; Outsiders to represent 25% in the executive committee of unions; Unfair practices listed; Right disputes to be adjudicated and interest disputes to be negotiated; Industrial actions allowed after exhausting all peaceful means; No strike right in essential services; Strikes in utility services made subject to Government prohibition; Labour Courts to be increased	Multiple unior discouraged; F sector unions terms and conc employment an through colle bargaining an constitutional Strikes and cc bargaining dis public sector Public sector do only welfar functions; Put workers to be involved in th ment of the re plants and ind
5. Labour welfare	Provisions to be made for the following: (i) training courses; (ii) housing; and (iii) medical service	The following to be arranged: (i) education; (ii) health care; (iii) welfare and personnel officers; (iv) statutory provident fund; (v) non-fee charging employment exchange; and (vi) levy of cess for providing welfare amenities	Provisions to be made for the following: (i) education; (ii) occupational diseases; (iii) welfare and personnel officers; (iv) employment information programme; (v) social security for industrial injuries; (vi) training programmes; (vii) old age protection; (viii) cooperative consumers store; (ix) Houses to 25% of the workers; (x) leave; and (xi) enquiry into the problems of contract labourers	The following to be provided: (i) medical facility during sickness; (ii) safety against occupational diseases; and (iii) welfare fund for low-cost housing	Arrangements t for the follo (i) educatic (ii) housing; (iii) recreati faciliti (iv) fair pri and coop
6. Miscellaneous	Labour statistics to be collected and maintained	Labour research and statistics to be emphasised; Productivity and efficiency to be enhanced through good supervision and training courses	Efficiency and productivity emphasised	Government department dealing with labour to be reorganised	Higher product emphasised

Fig. 3.1 SUMMARY OF THE LABOUR POLICIES IN BANGLADESH[4]

The First Policy

Having done nothing in respect of the five year programme, the Government made a formal announcement of its labour policy in August 1955.[6] As shown in column 3 of Fig.3.1, almost all the items of the five year programme were included in this policy

The fate of this policy was no better than that of the five year programme. Only the Workmen's Compensation (Amendment) Act, which provided for increased rates of compensation for accidents, was passed by the legislature in March 1957 and amendments to the Industrial Disputes Act, providing for speedy remedy to the aggrieved workers in the case of violations of the conditions of service, and conciliation of apprehended disputes, was made in the middle of 1958. At the time of promulgation of the Martial Law in October 1958, the position in the field of labour stood almost the same as on the date of the creation of Pakistan. Other than for a few minor and negligible exceptions, not a single important legislation was enacted nor any other significant measure or scheme launched.[7] Industrial disputes began to rise rapidly. With a view to stopping the rising trend of industrial disputes, the Martial Law authority passed the Essential Services (Second) Ordinance, 1958, under which the Government could declare any industry or service to be essential whenever any industrial dispute occurred or was apprehended. The Act made strikes in essential services illegal.[8]

The Second Policy

In February 1959, the Martial Law Government headed by Ayub Khan announced a new labour policy.[9] The main contents of the policy have been briefly stated in column 4 of Fig.3.1. This policy, compared with the previous ones, did not seem to be any different in fundamentals.

The Martial Law Government took some legislative measures as a step towards the implementation of its declared policy. In substitution of the Industrial Disputes Act 1947, a new Industrial Disputes Ordinance was passed in 1959, which provided for the following:

(a) equal representation of the parties in the works committee;
(b) the conciliation officer to conciliate in any industrial dispute, and in the event of a failure of conciliatory efforts to issue a certificate of failure within 14 days in public utility services and within 28 days in other cases;
(c) the constitution of permanent tripartite industrial courts and direct approach by any disputant party to such courts;
(d) punishments for breaches of the terms and conditions of the bipartite agreements.

The Ordinance was amended in 1961 and 1962 providing for the employers' right to dismiss a worker for misconduct not connected with the dispute pending before the conciliation officer or the industrial court and also for a right to appeal to the High Court against the awards of the industrial court.[10]

The Trade Union Act 1926 was amended for the first time in 1960. Under the amendments, employers were obliged to recognise unions fulfilling certain specified conditions. Disputes arising out of refusals to union recognition were to be heard by industrial courts. Certain unfair practices on the part of both the parties and penalties for committing those practices were also specified. A further amendment to the Act in 1961 debarred any outsider from becoming an officer of a trade union.[11]

Before the imposition of a Constitution in 1962, the Ayub Government also promulgated some other Ordinances governing the conditions of service of industrial and commercial workers, working journalists, merchant shipping, road transport and plantation workers. Under the 1962 Constitution, labour became mainly a provincial subject. The central labour laws were passed on to the Provincial Governments. Following the transfer of this subject to the province, the Government of East Pakistan (now Bangladesh) enacted several Acts by repealing the central Acts and Ordinances. Important among the enactments by the East Pakistan Provincial Legislature were: [12]

(1) The East Pakistan Trade Union Act, 1965;
(2) The East Pakistan Labour Disputes Act, 1965;
(3) The East Pakistan Employment of Labour (Standing Orders) Act, 1965;
(4) The East Pakistan Factories Act, 1965;
(5) The East Pakistan Shops and Establishments Act, 1965; and
(6) The East Pakistan Water Transport (Regulation of Employment) Act, 1965.

In the East Pakistan Trade Union Act, 1965, the Director of Labour was made a dominating figure and the employer had hardly any say in the matter of trade union recognition. The East Pakistan Labour Disputes Act, 1965 provided for collective bargaining but for all practical purposes, the use of strike was made impossible. Strikes were banned in essential and public utility services. Laws were so framed that in the name of essential and public utility services, most of the major industries were included under these two categories. The most unfavourable provision in the Employment of Labour (Standing Orders) Act, 1965 was the termination of employment without showing any reason which was against the very spirit of collective bargaining. The Factories Act, 1965 incorporated some additional provisions with regard to the leave of the workers. Similarly, the scope of the Shops and Establishments Act was also widened in 1965.[13]

The Third Policy

The trade union leaders were very bitter and sarcastic in their observations regarding the Government policies. The country faced serious mass agitation combined with industrial unrest throughout the second half of the sixties which reached its peak in 1969 and Martial Law was imposed for the second time in March 1969. The new Martial Law Government, headed by Yahya Khan, showed a sympathetic attitude towards workers and declared a new labour policy in July 1969[14] which frankly recognised that workers had been deprived of their genuine rights in the past. The policy was far more accommodating than those declared previously, and even subsequently after the independence of Bangladesh. Column 5 of Fig.3.1 contains the main features of the policy.

Based on the outline of this labour policy, the East Pakistan Trade Union Act, 1965 and the East Pakistan Labour Disputes Act, 1965 were repealed and a new Ordinance, called the Industrial Relations Ordinance (hereafter abbreviated as IRO), 1969 was promulgated. The new Ordinance ensured freedom of association to all types of workers, public and private, provided the right to strike and strengthened the scope of collective bargaining. The Minimum Wages (Fixation) Ordinance, 1969, also promulgated for implementing the objectives cherished in the new policy, fixed the rates of minimum wages for all industrial establishments, public or private, having 50 or more workers.

Thus during the last part of the Pakistan period, all industrial workers, both in the public and private sectors, were allowed freedom of association and right of collective bargaining, including the right to strike. The minimum wages fixed were applicable to both the private and public sector industries. The non-industrial public workers employed in the traditional essential and service sectors (e.g. posts, telegraph and telephone, electricity generation, railways etc.) were allowed the right of collective bargaining without the right to strike. Their financial terms and conditions of service were also governed by special Government regulations applicable to specific sectors.

3.1.3. The Bangladesh Period

The independence of Bangladesh brought a change in the context of Government's policy towards labour. Immediately after independence, the Prime Minister[15] made a press statement on 9th February 1972, which read as under:

> "I assure our workers that the basic goal of the socialist economy, which we are committed to achieve, will be securing the rights of workers and ensuring their welfare. A plan is being prepared whereby measures of nationalisation would be combined with new arrangements to ensure workers' participation in the management of industries." [16]

The Constitution of the country, adopted in 1972, provides as follows:

> "It shall be the fundamental responsibility of the State to emancipate the toiling masses - the peasants and workers - and backward sections of the people from all forms of exploitation." [17]

Immediately after its emergence, Bangladesh experienced serious labour indiscipline and inter-union rivalries. Clashes between the Sramik League (the supporter of the ruling party) and other opponent unions were rampant. In the light of the commitments, as stated above, the Government nationalised all the major industries including banks and insurance[18] and appointed a committee, known as the Kamruddin Committee[19], on 19th February 1972 to report on workers' participation in the management of industries. The Committee intended to discuss this important issue with all the labour leaders collectively. But due mainly to the obstinacy of the Sramik League, this was not possible and it talked with the labour leaders individually, but no concensus could be reached and after about three months of deliberations the Committee submitted its report to the Government.[20]

The First Policy

Having failed to elicit any consensus from the workers, the Government unilaterally announced a labour policy in July 1972, based on the recommendations of the Kamruddin Committee.[21] Column 6 of Fig.3.1 depicts the main features of the policy. This policy differentiated between the private and public sector workers in respect of industrial relations. In the private sector differences between labour and management were to be settled through peaceful means of direct negotiation, conciliation and labour courts. Trade unions in the private sector were to achieve improved terms and conditions of employment for the workers, improved physical environment at the workplace and other welfare measures through the process of collective bargaining. The Minimum Wage Board was to continue fixing wages in the private sector industries where trade unions were weak.

In relation to the public sector industries, the policy proposed the constitution of a five-member Management Board - two members to represent workers, two to represent management and one to represent financial institutions - for each corporation (each corporation representing an industry) and a Workers-Management Council with an equal number of representatives from management and workers at the plant level. Differences between labour and management were to be resolved through joint consultation in the Management Board and the Workers-Management Council. The Government felt that since the workers would be directly involved in the management of their industries, there would be no necesity for collective bargaining and strikes. Trade unions in the public sector industries were to be there to promote workers' welfare, workplace safety and conditions for higher productivity. The policy provided for the formation of a National Wage Board to determine and review periodically the wage structure and other fringe benefits of the workers employed in the nationalised and taken-over industries. Wages in the other public sector industries were subject to the recommendations of the National Pay Commission (NPC).

The union leaders and workers of the public sector industries, who were more organised than those of the private sector industries,[22] were not ready to lose the rights of collective bargaining and strike and demonstrated with strong protests and the policy had finally to be withdrawn.

Subsequent Developments

The Government appointed the Industrial Workers Wages Commission (IWWC) in June 1973 for the determination of a uniform wage scale for public sector industrial workers in the light of changes in cost of living, compensation paid to wage earners in other sectors of the economy and capacity of the industry to pay. The IWWC recommended a minimum wage scale which was 10 per cent higher than the lowest category of pay scale in the National Pay Scale (NPS) for salaried staff. This was done to add more value to productive work than to office work. The Government accepted the IWWC recommendations and passed the State Owned Manufacturing Industries Workers (Terms and Conditions of Service) Act, 1974 with a view to implementing those

recommendations. But the implementation of the IWWC recommendations could not satisfy the workers because at the time of implementation, those recommendations could not compensate for the escalation in the rate of inflation.[23] Nothing was done in respect of workers' participation in management. Industrial disputes continued to rise. The then ruling party also apprehended serious political unrest in opposition to its dictatorial one party system and change in the form of Government (from Parliamentary system to Presidential system). A state of national emergency was declared in January 1975. All trade union activities, strikes and lock-outs were banned by issuing Order Nos. SRO 14, SRO 16 and SRO 17 under the Emergency Power Rules, 1975.

In the meantime there occurred a military coup in the country in August 1975. In December 1975 the Martial Law Government led by Ziaur Rahman promulgated the Industrial Relations (Regulation) Ordinance, 1975. Under this Ordinance, a restriction was put on the registration of new trade unions.[24] Persons employed as members of the watch and ward or security staff or confidential assistants of any establishment were denied the right to be members or officers of any trade union.[25] Elections for determining the collective bargaining agent (CBA) were prohibited and a Consultative Committee was required to be constituted, where there was no CBA.[26] All industrial disputes were to be settled through peaceful means.[27]

In 1977, the Industrial Relations Rules were framed which contained detailed procedures as to the formation and administration of trade unions, determination of CBA, constitution of works councils and functions of conciliators and labour courts. In April 1977, the Government appointed the Industrial Workers Wages and Productivity Commission (IWWPC) to suggest a revised wage scale for the workers of the public manufacturing sector, which submitted its report in June 1978. A new National Pay Commission was simultaneously appointed for the workers in other public sectors.

The Second Policy

In March 1980 the BNP (Bangladesh Nationalist Party) Government announced a new labour policy which has been summarised in column 7 of Fig. 3.1. This policy recognised the need for consultation with the national level Tripartite Consultative Committee to be constituted with the representatives from the Government, workers and employers in matters of policy affecting labour/management relations and legislative changes. As to the fixing of wages, the principles enunciated in the first policy were to be adhered to. As to the right of strikes and lock-outs, this policy allowed such direct actions only in extreme cases. It encouraged workers' participation in certain designated functions relating to workplace industrial relations. It retained the practice of formation of executive committees of trade unions at plant level with the representatives from among the workers. The non-workers were, however, allowed to be elected as office bearers of the trade union federations at the industry and national levels.

As outlined in the second labour policy, a further amendment was made in 1980 to the IRO, 1969. Under this amendment, the Works Council was replaced by the Participation Committee which was to be constituted with representatives from both management and workers in such a proportion that the number of members representing workers should not be less than the number representing management. The Committee is to deal with the following matters:

(a) application of labour laws;
(b) improvement of working environment and safety;
(c) adoption of welfare programmes for the workers;
(d) reduction of production costs and wastage; and
(e) education and training of workers.

Latest Developments

In March 1982 Martial Law was declared for the second time and General Ershad took power. The new Martial Law authority promulgated the Industrial Relations (Regulation) Ordinance 1982, which again banned all trade union activities, strikes and lockouts. This ban still continues and is expected to continue until the Martial Law is relaxed or a civil government comes to power.

The above historical analysis of all the labour policies declared so far reveals a frustrating picture. In undivided India, during the period after the First World War, several important pieces of labour legislation were enacted which formed the basis for further modifications and amendments during the Pakistan and Bangladesh periods. During the whole Pakistan and Bangladesh era of 36 years, there were as many as six labour policies - each of which was full of hopeful pledges to the workers but very few of those pledges were in fact implemented. The relatively progressive and accommodative policies and laws which the workers secured at the end of the Pakistan era, after a series of bitter agitations and struggles, were again made restrictive after the emergence of Bangladesh as a sovereign state. In terms of economic benefits and labour welfare facilities, the position of workers at present is perhaps no better, or even worse than that prevailing at the time of adopting the first labour policy.[28] Owing to their non-implementation, all of the policies remain in the offices of the Labour Ministry as "sleeping beauties" with little visible action on them.

3.2 The Legal Framework of Dispute Resolution in the Public Sector Industries

The IRO,69, applicable to both the private and public sector industries, provides the basic framework governing the dispute resolution system in Bangladesh. However, some other legislations are also in force in this respect, particularly for the public sector industries. This section attempts to present this legal framework in a logical sequence by relating the provisions of all the relevant laws in a consistent form.

The legal procedures to be followed in the resolution of disputes have been designed according to the nature of the disputes i.e., whether the dispute in question is a "right" dispute or an "interest" dispute, or whether it is an individual or a collective dispute. It, however, happens that the individual disputes usually relate to "right" disputes, while collective disputes to both "interest" and "right" disputes. The laws prescribe two different channels for the resolution of the two types of disputes. The institutions involved in each channel have been shown in Fig. 3.2

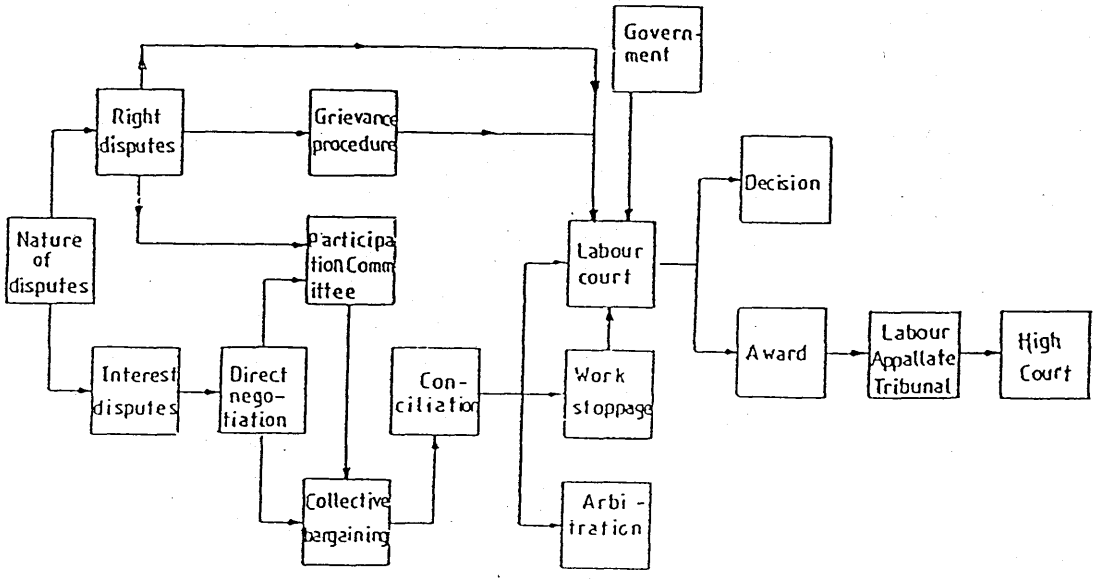


FIG. 3.2 THE LEGAL FRAMEWORK OF DISPUTE RESOLUTION

3.2.1 The Resolution Right Disputes

The right disputes relate to conflicts over matters of rights resulting from contractual relationship, which may include grievances in respect of unfair treatment, denial of entitlements as well as unjustified punishments.[29] Such disputes may be either individual or collective but more frequently these are individual cases. The following three machineries are available for the settlement of right disputes:

(1) Participation Committee

The Participation Committee is to promote mutual trust, understanding and cooperation between management and workers through ensuring the application of various labour laws and other prescribed measures.[30] Thus violations of workers' rights guaranteed under various laws and settlements may be amicably settled through the Participation Committee in which workers should have at least equal, if not more, representatives. But the law does not prescribe any procedure as to how this committee is to be approached and how it is to dispose of the cases referred to it.

(2) Grievance Procedure

Any individual worker who has a grievance in respect of any matter covered by the Employment of Labour (Standing Orders) Act 1965[31] may seek redress under the following grievance procedure:[32]

(a) Within 15 days of the occurrence of the cause of such a grievance, the worker concerned is to bring his grievance in writing to the notice of the management.

(b) On receipt of such a grievance, the management is to enquire into the matter and give the worker concerned an opportunity of being heard; its decision must be communicated within 30 days of the receipt of such grievance.

The law is silent as to the applicability of this grievance procedure for the enforcement of workers' rights under any other law, award or settlement. Even if it does not apply, the workers may be reasonably expected to bring their complaint to the notice of the management in some way or other.

(3) Labour Courts

If the management fails to give its decision under the above grievance procedure, or if the worker is dissatisfied with such decision, he may make a complaint to the appropriate labour court[33] within 30 days from the last date of the grievance procedure. On receipt of any such complaint, the labour court is to decide the case in such a summary way as it deems proper.[34] The IRO, 1969 also entitles any CBA or any employer (or management) or worker to apply to the labour court for the enforcement of any right guaranteed or secured to it or him by or under any law or any award or settlement.[35]

3.2.2. The Resolution of Interest Disputes

Matters of interest are defined as matters which affect the conditions of work of a worker including matters such as the share of production which he obtains for his work, the part of his needs that can be fulfilled, the congeniality of his place of work etc.

No-one can dispense justice on matters of interest. These are usually to be resolved by the needs and strengths of the parties concerned.[36]

The resolution of interest disputes is mainly governed by the IRO, 1969, as amended up-to-date. In the public sector, however, the framework provided by the IRO, 1969 is subject to two other special legislations - the State Owned Manufacturing Industries Workers (Terms and Conditions of Services) Act, 1974 and the Essential Services (Second) Ordinance, 1958. These special laws and certain other variations with regard to public sector industries will be referred to in appropriate places in the course of the following discussion.

(1) Bipartite Negotiation

An existing or apprehended dispute involving interest is first required to be settled through bipartite negotiation between the parties. The law provides for two methods of bilateral negotiation:

(a) Participation Committee: The specified functions of the Participation Committee as already stated in the first section imply that the forum is available for settlement of disputes through bilateral consultation. But except for prescribing the functions of this Committee, the law does not provide for any detailed procedure regarding how to utilise this machinery for resolving disputes between the parties. The use of this Committee is, however, not compulsory. In fact, it can be by-passed.

(b) Collective Bargaining: In the event of a failure to settle a dispute through the Participation Committee or of its by-passing, direct collective bargaining between the parties must occur. For collective bargaining purposes, the party affected by the dispute - an employer or CBA, as the case may be - is to communicate in writing, the fact of such a dispute to the other party.[37] It is to be noted that an industrial dispute can be raised only by an employer or a CBA.[38] In relation to an establishment or industry

run by or under the authority of any Ministry or Division of the Government, the authority appointed in this behalf, or where no authority is appointed, the Head of the Ministry or Division is deemed to be an employer. The employer also includes any person responsible for the management, supervision and control of an establishment.[39] In relation to an establishment or industry, private or public, the CBA means a trade union of workers declared by the Registrar of Trade Unions under prescribed procedures to be an exclusive bargaining agent for the workers in that establishment or industry, as the case may be.[40]

The party receiving the communication of a dispute is under an obligation to consult and sit in meetings with the other party for collective bargaining on the dispute raised.[41] Fourteen days are allowed with a view to reaching an agreement at this stage.[42] If the parties can reach a settlement on the issues discussed, a memorandum of settlement is to be signed by both the parties and a copy of it is to be forwarded to the appropriate conciliator and the Government.[43]

In the public sector industries the plant managements do not have adequate authority to negotiate on the disputes raised by their CBAs and frequently refer them to respective corporations which, in the absence of any statutory time limit, usually take a long time to give decisions on them. Another point to be noted here is that, as opposed to the private sector, interest disputes relating to wages and fringe benefits are not collectively bargainable in the public sector industries. Section 3 of the State-Owned Manufacturing Industries Workers (Terms and Conditions of Service) Act, 1974 provides that with a view to implementing certain recommendations of the Wages Commission, the Government reserves the right to determine the wage, bonus, medical allowance, house rent allowance, conveyance allowance, night shift allowance and leave which shall be payable or admissible to any worker employed in any state-owned manufacturing industry, whatsoever is contained in the IRO, 1969, or in any other law or any rule, regulation, by-law, agreement, award, settlement, custom and usage. It further provides that no such worker shall receive and no person shall allow such worker any wage,

bonus, medical, house rent, night shift and conveyance allowances and leave in excess of what is fixed by the Government. In the non-manufacturing public sector industries such financial terms and conditions of service of workers are governed by the National Pay Scales, also determined by the Government, in a similar way. The scope of collective bargaining in the public sector industries has thus been significantly reduced.

(2) Conciliation

If a dispute is not settled at the bipartite level, the law provides for it to be settled through conciliation. The practice of conciliation is compulsory in Bangladesh in the sense that the parties cannot go for direct industrial action without first going through conciliation. The conciliator, however, cannot impose any settlement on the parties. There are three stages of conciliation:

(a) Conciliation before the notice of work stoppage: On the failure of direct negotiation, either of the parties may report to the conciliator that the negotiations have failed and make a written request to him to conciliate in the dispute[44] within 14 days of the failure of direct negotiation.[45] Upon such a request it becomes obligatory on the conciliator to start conciliation. Thirty days are allowed to him to conclude the conciliation.[46] Soon after receiving a request for conciliation, the conciliator is to call a meeting of the parties to the dispute for the purpose of bringing about a settlement.[47] The parties are to represent before the conciliator by persons authorised to negotiate and enter into an agreement binding on them.[48] In the public sector industries, the representatives of the Ministry or Division administratively concerned with those industries may also represent before the conciliator.[49] Non-appearance of the parties before the conciliator has been made punishable.[50] The law has given the conciliator power to call for and inspect any register, document, certificate, notice etc. which he has reason to believe to be relevant to the dispute, and if these are not given to him voluntarily, he may even seize them. He is also empowered to enter the premises of an establishment to which the dispute relates and require any person whom he finds in the establishment to give such

information relating to the dispute as is within his knowledge.[51] In the conciliation meeting, the conciliator may suggest such modifications and concessions to either party as, in his opinion, are likely to promote an amicable settlement.[52]

(b) Conciliation during the notice of work stoppage: If the conciliator fails to settle the dispute within 30 days[53] from the date of receiving the conciliation request, the CBA or the employer may serve on the other party to the dispute 21 days notice of strike or lock-out, as the case may be.[54] It has, however, been provided that a CBA cannot serve a strike notice unless three-fourths of its members have given their consent to it through a secret ballot.[55] A copy of the work stoppage notice is required to be delivered to the conciliator who, after examining the validity of the notice of work stoppage, is to continue to conciliate in the dispute, despite the notice of work stoppage. If the work stoppage notice does not conform to the provisions of the laws or rules of the trade union concerned, such a notice is deemed to have not been given and any industrial action on the basis of that notice is taken to be illegal.[56]

(c) Extended conciliation: If no settlement is arrived at within the period of the notice of work stoppage, the conciliation proceedings can be continued for such further period as may be agreed upon by the parties.[57]

If a full or partial settlement of a dispute is arrived at in the course of the conciliation proceedings, a memorandum of settlement is to be signed by the parties and the conciliator is to send a report about the settlement together with a copy of the agreement to the Government.[58] In the event of a failure of the conciliatory efforts, the conciliator is to issue a "failure certificate" to the parties.[59]

After the failure of conciliation on a particular dispute, the law provides for three alternative methods for its resolution - voluntary arbitration, direct industrial action and adjudication through labour courts. The adjudication process may be optional in some cases but compulsory in others.

(3) Voluntary Arbitration

The practice of arbitration in Bangladesh is voluntary in the sense that the parties are not legally obliged to refer their dispute to an arbitrator, but once they agree to refer to him, his decision is binding on the parties as final.[60] The arbitrator can be appointed in two ways - on the persuasion of the conciliator or on their own by the parties themselves. In either case, the parties are to make a joint request in writing to refer the dispute to a mutually agreed arbitrator, who may be a person on a panel to be maintained by the Government, or any other person outside the panel. The arbitrator is to give his award within a period of 30 days from the date of reference or within such an extended period as may be agreed upon by the parties. The award of the arbitrator is to remain valid for such period as may be fixed by him and where no time is fixed, for a period not exceeding two years.[61]

(4) Work Stoppage

If after the failure of conciliation, the parties do not agree to refer the dispute to an arbitrator, the workers may go on strike, or as the case may be, the employer may declare lock-out in accordance with the notice already given.[62] But striking in the public sector industries is not that easy because of the technical subtleties and discretionary powers of the Government and the labour courts. In the case of public utility services,[63] the Government reserves the right to prohibit a strike or lock-out at any time before or after the commencement of a strike or lock-out.[64] Moreover, the Essential Services (Second) Ordinance, 1958 is also in force in Bangladesh to prevent the occurrence or continuance of strikes and lock-outs in certain services declared or to be declared essential by the Government. This weapon is frequently used by the Government whenever any strike is apprehended in any public sector industry, irrespective of whether it is really essential or not.[65] A labour court or a labour appellate tribunal has also power to prohibit the continuance of a strike or lock-out, once such a dispute is referred to it.[66]

(5) Voluntary Adjudication

Instead of commencing or continuing a strike or lock-out, after passing through the stages of bipartite negotiation and conciliation, the parties may, at any time, either before or after the commencement of a strike or lock-out, but within 21 days of failing conciliation[67] make a joint application to the labour court for adjudication of the dispute.[68] A labour court consists of a chairman and two members to advise the chairman, one to represent the employers and the other to represent the workers, all appointed by the Government in prescribed manners. Only a person who has been, or is, or is qualified to be a Judge or Additional Judge of the High Court, or is a District Judge or an Additional District Judge, can be appointed as the Chairman of a labour court.[69] A labour court can enforce the attendance of any person and examine him on oath. It can compel the production of documents and material objects. It can also issue Commissions for the examination of witnesses and documents.[70] After a case is referred to the labour court, it gives both the parties to the dispute an opportunity of being heard and to make such award as it deems fit as quickly as possible within a period of 60 days, although delay in making an award does not affect its validity.[71] An award of the labour court is to remain valid for not more than two years.[72]

(6) Compulsory Adjudication

It is compulsory for a strike or lock-out to be referred to the labour court for adjudication when it is prohibited by the Government in the following circumstances;

(a) If a strike or lock-out lasts for more than 30 days;[73]
(b) If, even before the expiry of 30 days, the Government is satisfied that the continuance of a strike or lock-out is causing serious hardship to the community or is prejudicial to the national interest;[74] and
(c) If a strike or lock-out occurs or is likely to occur in any public utility service.[75]

(7) Labour Appellate Tribunal

As is evident from the above presentation, both the interest and right disputes may be referred to the labour court. The verdict of a labour court in an interest dispute is termed as an "award", while that in a right dispute as a "decision". All decisions of a labour court are final and cannot be called in question in any manner by or before any other court or authority. An award of a labour court is, however, appealable to a labour appellate tribunal within 30 days of such an award by a labour court. A tribunal is to consist of one member to be appointed by the Government. Only a person who is or has been a Judge or an Additional Judge of a High Court can be appointed as a member of the tribunal. The tribunal can conform, set aside, vary or modify the award of a labour court. The tribunal is to give its decision as expeditiously as possible, within a period of 60 days from the date of filing an appeal.[76] The decisions of a tribunal in appeal cases are final.[77] The tribunal can also award punishment for contempt of its authority as well as of the labour courts, as if it were a High Court. Any person convicted and sentenced by the tribunal for such contempt may, however, prefer an appeal to the High Court.[78]

With this summarisation of the Government policies and legal framework of dispute handling, this Chapter is concluded to pass on to the next, where the methodological aspects of the study are described.

NOTES

1. Ahmad, K., Labour Movement in Bangladesh, (Dhaka: Inside Library, 1978), p.19.
2. Ibid. Ch.I.
3. Bhattacharjee et al. Dispute Settlement and Promotion of Industrial Peace in Bangladesh, Colombo, 1982, (ILO/DANIDA Sub-Regional Symposium Paper), Ch.I.
4. The five year programme of work was available from the proceedings of the First Labour Conference published by Manager of Publications, Karachi and reproduced by Shafi, M. in Eleven Years of Labour Policy, (Karachi: Bureau of Labour Publications, 1959) pp.1-4. The first labour policy of Pakistan was declared by Dr. A.M. Malik, the Central Labour Minister, on August 15, 1955. The second policy was declared by Lt. General W. Burki, the Social Welfare Minister of Pakistan, on February 28, 1959. The third as well as the last labour policy of Pakistan was declared by Air Marshall M. Noor Khan on July 5, 1969. The first labour policy of Bangladesh was declared by Zahur Ahmed Choudhury, the Minister for Labour, on October 27, 1972. Finally, on March 1, 1980, Reazuddin Ahmed, the Minister-in-Charge of Labour announced the second labour policy of Bangladesh.
5. Shafi, M., op.cit., Ch.II.
6. See note 4.
7. Ibid. Chs. II and III.
8. Section 3 of the Essential Services (Second) Ordinance, 1958.
9. See note 4.
10. Ahmad, K., op.cit., pp.69-71.
11. Ibid. p.71.
12. Ibid. p.71.
13. Bhattarcharjee et al, op.cit., Ch.I.A.1.
14. See note 4.
15. Sheik Mujibur Rahman, who led the liberation movement, was the first Prime Minister of Bangladesh.
16. Quoted by Khan, M.M. and Ahmad, M., Participative Management in Industry, (Dhaka: Centre for Administrative Studies, 1980), p.56.
17. Article 14, The Constitution of Bangladesh, as amended up to 1979.

18. See Chapter I of the present study.
19. The Committee was led by Kamruddin Ahmad.
20. Ahmad, K., op.cit., pp.105-8. Also see Khan, M.M. and Ahmad, M., op.cit., pp.57-58.
21. See note 4.
22. Haleem, S.A. et al, "Labour Management Relations in Public Enterprises in Bangladesh" in Labour Management Relations in Public Enterprises in Asia, (Bangkok: Friedrich-Ebert-Stiftung, 1978), p.43. Also see Khan, M.M. and Ahmad, M. op.cit., pp.62-63.
23. Sobhan, R. and Ahmad, M., Public Enterprise in an Intermediate Regime, (Dhaka: BIDS, 1980), pp.524-28.
24. Section 4 of the Industrial Relations (Regulation) Ordinance, 1975.
25. Section 6, Ibid.
26. Sections 7 and 8, Ibid.
27. Section 9, Ibid.
28. The economic position of the workers will be examined in detail in Chapter V.
29. Pakistan Labour Policy, 1969, Ch.2
30. Section 25 of the IRO, 1969, as amended in 1980.
31. This Act covers matters like classification of workers, period of probation, leave and holidays, lay-off, retrenchment, fines, suspension, discharge, dismissal, termination, etc.
32. Section 25, the Employment of Labour (Standing Orders) Act, 1965.
33. There are six labour courts in Bangladesh, each having its territorial and industrial jurisdictions.
34. Section 25(b), (c) and (d) of the Employment of Labour (Standing Orders) Act, 1965.
35. Section 34, IRO, 1969.
36. Pakistan Labour Policy, 1969, Ch.2
37. Section [26(1)] of the IRO, 1969.
38. Section 43, Ibid.
39. Section 2(viii), Ibid.
40. Sections 2(v) and 22, Ibid.
41. Section 26(2), Ibid.

42. Section 9(2) of the Industrial Relations (Regulation) Ordinance, 1975. The Industrial Relations (Regulation) Ordinance, 1982 declared by the present Martial Law authority, however, allows 21 days.
43. Section 26(3) of the IRO, 1969.
44. Section 27-A of the IRO, 1969, as amended in 1970.
45. Section 9(2) of the Industrial Relations (Regulation) Ordinance, 1975.
46. Section 9(3), Ibid.
47. Section 30(1) of the IRO, 1969.
48. Section 30(2), Ibid.
49. Section 10 of the Industrial Relations (Amendment) Act, 1980.
50. Section 4, Ibid.
51. Section 35(a) and (b) of the Industrial Relations Rules, 1977.
52. Section 30(3), IRO, 1969.
53. Section 9(3) of the Industrial Relations (Regulation) Ordinance, 1975.
54. Section 28 of the IRO, 1969, as amended in 1970.
55. Section 8 of the Industrial Relations (Amendment) Act, 1980.
56. Section 29 of the IRO, 1969, as amended in 1980.
57. Section 30(5) of the IRO, 1969, as amended in 1970.
58. Section 30(4) of the IRO, 1969.
59. Section 9(3) of the Industrial Relations (Regulation) Ordinance, 1975.
60. Section 31(5) of the IRO, 1969.
61. Various sub-sections to Section 30 of the IRO, 1969.
62. Section 32(1), Ibid.
63. Under Section 2(xx) of the IRO, 1969, the following services have been specified as public utility services:
    (a) The generation, production, manufacture or supply of electricity, gas, oil or water to the public;
    (b) Any system of public conservancy or sanitation;
    (c) Hospitals and ambulance service;
    (d) Fire-fighting service;
    (e) Any postal, telegraph or telephone service;
    (f) Railways and airways;
    (g) Ports;
    (h) Watch and ward staff and security services maintained in any establishment.

64. Section 33(1), Ibid.
65. Section 3 of the Essential Services (Second) Ordinance, 1958.
66. Section 45 or the IRO, 1969.
67. Section 9(3) of the Industrial Relations (Regulation) Ordinance, 1975.
68. Section 32(1-A) of the IRO, 1969 as amended in 1970.
69. Section 35 of the IRO, 1969.
70. Section 36, Ibid.
71. Section 32(4), Ibid.
72. Section 32(5), Ibid.
73. Section 32(2), Ibid.
74. Proviso to Section 32(2), Ibid.
75. Section, 33, Ibid.
76. Section 38, Ibid.
77. Section 37(3), Ibid.
78. Section 38(5) and (6), Ibid.

CHAPTER IV
METHODOLOGY OF THE STUDY

This chapter looks at the aspects of methodology followed in the study. These aspects are discussed under six heads. The first section defines the study and its scope. The sampling design of the study is discussed in section two. The various methods of collecting data for the study provide the subject matter of section three. The methods of subsequent processing and analysis of the collected data are taken up in section four. The investigation team faced a lot of problems during the course of fieldwork, which are stated in section five. Finally, the Chapter concludes with section six, where certain limitations of the study are mentioned.

4.1 Definition and Scope of the Study

Before discussing other methodological aspects, first of all, a definition of the scope of the study on "Handling of Industrial Disputes in the Public Sector Industries in Bangladesh" seems logical. Key words of the title to be defined are "public sector industries", "industrial disputes" and "handling".

Due to limitation of resources in terms of time and money, the study is based on a sample of public sector industries. A public sector industry is defined for the purpose of this study as an entity which is owned and controlled by the Government or its appointed agencies and which produces goods or renders services to the public in return for either a normal or subsidised price.[1] According to this definition, a large number of enterprises come under the public sector. To make an operationally feasible study on them, these industries were first classified into three categories - manufacturing, essential services[2] and non-essential services -and then based on a purposive sampling, certain industries from each of these categories were selected for investigation. Jute being the most important as well as the most strike-prone industry, Bangladesh Jute Mills Corporation (BJMC) was selected from the manufacturing sector. Electricity being the most traditional

public utility service, Bangladesh Power Development Board (BPDB) was selected to represent the essential service sector. From the non-essential service sector Bangladesh Road Transport Corporation (BRTC) and Bangladesh Inland Water Transport Corporation (BIWTC) were selected purposively with a view to examining how the dispute resolution process of these industries compares with those in the other two categories.

For the purpose of this study an industrial dispute is defined in a broader and more liberal sense than that provided in the law. The IRO, 1969 defines an industrial dispute as:

> "any dispute or difference between employers and employers or between employers and workmen or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or the conditions of work of any person". [3]

The plural form "workmen" has been used in describing what may be termed as the party to an industrial dispute. This implies that a dispute of an individual worker with his employer is not an industrial dispute. In popular language, an industrial dispute is one involving a lot of workers agitating for their common demands. This concept seems erroneous, because, even popularly, the plural term "employers" is taken to include a single employer, and hence it seems consistent to extend the same interpretation of the term "workmen" to include an individual worker. Thus both collective and individual disputes are taken to comprise industrial disputes for this study. The legal pre-condition that an industrial dispute must be raised by the CBA[4] was, however, adhered to at the plant level. Conciliation level disputes are, by law, to be initiated by the formal CBAs. But since any aggrieved person or party can apply to the labour court, the legal precondition of a dispute to be raised by the CBA could not be stuck at the labour court level.

The term "handling" is defined to refer to all aspects of dealing with industrial disputes covered by the study from their initiation to their final settlement as they pass through the various stages of the dispute resolution process. It also includes the problems faced by the various machineries in the course of dealing with such disputes.

Thus the study covers all aspects of dealing with both the individual and collective disputes relating to the terms and conditions of work and employment of workers in certain public sector industries selected as samples to represent the various sub-sectors of the public sector productive entities.

4.2 Sampling Design

The study is based on two types of population - the first comprises the people who are involved with the dispute resolution process and the second comprises the specific dispute cases which are analysed with a view to examining the nature of public sector disputes and the actual process of their resolution. The sampling method applied in the study may be termed to be a combination of "multi-stage", "purposive" and "random" one. The actual sampling design may be discussed under the following four heads:

(1) Selection of industries

As already noted in the previous section, the industries to constitute the sample for the study - jute, electricity and road and water transports - were chosen under the consideration of ensuring representation of the various sub-sectors of the public sector industries.

(2) Selection of plants

Time and money being the limiting factors, the first criterion for the selection of plants[5] was that these must be located in and around Dhaka, which was the base of the fieldwork. An initial plan was made to investigate 10 plants - 4 from jute (it being the most strike-prone and major industry of Bangladesh) and 2 from each of the other three industries. On starting the fieldwork the author came to know that the BIWTC had only one plant near Dhaka and so it was decided to take one more plant from the BJMC, keeping the total number of plants fixed at 10.

(a) Selection of BJMC plants: The BJMC authority gave an up-to-date list of 26 public sector jute mills located around Dhaka. The Adamjee Jute Mills Ltd. being the largest jute mill of the country,[6] was selected purposively. The remaining 25 mills were stratified into three categories - large, medium and small - according to the criterion of loom-size, used by the former East Pakistan Industrial Development Corporation (EPIDC).[7] The number of plants in the medium category were more than those in the other categories. Two plants from the medium category and one each from the large and small categories were selected at random.[8]

(b) Selection of BPDB plants: There were four Dhaka based plants under BPDB. Their available generating capacity in 1981-82 was as follows:[9]

Plant	Capacity in MW
1	120
2	110
3	75
4	54
Total	359

Plants 2 and 3 were selected purposively on the following considerations:

(i) These were nearest to the fieldwork base.

(ii) These represented about 52% of the Dhaka Zone's generating capacity and about 26% of that of the whole country.

(iii) These were neither too large nor too small.

(c) Selection of BRTC plants: Of the three plants, almost of similar size in terms of employees, located in Dhaka, two were selected purposively.

(d) Selection of BIWTC plants: There was no choice in selecting the plant under the BIWTC, because there was only one plant near Dhaka, which was included in the sample.

(3) Selection of Interviewees

Interviewees were selected from all stages of the dispute resolution process - plant, corporation,[10] conciliation and labour courts.

(a) Selection of plant level respondents: Both plant level managements and workers' representatives comprised plant level respondents.

(i)Plant level managements: Originally it was planned to have interviews with three management representatives in each plant - the Plant Manager, the Manager (Administration) and the Labour Officer - so that the total number of respondents from management would come to 30. On reaching the field it was found that the planned structure worked only in BJMC plants. In plants of the remaining three industries only two persons were directly involved - the plant manager and the labour officer.[11] The labour officer of the BIWTC plant could not be contacted. Thus the actual number of interviews with plant management came to 24.

(ii) Plant level CBAs: Initially it was planned to interview two workers' representatives - the President and the General Secretary of the CBA - in each of the sample plants. But during the course of actual investigation, it was found that formal CBAs were present in only 4 plants. Due to a ban imposed by the Martial Law authority on holding fresh elections and other legal complications, formal CBAs were absent in the majority (six) of the sample plants. The managements of these plants were, however, conducting negotiations on labour problems through some sort of a temporary committee of workers' representatives taken from each of the existing unions. In such plants without formal CBAs, it was decided to select one representative - either the President or the Secretary -from each union included in the negotiation committee. The total number of actual interviews with workers' representatives thus came to 26.

(b) Selection of corporation level respondents: Due to their excessive business, the Chairmen of the Corporations could not be interviewed. The leaders of the federations of trade unions, being political leaders, were all scattered and it was very difficult to contact them within the short period of fieldwork. In order to get an idea of how the dispute resolution process works at the corporation level, the officers entrusted with the responsibility of the Employees and Labour Relations Departments of the corporations were interviewed. In all 8 such officers [12] - 2 from each corporation - were interviewed.

(c) Selecting conciliation level respondents: 15 conciliators were working in the Dhaka Division, including those working in the Headquarters of the Labour Directorate, also located in Dhaka. It was intended to interview all of them, but in spite of best efforts, two of them could not be contacted and the actual number of conciliation level interviews came to 13.

(d) Selection of labour court level respondents: Of the six labour courts functioning in the country, three are located at Dhaka. Each court has one permanent chairman and a panel of five workers' and five employers' representatives who attend the court in rotation. It was intended to interview all of the 33 court members[13] but failed with 9 of them, because some of them could not keep appointments and some others could not be contacted at all. Total number of interviews with the labour court members thus came to 24. Only one Labour Appellate Tribunal, having only one member, operates throughout the country. The Tribunal member was also interviewed.

Table 4.1 summarises the levels of interview, types of respondents interviewed and total number of interviews taken.

Table 4.1
Summary of Interviews

LEVELS OF INTERVIEW	RESPONDENTS	TOTAL NUMBER OF INTERVIEWS
Plant	Plant manager, Manager (Administration) and Labour Officers	24
	Leaders of the CBAs and Temporary Negotiation Committees	26
Corporation	Officers of Employee Relations, Labour Welfare and Personnel Departments	8
Conciliation	Conciliators	13
Labour Court	Chairmen and Members of the Labour Courts	24
Labour Appellate Tribunal	Member of the Tribunal	1
	Total	96

(4) Selection of Dispute Cases

In addition to collecting information through direct interviews it was thought to be useful to examine specific dispute cases at the various stages of the dispute resolution process. Direct negotiation, conciliation and adjudication being the three major levels for dispute settlement in Bangladesh, it was arbitrarily decided to analyse 200 cases from each of these levels.

(a) Plant level cases: At the plant level around 20 cases from each plant were examined; the total coming exactly to 200. The initial plan was to analyse the collective disputes only but it was found that the number of such cases were not many. Then it was decided to take all types of disputes - collective or group or individual - passing through formal negotiation. In selecting the cases, the investigation started from the most recent one and then chronologically moved backward. All plant level disputes thus corresponded to 1982 and 1983.

(b) Corporation level cases: At the corporation level the author tried to collect as many formal collective bargaining agreements as possible. Copies of 16 such agreements were collected from the head offices of the three sample industries - 9 from the BPDB, 5 from the BJMC and 2 from the BRTC. The BIWTC did not enter into any collective bargaining agreement throughout its life.

(c) Conciliation level cases: At the conciliation level the plan was to analyse 100 successful and 100 unsuccessful cases from the sample industries. Accordingly, the examination of such cases started from the most recent one and gradually moved back. Very few of the cases corresponded to 1982-83 and 1983-84.[14] Unsuccessful cases could be collected by moving back to 1978, but the investigators could not get more than 90 successful cases even by moving back to 1976, beyond which they did not move.[15] Thus 190 cases corresponding to the period 1976-82 were examined in the Divisional and Regional conciliation offices of the Dhaka Division.

(d) Labour Court level cases: Of the three labour courts located at Dhaka, the third one was constituted only in 1982 and for industries not within the sample for this study. It was therefore, decided to concentrate on the cases of the First and the Second Labour Courts. 108 cases from the sample industries were remaining pending in the two courts during the time of investigation and all of them were scrutinised. Regarding the decided cases, starting from the most recent one and then chronologically moving backward, 100 cases were investigated. The decided cases corresponded to the second half of 1982 and the whole of 1983.[16]

(e) Appellate tribunal level cases: The investigators did not find any case relevant for this study in the Labour Appellate Tribunal during the period after 1974. A few cases relating to 1972 and 1973 were, however, available. But, on the grounds already stated, the idea of examining cases at the Tribunal level was dropped.[17]

The following table summarises the break-up of 614 cases analysed at the various stages of the dispute resolution process.

Table 4.2

Summary of Content Analysis of Dispute Cases

Levels of Analysis	Number of Cases Examined
1. Plant	200
2. Corporation	16
3. Conciliation	190
4. Labour Court	208
Total	614

4.3 Collection of Data

Interviews and data for the study were obtained by a Fieldwork Team consisting of three members - the author himself, a Lecturer of the University of Dhaka who helped for one day a week and a postgraduate student at the University who helped on a full time basis for the four months of the fieldwork. The plant and corporation level managements of the sample industries, the executives of the Directorate of Labour and the Chairmen of the Labour Courts in question actively collaborated by giving the investigation team an access to documents and files relating to dispute cases under their respective jurisdiction as well as by makiang administrative arrangements for interview with the relevant people.

The following were the main sources of data:

(1) Direct interview with people concerned with the dispute resolution process;
(2) Content analysis of specific dispute cases; and
(3) Available published records.

A note on how data were collected from each of these sources now follows:

(1) Direct Interviews

As already indicated in the previous Section, direct interviews were conducted at the plant, corporation, conciliation, labour court and labour appellate tribunal levels. Under the guidance of the Supervisor separate interview schedules were prepared for each level.

(a) Plant level schedules: Two schedules were used for collecting relevant information from the plant level - one for the plant level management and the other for the plant level CBA leaders. With slight variations in appropriate cases, the two schedules contained questions almost on similar points. The points covered in the schedules included variables like industry, designation, age, work experience, academic qualifications, number of unions, operation of the participation committee and the grievance procedure, issues frequently negotiated, methods of resolving individual and collective issues, reasons for the last strike, current problems for negotiation, problems which management refused to negotiate, modifications suggested in the legal processes for dispute settlement, causes for failing direct negotiation, necessity for public report on conciliation proceedings, adequacy of the statutory time limits set for each machinery, viewed effectiveness of dispute settlement machineries, suggestions as to how the effectiveness of these machineries could be enhanced, administrative problems of the unions, and the extent of agreement with certain statements bearing on the operation of the various dispute settlement machineries. [18]

(b) Corporation level schedule: The schedule used for interviewing the corporation level executives contained questions similar to those for the plant level management and certain other additional questions as to how the trade union federations raised industrial disputes, issues frequently negotiated at the corporation level, how the disputes were negotiated, what happened after the failure of negotiations, why negotiations failed and what individual issues were usually referred to corporations etc. [19]

(c) Conciliation level schedule: The conciliators were interviewed through a separate schedule designed for them. This schedule sought information on such personal aspects as designation, academic qualifications, previous job background, total job experience and such work related aspects as their workload, issues frequently conciliated in the public sector industries, rate of success in conciliation, issues relatively harder to conciliate, usual causes responsible for failing conciliation, adequacy of their powers as provided by law, extent of actual use of statutory powers, adequacy of statutory period allowed for concluding conciliation, introducing public reporting system, attempts to refer failing cases to arbitration, problems faced while conducting conciliation, suggestions as to how conciliation could be made more effective, major administrative problems of the conciliation offices etc. [20]

(d) Labour court level schedule: One schedule was prepared for interviewing the labour court members. This schedule also contained two sets of questions - the first set related to the information on the personal background of the members e.g. their age, educational qualifications, total experience in the labour court, other job experiences etc. and the second to their work related issues e.g. the parties they represented, hearing procedure of the court, issues frequently adjudicated in the public sector industries, issues relatively harder to adjudicate, adequacy of the legal powers of the court, process of adjudicating financial issues, problems faced while conducting adjudication, reasons for delay in decisions, measures suggested for quick disposal of cases, workload of the labour courts, nature of labour court functions, major administrative problems of the courts etc. [21]

(e) Labour appellate tribunal level schedule: To investigate the process of adjudicating at the labour appellate tribunal level, the tribunal member was also interviewed. With slight changes, as appropriate, the interview schedule for labour court members was used for the purpose.

(2) Content Analysis of Cases

Three separate content analysis sheets were prepared for examining the real life sample dispute cases at the three levels -plant, conciliation and labour court.

(a) Plant level sheet: Each plant level case was analysed in a plant level content analysis sheet. These cases were analysed as to their type, initiator, reasons for dispute, outcome of direct negotiations, reasons for failing negotiations, time taken to conclude the negotiations and the use of subsequent machineries in cases where direct negotiations failed. The corporation level collective bargaining agreements were examined as to the process of negotiations between the federations of trade unions and the corporations, subject-matters of negotiations, and the ways of reaching at final settlements.[22]

(b) Conciliation level sheet: Sample cases at this level were analysed through a separate sheet. Such cases were examined as to the conciliation office, the industry involved, the applicant for conciliation, reasons for dispute, reasons for failing direct negotiation at the plant level, time taken to conclude direct negotiation and conciliation proceedings, outcome of conciliation, issues on which agreement could not be reached, reasons for failing conciliation and what happened after the failure of conciliation. [23]

(c) Labour court level sheet: Each sample case at the labour court level was scrutinised through a separate analysis sheet, as to the name of the court, whether the case was decided or not, the industry involved, type of the case, initiator of the case, reasons for the case, enforcement sought for, outcome of the case to the initiator, time taken in deciding the case or for how long a period was the case remaining pending, reasons for delay in giving decision on the case etc.[24]

(3) Published Sources

Parts of the information for the study were also available from the various published sources. Government publications e.g. the Five Year Plans, a few issues of the Monthly Statistical Bulletin, the Statistical Year Book, various issues of the Labour Journal, Labour Policies, Wage Commission Reports, Constitution of the State etc. provided much relevant data and information. Labour News published by the Bangladesh Employers' Association and Annual Reports of the corporations were used as sources of some information. A lot of reference information was available from the works of academics in the field.

4.4 Data processing and Analysis

The tabulation and analysis of the field data involving different kinds of respondents and categories of dispute cases, as already stated in the previous sections, was a gigantic task. This was particularly so, to admit frankly, due to the author's previous inexperience of working with computers. The tabulation and statistical operations on the data were done mainly by using a Glasgow University mainframe terminal. The coding of the interview schedules and content analysis sheets was done by the author himself on IBM coding sheets. The punching girls at the computer terminal helped in punching the coded information in the computer discs. The author himself defined the necessary files and worked on them in consultation with the computing supervisor and others working at the terminal.

The SPSS programme developed by Norman and others[25] has been mainly used for processing and analysing the field data. It is to be mentioned that most of the variables for this study were measured at nominal and ordinal levels and as such sophisticated techniques of analysis could not be applied in most cases. The analytical techniques extensively used are descriptive statistics, percentage frequency distributions, cross-tabulation analysis and significance tests, and break-down analysis. The results of these analyses are reported mainly in Chapters VI, VII and VIII.

The MINITAB programme developed by Ryan and others[26] has also been used for analysing the data collected from the published sources. Correlation, trend and regression analyses have been done on these data and their results are reported mainly in Chapte V.

In addition to using the above computer packages, some of the field data have been handled manually. The interview schedules for corporation management and the corporation level collective bargaining agreements, being small in number, have been manually tabulated and analysed.

4.5 Problems faced During the Fieldwork

A lot of problems had to be encountered in the course of the fieldwork, which may be briefly stated as follows:

(1) Some respondents among the trade union leaders at the plant level were illiterate and were not able to respond to some of the questions asked. The knowledge about the labour laws of some other respondents, though they were literate, was very poor.

(2) Some of the respondents on the management side were deputed from the military service and most of them were not very co-operative with the investigators.They were also not well-conversant with labour laws and sometimes gave misleading information.

(3) While some respondents were very busy with their duties and could not afford much time for the interview, some others although apparently not busy pretended to be always pre-occupied and thereby indirectly refused cooperation to the investigators who had to hanker after them again and again. Some felt disturbed when the investigators sought clarification on some relevant points from them. A few high-ranking respondents hesitated to talk freely with the investigators because to do so was beneath their dignity.

(4) A few respondents did not realise the objective and usefulness of the research work fully. They were afraid of disclosing their weaknesses and so were reluctant to sit for an interview and when, after repeated persuasion, they agreed to sit with an investigator they hesitated to give the necessary information. On the other hand, some respondents particularly among the trade union leaders, were emotional. When an investigator sought their response on a certain issue, they started talking continuously, most of which was irrelevant to that investigator. Some of them preferred citing examples to directly making any specific response or comment on certain questions.

(5) Some respondents, particularly the trade union leaders, were seldom found available in the plant area and they had to be contacted with much difficulty through the Labour Departments of the respective plants. The investigators also faced a lot of trouble in contacting the labour court members. The employers' representatives could be contacted in their usual workplaces but the workers' representatives had to be contacted in their residences where, most often, they were not available even outside normal office hours.

(6) Regarding the case studies, it was found in a few cases that files were not properly maintained and people entrusted with keeping them tried to disown the loop-holes and to shift the blame to others. In some other cases, the available information was not as much as expected.

In addition to facing the above internal problems, the fieldwork team also encountered certain external problems. For example, the normal investigation work was disturbed, to a large extent, by the political demonstrations against the Martial Law regime and sudden declaration of Government holidays on political grounds. It happened twice that the investigators were on a day visit to plants outside Dhaka city but could not come back because curfew was suddenly imposed for several days and all the normal schedules and appointments were upset and had to be rescheduled.

Despite all these limitations, however, the investigation team worked very hard even during odd hours, and the cooperation from the people concerned was in general acceptable for the purpose, and given the limited time available, a substantial amount of data were collected from all levels of the dispute resolution process.

4.6 Limitations of the Study

The study suffers from the following limitations:

(1) The office bearers of the federations of trade unions who were involved at the corporation level collective bargaining could not be interviewed due to shortage of time on the one hand and the difficulty of contacting them on the other. In two cases, of course, federation level leaders also happened to be the office bearers of the plant level unions interviewed by the team.

(2) The dispute cases analysed at the various stages of the dispute resolution process corresponded to different periods of time. This should not however, seriously affect the general nature of disputes and dispute procedures.

(3) The parties directly involved in the specific dispute cases could not be interviewed, particularly at the conciliation and labour court levels, due to resource constraints.

(4) The very nature of the field data, most of which had to be measured at nominal and ordinal levels, did not permit the use of sophisticated tools of statistical analysis.

Concluding the methodological issues at this point, it is appropriate now to turn to the next Chapter to examine the patterns and causes of industrial disputes in the public sector industries in Bangladesh and then to put forward some hypotheses about dispute procedures before moving to the empirical examination of the various dispute resolution machineries.

NOTES

1. A somewhat similar definition of a public sector industry was used by Sobhan, R. and Ahmad, M. Public Enterprise in an Intermediate Regime, (Dhaka: BIDS, 1980), pp.265-67.
2. The public utilities included in the Schedule to the IRO, 1969, as amended up-to-date, have been taken to be essential services. Such services have been specified in note 63 of Chapter III.
3. Clause (xiii) of Section 2 of the IRO, 1969.
4. Section 34, Ibid.
5. The local units of the sample industries do not have a common term. These are clled "mills" in jute, "power stations" in electricity, "area office" in water transport and "depots" in road transport. The term "plant" will be used to mean the local units of any of the sample industries.
6. The BJMC authority reported that the Adamjee Jute Mills Ltd. had about 40% of the total looms and spindles operating in all of the public sector jute mills located in the Dhaka Division.
7. According to EPIDC's criterion, supplied by the BJMC authority, mills having loom-size up to 250 were considered to be small, those having 251 to 500 to be medium and those having more than 500 to be large.
8. The stratified position of plants and the number of plant(s) selected from each strata is shown below:

Strata	Number of Plants	Number of Plants Selected as Samples
Large	3	1
Medium	14	2
Small	8	1
Total	25	4

9. 1981-82 Annual Report of the BPDB.
10. From now on the term "corporation" will be used to mean the Head Office of any sample industry, although in the case of electricity, the real term for its Head Office is "Board".
11. There were some variations, however, in the designation of these two persons in the three industries.

12. The designation of these officers varied in the sample industries. For example, in the BJMC the officer heading the "Employee Relations Department" is known as "Employee Relations Manager". In the BPDB the same department is headed by a Director of Labour Welfare. In the BRTC and the BIWTC similar departments are headed by a Director (Administrtion) and a Personnel Manager respectively.
13. Distribution of the total court members of the Dhaka Labour Courts:

Designation	Number of Members	Number of Courts	Total
Chairman	1	3	3
Workers representative	5	3	15
Employers' representative	5	3	15
Total			33

14. This might be due to the abnormal political situation prevailing in the courtry during the period due to the promulgation of the Martial Law for the second time.
15. The logic for not moving back to the period before 1976 was that 1975 was an abnormal year due to political changeover and during the period 1972-74, the industrial relations scenario was quite unsettled.
16. The decided cases corresponded to the period in question only in terms of awarding decision on them. Most of them were, however, filed much earlier.
17. See Note 14 above.
18. Appendices F.1 and F. 2.
19. Appendix F.3.
20. Appendix F.4.
21. Appendix F.5.
22. Appendix F.6.
23. Appendix F.7.
24. Appendix F.8.
25. Norman, H.N. et al. SPSS (Statistical Package for the Social Sciences, (New York: McGraw-Hill Book Co., 1975).
26. Ryan, T.A. Jr. et al. MINITAB Student Handbook, (Boston: PWS Publishers, 1976).

CHAPTER V

INDUSTRIAL DISPUTES AND DISPUTE PROCEDURES - HYPOTHESES IN THE BANGLADESH PUBLIC SECTOR CONTEXT

This Chapter is concerned with two main issues, of which the second is the presentation of some hypotheses relating to dispute resolution procedures in the Bangladesh public sector context in order to provide a background for the three empirical Chapters following this. The Chapter however, starts by reviewing industrial conflict - its patterns and causes - in order to complete the presentation of preliminary material prior to moving onto dispute resolution. The Chapter is therefore structured in two sections.

5.1 A Review of Industrial Disputes

This section is divided into two sub-sections - the first dealing with the patterns of industrial disputes and the second with the actual causes of conflict in the Bangladesh public sector industries and some possible explanations of this.

Patterns of Industrial Disputes

The industrial disputes statistics of Bangladesh, measured in terms of the three usual dimensions of conflict - number of disputes, workers involved in disputes and mandays lost in disputes - have already been discussed and graphically presented in Chapter I. Each of these dimensions, however, relates to only one aspect of a conflict situation and does not portray its total picture. For example, the number of strikes only provides frequency of strikes without giving any indication as to their size or duration. Workers involved in strikes only tells whether strikes are large or small, while mandays lost in strikes only indicates whether they are long or short. Moreover, the absolute measures present the various dimensions of conflict only in terms of its totality, e.g. the number of disputes occurred, or workers involved or mandays lost in a particular year or over a period of years. They do not give any concise idea about the average duration, time loss or size of disputes. For the purpose of making a comparative assessment of

the intensity of industrial conflict between the post- and pre-liberation periods and also over different years of the post-liberation period, these absolute measures thus seem to be inadequate. By using such basic variables, however, some ratio measures may be developed in order to make a meaningful analyssis of the patterns of industrial conflict.[1]

Following the basic statistics discussed in Chapter I (data in Appendix A.1), Table 5.1 presents them in an abbreviated form in terms of certain ratios with a view to giving a snapshot picture of the overall trends of industrial conflict before and after liberation.

Table 5.1

Summary Measures of Industrial Conflict in Bangladesh

Period	Ratio Measures			Indices		
	Duration of Disputes	Dispute Coverage Ratio	Time Loss Ratio	Duration of Disputes	Dispute Coverage Ratio	Time Loss Ratio
Pre-liberation (1947-71)	4.68	1207	6559	162	108	203
(1947-71)*	3.90	1163	4653	136	104	144
Base Year (1972)	2.89	1118	3231	100	100	100
Post-liberation (1973-82)	6.10	2873	14668	211	257	454
(1973-82)**	6.10	1632	7302	211	146	226

Notes: * Excluding 1964 ** Excluding 1975

The description of the ratios used is as follows:

(a) Duration of Disputes (DD): This is the average number of mandays lost per worker involved in industrial disputes and is calculated by dividing the number of mandays lost (L) by the number of workers involved in industrial disputes (W).

(b) Dispute Coverage Ratio (DCR): This is defined as the average number of workers involved in industrial disputes per industrial dispute and is computed by dividing the number of workers involved in disputes (W) by the number of disputes (D).

(c) Time Loss Ratio (TLR): This is the average number of mandays lost per industrial dispute and is calculated by dividing the number of mandays lost (L) by the number of disputes (D).

For an easier comprehension of the comparative trends of industrial disputes before and after liberation, the ratio measures, as computed in the above ways, should be examined in relation to a base year. Accordingly, taking 1972, the first year after liberation, as the base year, indices of these criterion measures are calculated. As will be indicated in a subsequent paragraph, 1964 of the pre-liberation period and 1975 of the post-liberation period are two abnormal years, and therefore, the average ratios and indices of the two periods are also calculated with the isolation of these two abnormal years.

It is evident from the average indices of conflict (Table 5.1) that the post-liberation period is more intense in industrial conflict than the pre-liberation period by all of the three criterion measures. Compared to the base year, the average duration of disputes per worker is found to be higher by 62% in the pre-liberation period, and by 111% higher in the post-liberation period. In the case of DCR, the average pre-liberation index was slightly (by 4%) higher than that of the base year, but the post-liberation average is higher by 157% (with the exclusion of the abnormal year 1975, however, it is higher by only 46%). The average TLR indices are higher than that of the base year in both the pre- and post-liberation periods, but the post-liberation index is relatively far higher than that of the pre-liberation period. This finding is not affected so much even if the abnormal years, 1964 and 1975, are excluded from analysis.

Turning to the examination of the pattern of variations in industrial conflict over individual years of the two periods, the three criterion measures have been computed on a year-by-year basis for the whole period 1947-82 and presented in Appendix A.2. As done in examining the average indices of conflict, so also for year to year variations, indices of these measures have also been computed, taking 1972 as the base, and presented in Appendix A.3.

It is obvious from these two Appendices that 1964 in the pre-liberation period and 1975 in the post-liberation period are two abnormal years, showing unusually high DCR and TLR ratios and indices. In terms of number of disputes also, these two years seem to be very abnormal. The highest number of disputes occurred in 1964 and the lowest in 1975. The important factor explaining this abnormality is most likely to be political - slackness of Government in 1964 and strict emergency and martial law in 1975. High DCR and TLR indices computed from the highest number of disputes in 1964 is easily understandable. But such high ratios from the lowest number of strikes in 1975 needs an explanation. In violation of a strict ban on strikes in 1975, two long (measured by mandays lost) and big (measured by workers involved) strikes still occurred in the jute industry. The unusually high figures for workers involved and mandays lost, when presented in relation to too low a number of strikes, produce abnormal DCR and TLR indices.

From a closer look over the indices of the ratio measures (Appendix A.3), gradual increasing trends are evident in terms of all the ratio measures in question except DCR, with respect to which neither any upward nor downward trend is easily discernible.

The above is a comparative account of the trend of industrial disputes in Bangladesh before and after liberation. It has already been stated in Chapter I that these two periods are characterised by two different systems of industrial ownership - the pre-liberation period by privatisation and the post-liberation period by massive nationalisation and a maligned private sector. The published data on the basis of which the above trend analysis has been done relate to both the public and private sector industries, although industrial private sector is very insignificant in the latter period. The sector-wise published data not being available, by assuming an insignificant influence of the private sector [2] on the aggregate data on industrial disputes, it may be concluded with little reservation that the industrial disputes, in the public sector industries in Bangladesh show an increasing trend in general.

Although separate data on public sector industrial disputes are not available, such data on certain selected industries exclusively under public sector can, however, be extracted from aggregate data and these may be analysed as a sample. From the industrial classification of the aggregate data, seven industries could be identified to be exclusively under the public sector. These are: (a) jute, (b) cotton, (c) chemical, (d) sugar, (e) electricity, (f) oil, gas and petroleum and (g) banks and insurance. These seven industries may be taken to be reasonably representative of the industries under the whole public sector.[3] Data on the three basic dimensions of industrial disputes - number of disputes, workers involved and man days lost - relating to these sample industries are shown in Table 5.2 (columns 2-4). Basing on the data on basic variables, three criterion measures - DD, DCR and TLR have also been computed and presented in columns 5-7 of Table 5.2.

Table 5.2

Data on Industrial Disputes in Selected Public Sector Industries in Bangladesh, 1973-82

	BASIC VARIABLES			CRITERION MEASURES		
Year	Number of Disputes (D)	Workers involved in Disputes (W)	Man-days lost in Disputes (L)	Duration of Disputes (DD)	Dispute Coverage Ratio (DCR)	Time Loss Ratio (TLR)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1973	16	31886	258404	8.10	1993	16150
1974	13	50682	187047	3.69	3899	14388
1975	2	28327	162000	5.72	14163	81000
1976	2	13457	19721	1.47	6728	9860
1977	19	74712	79170	1.06	3932	4167
1978	83	108195	633243	5.85	1303	7629
1979	68	107974	586852	5.44	1588	8630
1980	99	152747	1053116	6.89	1543	10637
1981	39	114167	1146608	10.04	2927	29400
1982	3	19819	216773	10.94	6606	72258
TOTA	344	701966	4342934			

Source: Data on the basic variables have been obtained from the various issues of the Bangladesh Labour Journal published by the Department of Labour, Government of Bangladesh, and those on criterion measures have been computed by using the formula stated in the text.

For a quicker and clearer grasp, all data in Table 5.2 have been expressed as indices, taking 1973 as the base year,[4] and shown in Table 5.3. The indices of the basic variables have, in turn, been depicted in the form of graphs in Figure 5.1, from which the trend of such indices can be clearly visualised. Least square linear trend lines have also been fitted through these graphs. With the exception of 1975-76 and 1982, the original graphs show almost a similar pattern, while the trend lines directly show a general increasing trend in the intensity of industrial conflict.

Table 5.3
Indices of Industrial Conflict on Various Measures in Selected Public Sector Industries in Bangladesh, 1973-82
(1973 = 100)

	BASIC VARIABLES			CRITERION MEASURES		
Year	Number of Disputes (D)	Workers involved in Disputes (W)	Man-days lost in Disputes (L)	Duration of Disputes (DD)	Dispute Coverage Ratio (DCR)	Time Loss Ratio (TLR)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1973	100	100	100	100	100	100
1974	81	159	72	46	196	89
1975	12	89	63	71	710	501
1976	12	42	8	18	338	61
1977	118	234	31	13	197	26
1978	519	339	245	72	65	47
1979	425	339	227	67	80	53
1980	619	479	407	85	77	66
1981	244	358	444	124	147	182
1982	19	62	84	135	331	447

Source: Computed from data in Table 5.2.

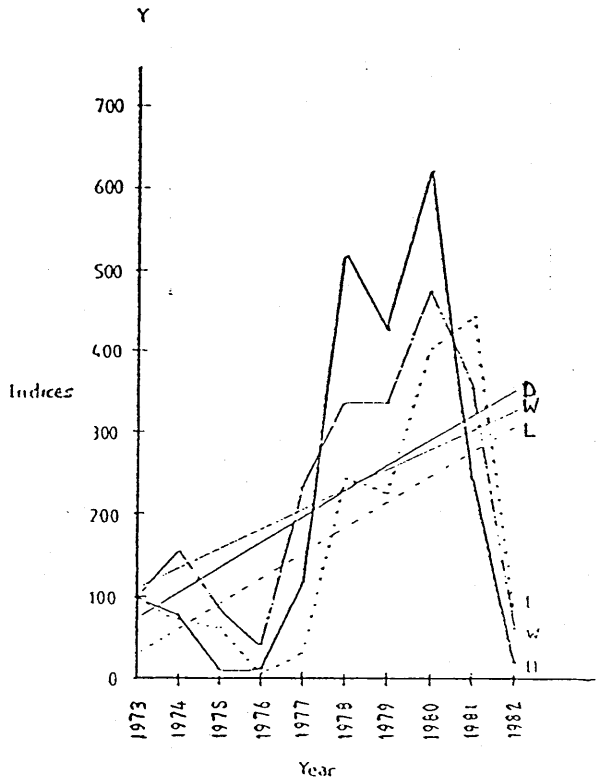


FIG. 5.1 INDICES OF THE NUMBER OF INDUSTRIAL DISPUTES (D), WORKERS INVOLVED IN DISPUTES (W) AND MANDAYS LOST IN DISPUTES (L) IN SELECTED PUBLIC SECTOR INDUSTRIES IN BANGLADESH, 1973-82.

The graphical representation of the indices of criterion measures, shown in Figure 5.2, indicates that the average duration of disputes per worker (DD) shows a decreasing trend up to 1977 and an increasing trend from 1978 onwards. The graphs for the dispute coverage ratio (DCR) and time loss ratio (TLR) present almost a similar pattern - indicating an increasing trend during 1974-75, then a decreasing trend during 1976-77 and then again an increacing trend from 1978 onwards. The linear trend lines fitted in these graphs indicate an increasing trend in terms of all of the measures except for the dispute coverage ratio. Thus, with a very little reservation, an increasing intensity of industrial disputes involving stoppage of work is discernible, by all measures, in the public sector industries in Bangladesh.

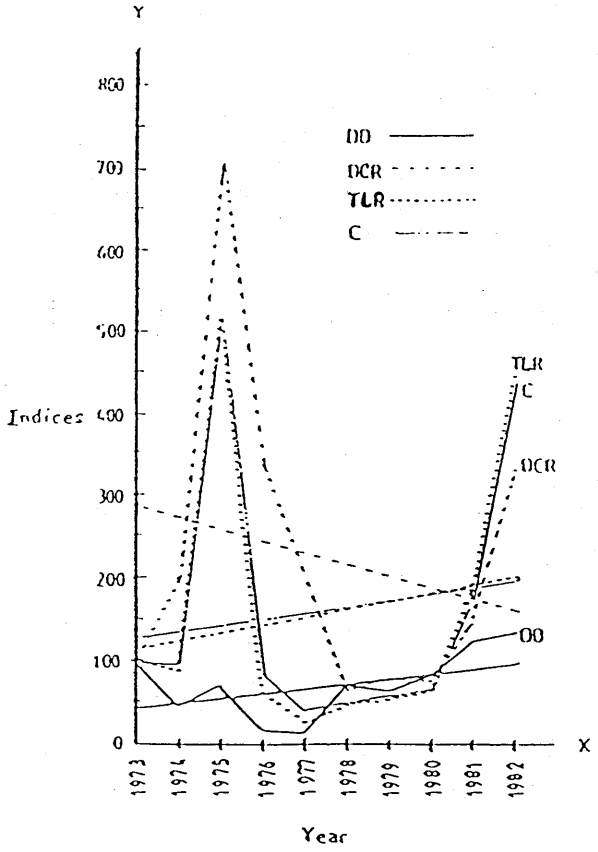


FIG. 5.2 INDICES OF INDUSTRIAL CONFLICT ON VARIOUS MEASURES IN SELECTED PUBLIC SECTOR INDUSTRIES IN BANGLADESH, 1973-82.

But all the industrial disputes do not involve stoppage of work. For a complete understanding of the intensity of disputes, trend of non-strike disputes also needs an examination. Published records on disputes raised and settled at the plant level are not available. But the industry-wide disputes, without any categorisation as to public and private sectors, settled amicably at the conciliation level are, however, available. From these combined dispute data, those relating to four selected industries, exclusively under public sector, can be segregated and studied as samples. Table 5.4 presents a year-wise distribution of these disputes in the four selected industries.

Table 5.4

Number of Industrial Disputes not Involving Stoppage of Work in Selected Public Sector Industries in Bangladesh, 1973-82

Industry / Year	Cotton	Jute	Chemical	Electricity	Total
1973	11	61	14	-	86
1974	6	6	12	-	24
1975	5	1	2	-	8
1976	23	49	6	-	78
1977	20	29	9	-	58
1978	14	26	6	-	46
1979	31	33	10	-	74
1980	69	13	19	1	102
1981	63	32	31	1	127
1982	22	8	34	4	68
Total	264	258	143	6	671

Source: Extracted from the aggregate data on industrial disputes available in the various issues of the Bangladesh Labour Journal published by the Department of Labour, Government of Bangladesh.

The graphic representation of such disputes (Figure 5.3) also indicates an overall increasing trend.

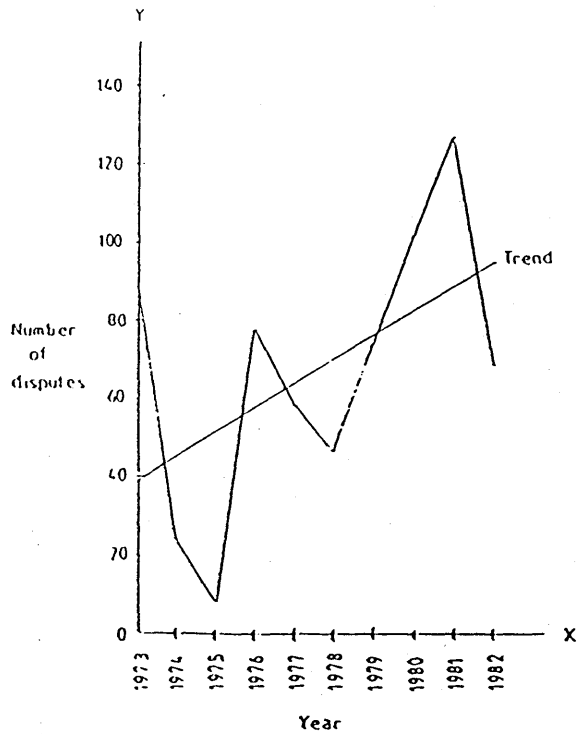


FIG.5.3 NUMBER OF NON-STRIKE INDUSTRIAL DISPUTES IN SELECTED PUBLIC SECTOR INDUSTRIES IN BANGLADESH, 1973-82.

Causes of Industrial Disputes

Causes of strike data specifically relating to the public sector industries are not readily available. Table 5.5 (overleaf) presents cause-wise aggregate strike disputes, both public and private sectors combined, which have occurred in Bangladesh during the period 1973-82.

From the industrial classification of these disputes, seven industries could be identified to be exclusively under the public sector, to be studied as samples. The position of these sample industries in relation to total strike data over a 10-year period is clearly visible from the following summary Table (Table 5.6).

Table 5.6
Relative Position of the Selected Public Sector Industries in Relation to Total Stirke Data in Bangladesh, 1973-82

	Number of Disputes		Workers Involved		Mandays Lost	
	Number	%	Number	%	Number	%
(a) * All industries, public and private	543	100.0	742,241	100.0	4,693,701	100.0
(b) ** Sample public sector industries	344	63.4	701,966	94.6	4,342,934	92.5
(c=a-b) Other public and private sector industries	199	36.6	40,275	5.4	350,767	7.5

* Taken from Table 5.5 ** Taken from Table 5.2

It is clear from the above Table that the sample industries exclusively under the public sector represent 63% of the total number of strikes, 95% of the workers involved and 92% of the man days lost in industrial disputes. The remaining 37% of the strikes involving only 5% of the workers involved and about 8% of the total man-days lost relate to both the public and private sectors. The relative insignificance of the influence of private sector strikes on the total strike data is evident. Thus cause-wise aggregate strike data presented in Table 5.5 may quite reasonably be taken to be representative of the public sector industries.

TABLE 5.5
STRIKE DATA BY CAUSE IN BANGLADESH, 1973-82

CAUSES	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	TOTAL
Wages											
Number of disputes	50	28	2	3	15	18	48	93	45	12	314
Workers involved	23978	44947	28327	1901	70446	43941	96989	124728	24684	21577	481518
Man-days lost	195220	209117	162000	13002	75079	115976	580213	1007301	330159	234195	2922262
Bonus											
Number of disputes	1					1	4	2	3*	19*	30
Workers involved	465					592	1288	16989	2210*	93*	21637
Man-days lost	3949*					5328	7428	22566	11249*	1972*	52492
Various allowances											
Number of disputes						3			1		4
Workers involved						7829			26932		34761
Man-days lost						77739			377481		455220
National pay scales and grades											
Number of disputes						45	23		17		85
Workers involved						26275	5159		42254		73688
Man-days lost						198692	48091		415514		662297
Leave and holidays											
Number of disputes						14			9*	24*	47
Workers involved						17558			6630*	118*	24306
Man-days lost						191320			33748*	2491*	227559
Personnel matters											
Number of disputes	1	2		1	2	1	4	3	3		17
Workers involved	1105	5596		203	1884	614	2768	4984	8226		25380
Man-days lost	8996*	15523		203	2008*	3684	4844	56253	12687		104198
Miscellaneous issues											
Number of disputes	6	2		1	5	7	17	6	2		46
Workers involved	9479	6844		12413	4345	16400	8044	17331	6095		80951
Man-days lost	77012*	7036		12413	4628*	69593	7053	74316	17622		269673
All causes											
Number of disputes	58	32	2	5	22	89	96	104	80	55	543
Workers involved	35027	57387	28327	14517	76675	113209	114248	164032	117031	21788	742241
Man-days lost	285177	231676	162000	25618	81715	662332	647629	1160436	1198460	238658	4693701

Source: Various issues of the Bangladesh Labour Journal published by the Department of Labour, Government of Bangladesh.

* Collected from the Department of Labour.

The following Table (Table 5.7), based on the data in Table 5.5, summarises the various issues for industrial disputes in Bangladesh, which relate mainly to the public sector industries.

Table 5.7
Summary of the Total Strike Data by Causes in Bangladesh during 1973-82

Causes	Number of Disputes	Workers Involved	Man-days Lost
1. Wages	57.8	64.9	62.2
2. Bonuses	5.5	2.9	1.1
3. Various allowances	0.7	4.7	9.7
4. National pay scales and grades	15.6	9.9	14.1
5. Leaves and holidays	8.6	3.2	4.8
6. Personnel matters	3.1	3.4	2.2
7. Miscellaneous issues	8.5	10.9	5.7
Total	100.0	100.0	100.0

Source: Table 5.5

Financial matters seem to be the major issues for industrial disputes in Bangladesh public sector industries. Such issues involved 64% of all the strikes that occurred during 1973-82 decade, and 73% of the workers involved and man days lost in those strikes. This seems to be in conformity with a very low level of real wages of Bangladeshi industrial workers.[5] The inflation rate in Bangladesh is one of the highest in the world[6] and this demands frequent revision of scales of pay and wages. During the decade in question, wage scales of industrial workers have been revised twice, and with each revision they have alleged anomalies and inadequacies of that revision. About 16% of the total number of strikes, involving about 10% of the total number of workers involved and 14% of the man-days lost related to national grades and scales of pay. Non-financial matters like leaves, holidays and personnel matters (e.g. discharges, dismissals, promotions, transfers etc.) were involved in about 12% of the total number of strikes, involving about 7% of the workers involved and man-days lost. The rest of the strikes happened on miscellaneous grounds.

Possible explanation of strike causation: After making the above review of the actual causes of strikes in the Bangladesh public sector industries, the study has made a modest experiment with some econometric analyses of strike causation. In this attempt, the three absolute measures of industrial disputes pertaining to the selected number of public sector industries (Table 5.2) were taken as dependent variables. Turning to the independent variables, as suggested by the existing literature, many economic, social and political factors are likely to operate in explaining the incidence of conflict, but in the Bangladesh case, data on many of such variables are not available, and as such only two explanatory variables - union membership strength and real wages (data in Appendix A.4) - were examined in this context. However, it is still to be noted that due to inevitable political infancy of Bangladesh, the number of observations available were very few and this basic limitation of the data prevents any clear conclusions being drawn from this analysis.

It has been found that none of the explanatory variables were correlated with any of the dependent variables at 1% level of significance. A positive correlation, significant at 5% level, was however found between the union membership strength and each of the three measures of disputes. The coefficients of determination (R^2), found through regression analysis, revealed that the membership strength explained 30.6% (21.9%, adjusted for degrees of freedom) of the number of disputes, 39.7% (32.2%, adjusted for degrees of freedom) of the workers involved and 49% (42.6%, adjusted for degrees of freedom) of the man-days lost in such disputes.

The other explanatory variable, real wages, was found to be correlated at 5% level of significance only with the man-days lost, but not with the other two dependent variables. The power of real wages to explain man-days lost in disputes, as determined through the R^2, was found to be 41.4% (34.1%, adjusted for degrees of freedom). One significant aspect to be noted about the relationship between real wages and man-days lost was that, contrary to the nature of relationship as expected, the actual relationship between them was found to be positive, instead of negative.

How can this positive relation between the variables in question be explained? Two possible arguments may be put forward in this context. Firstly, as can be seen from Appendix A.4, real wages of the workers were under the 1973 level up to 1977, but disputes could not increase during the period probably due to the suppression of unions and union activities under the state of National Emergency in the first instance and strict Martial Law administration in the second. From 1978 onwards, real wages began to rise slowly; but industrial disputes also began to rise concomitantly due probably to political slackness and increasing unionisation. Secondly, although real wages show a slow and steady increasing trend after 1977, these increases were too meagre compared to the workers' needs and expectations. Workers got the highest real wages in 1982, and its index was only 81.6, compared to 100 of 1969. Even though workers were not satisfied with the wage level of 1969,[7] they still compared their wages with that level. Thus the meagre increases in real wages could not divert the increasing trend of industrial disputes, measured in terms of man-days lost.

Thus keeping provisions for the basic weakness of the underlying data, the indications were that real wages and union membership were the two key independent variables influencing the incidence of industrial conflict in the Bangladesh public sector industries.

5.2 Hypotheses Relating to Effectiveness of Dispute Resolution Procedures

Now that the various background factors, the literature on industrial conflict, conflict resolution, the legal framework governing the industrial relations system in Bangladesh, the particular patterns and causes of conflict in the Bangladesh public sector have been examined, it is an appropriate stage to put forward some hypotheses about the operations and effectiveness of dispute resolution procedures before turning to the empirical examination of the various dispute resolution machineries. But the statement of hypotheses relating to the effectiveness of dispute procedures, raises, of course, the question of what is meant by effectiveness".

For the purpose of this study, and drawing in part on Thomson and Murray,[8] the dispute procedures will be considered effective if:

(a) each step of the dispute resolution procedures is meaningful in the sense that those concerned in the various stages of the dispute resolution process have the appropriate authority to deal with the disputes raised before them;

(b) each level of the dispute resolution process is able to dispose expeditiously of those disputes referred to it which are appropriate for the authority of the parties at that level;

(c) the dispute procedures are acceptable to and respected by the parties involved;

(d) the procedures are not too rigid and formal to reject the scope for some degree of informality in their operation;

(e) the procedures are not too complex to prevent an easy understanding by those concerned; and

(f) the procedures aim at striking at a reasonable balance of interests of all concerned.

Having defined the effectiveness of dispute procedures as above, some hypothesis about it may now be stated as follows:

1. Free Negotiation

Effective dispute resolution pre-supposes a free interplay between the parties in disputes provided they can meet and negotiate with each other on an equal balance of power, both economic and social. But due to a lack of these conditions in Bangladesh, as in many other developing countries, the dispute resolution machineries have been made highly restricted and legalistic, particularly for the pulic sector. Whereas under the objective conditions prevailing in Bangladesh, some degree of legalism may be desirable at the social interest, under a too much restrictive and highly legalistic

approach to dispute resolution, however, the parties, particularly the workers, may fail to develop self-confidence and feel tempted to prefer legal machineries to voluntary methods of resolution, provided the parties accept this legalistic approach and find benefits in going for it. If however, either or both of the parties cannot or fail to see merits of resolution by legal methods, they may be inclined to ignore or even violate such restrictive laws. The voluntary methods of resolving conflicts are generally regarded as the most desirable methods from the viewpoint of a long-term cooperative relationship between the parties concerned. Analogically, it is perhaps rightly said that no law of marriage can make the marriage stable and happy unless the partners in marriage work out a satisfactory relationship pattern by themselves. Similarly, in the context of industrial relations, the law has only a limited role to play in making the day-to-day relationship cooperative and smooth. As indicated in Chapter III, the basic financial terms and conditions of service of workers in the public sector industries are fixed by the Government, and the parties and the various appointed agencies for dispute resolution are not allowed to bring any basic change in them over and above what the Government has fixed. Under this situation, it may be hypothesised that such restrictions on the scope of collective bargaining and other institutional machineries of dispute settlement are likely to reduce the effectiveness of dispute resolution.

2. Attitude of the Parties

Based on the sociological studies on the factory workers in Bangladesh, referred to in Chapters I and II, it may be reasonably assumed that most of the workers in the public sector industries are rural in their background having either no work experience or only agricultural experience. Given little industrial experience of the workers due to the nascent stage of Bangladesh's industrialisation and accordingly of the relevance of modernisation approach to industrial conflict, most workers in the public sector industries may be assumed to be largely uncommitted or semi-committed to industrial work. As a corollary to this assumption, it is very likely that with their relative immaturity of industrial way of life

most of the workers and trade unions in such industries are likely to behave unreasonably and irrationally in their dealings with management. The use of various coercive practices e.g. the use of threat, physical assault, practices of gherao etc. are likely to dominate over the democratic and constitutional practices. The existing literature also suggests that, as is true for workers, so also the managements of such industries, mostly drawn from civil services, lack experience in industrial management and they frequently use authoritarian and unilateral managerial practices which are not conducive to healthy industrial relations. Thus it may be hypothesised that both sides are likely to have a negative attitude towards each other and as such be willing neither to resolve disputes between them through direct negotiation nor to extend necessary cooperation to the various external machineries in their pursuit to resolve such disputes.

3. Parties' Understanding of the Procedures

Due to the prevalence of widespread illiteracy or a low level of literacy of the workers and plant level union leaders, most of them are also likely not to have a clear understanding of the dispute resolution procedures. The excessively legalistic procedures and ambiguous scope of the related laws are also likely to add to such misunderstandings. Under such conditions, the workers and trade unions may frequently raise their dispute at inappropriate levels, and sometimes over inappropriate issues. All these factors are likely to lessen the effectiveness of dispute resolution.

4. Multiplicity of Unions and Union Rivalries

Turning to the approach of workers' organisational and political strength, the available literature suggests that the trade unions in Bangladesh are far from being strong and cohesive. The multiplicity of unions at both plant and corporation levels is a very common feature in the industrial relations scene in Bangladesh. The rank and file workers do not directly take part in the decision making process of their unions. Leadership in most unions is unbreakable. When there is dissatisfaction with the leadership of

a union, the remedy normally taken is not for the dissatisfied group to form a faction aiming at taking over the leadership of the union in question but for the dissatisfied people to form a new union under a new leadership which will similarly maintain itself in power within its union for as long as it likes. Inter-union rivalries are very acute. Under such a divided and weak position of the trade unions, managements are likely not to bother about them and even in cases where managements may be willing to negotiate, difficulty might arise over the determination of the bargaining agents from among the rival unions. Thus it may be hypothesised that the more the number of unions at the plant level and federations of unions at the corporation level with consequent rivalries between them, the less effectively the dispute resolution procedures are likely to operate.

5. Centralisation of Authority

The Industrial Relations Ordinance, 1969 which governs the dispute resolution procedures in Bangladesh for both public and private sectors does not, however, consider the peculiarity of authority structures of public sector industries, as distinguished from those of the private sector. Published sources suggest that the public sector industries in Bangladesh are managed through a bureaucratic chain of authority consisting of three tiers - the Ministry concerned at the top holding all policy making powers, the corporation at the middle having almost all administrative and controlling powers over all plants under the respective corporations and the individual plants under each corporation having very little operational freedom. As could be gathered, these bureaucratic controls, however, do not equally apply to all public sector industries. For example, among the sample industries of this study, Government controls are reported to be highest in the electricity and relatively less in the jute with the road and water transports falling in between. For effective settlement of disputes arising at a particular level of administration, it must have adequate authority to negotiate and settle such disputes. It does not make any sense to raise a dispute before the management at a particular level which does not have the required authority to

deal with it and then to blame that management for not resolving the dispute. One hypothesis is thus developed like this: the more the authority to deal with possible disputes is decentralised from the Ministry to the corporation, and from the corporation to the plant management, the more is the likelihood of effective dispute resolution.

6. Financial Position

It has been pointed out in the literature review in Chapter II that as in other developing countries, so also in Bangladesh, the industrial workers are concerned more with wages and other economic benefits than with other issues. That the major issues for industrial disputes in the Bangladesh public sector industries are essentially economic is also evident from the examination of the causes of disputes made in the first section of the Chapter. For effective resolution, the plants/corporations in question must have required solvency to meet such demands over economic issues, and accordingly, it is hypothesised that given adequate authority, the better the financial position of the plants/corporations, the more effective the resolution of disputes is likely to be.

7. Political Factors

Based on Islam's observation referred to in Chapter I, it may be assumed that most labour problems in Bangladesh emanate from political considerations. The leaders of many unions are often politicians and when the trade union movement divides into factions, such divisions are based on political differences. With a view to making an inroad into the labour front the frequently changing new elites in power may give undue privileges to favoured unions who could maintain direct personal communication with the Ministers and even with the Head of the Government. The opposition union leaders may also secure mass support of the workers on the face of their serious economic frustrations. Moreover, the Government also restricts the independent operation of the various institutional machineries of dispute resolution directly through the imposition of legal restrictions, and indirectly through exerting pressure in one

way or the other. Inferring from these arguments, it is hypothesised that the more independent are those involved in the dispute resolution process of the Governmental and other political factors, the more effectively the dispute resolution procedures are likely to work.

8. Other Factors

In addition to the above hypotheses generally relating to all institutional machineries of dispute resolution, some of the hypotheses pertaining specifically to the external methods (i.e. conciliation and labour courts) may be put forward as follows:

a. Subjective conditions: The effectiveness of dispute resolution through external machineries is likely to be affected by the subjective conditions of those entrusted with such machineries. The more appropriate they are (considered from the viewpoint of their age, academic qualifications, experience etc.) for their jobs, the more is the likelihood for their effective performance, resulting in effective dispute resolution.

b. Service conditions: To ensure effective performance in any job, service conditions of the people working on it must be motivating. The more attractive the service conditions in the dispute resolution machineries are, the more those engaged in such machineries are likely to feel motivated in their work, and consequently, the more effective the dispute resolution likely to be.

c. Workload: It is generally believed that the external machineries of dispute resolution are highly overloaded. Based on this general belief, it is hypothesised that the excessive workload of these machineries is one factor reducing their operational effectiveness.

d. Working conditions: Basing on the wide acceptance of a positive influence of good working conditions on the performance effectiveness, it is hypothesised that the more adequate the office supplies and the physical conditions of offices of the dispute

resolution machineries are, the more it is likely for the desired performance of these machineries, resulting in effective resolution of disputes.

e. Centralised structure of conciliation: It is generally recognised that the independence of conciliators is a precondition for effective conciliation. But in the context of Bangladesh, it could be gathered that the structure of the conciliation service is very much centralised leaving very little freedom of action at the regional and branch levels. Thus it is hypothesised that, apart from other factors, the centralised structure of the conciliation service itself is likely to affect the effectiveness of conciliation at the lower levels.

f. Adherence to procedural summarisation by labour courts: It is generally alleged that the labour courts in Bangladesh make excessive delays in disposing of the cases filed in such courts; thus indirectly denying justice to the parties concerned. As to the likely causes of such delays, it is hypothesised that the non-adherence by the courts to statutory provisions relating to procedural summarisation may largely account for this.

To what extent there is evidence in support of the above hypotheses will be revealed in the course of empirical examination of the various dispute resolution machineries in the next three Chapters.

NOTES

1. The idea of making this pattern of analysis has been borrowed from Ross, A.M. and Hartman, P.T., Changing Patterns of Industrial Conflict (New York: John Wiley & Sons, 1960), Ch.2.; Khurana, S.K. "Industrial Relations in Private and Public Sector Industry in India", Indian Journal of Industrial Relations, Vol.7, No.3, January 1972, pp.411-31; Choudhury, N., "Industrial Conflict in Bangladesh 1947-75 : A Preliminary Analysis", op.cit.
2. Factual evidence of the relative insignificance of the private sector industrial disputes on the total disputes data is given in the second sub-section (Table 5.6).
3. Table 5.6 is supportive of the representativeness of these sample industries.
4. 1973 has been taken as the base year, because it is from 1973 onwards that relevant information on industrial disputes are available.
5. Choudhury, N., "Industrial Conflict in Bangladesh", op.cit. Also see Choudhury, N. "Real Wages in Nationalised Sector of Bangladesh", paper presented at the Second Annual Conference of the Bangladesh Economic Association, Dhaka, 1976 (mimeo).
6. This is evident from the comparative consumer price indices in selected countries, Statistical Yearbook of Bangladesh, 1982, BBS, Dhaka, p.698.
7. Choudhury, N., "Industrial Conflict in Bangladesh", op.cit.
8. Thomson and Murray, Grievance Procedures, op.cit., Ch.V.

CHAPTER VI
THE DISPUTE RESOLUTION MACHINERIES - DIRECT NEGOTIATION

The present and the following two Chapters are based mainly on the fieldwork data. These chapters attempt to examine the working process and effectiveness of operations of the various institutional machineries available for the settlement of industrial disputes, particularly of the public sector industries in Bangladesh. In the course of these examinations attempts are made (a) to identify certain constraining factors standing in the way of effective operations of the dispute settlement machineries and (b) to point out certain inadequacies of the existing legal framework of dispute settlement, as described in Chapter III. In the light of such analyses, some possible measures for enhancing the functional effectiveness of the various dispute settlement machineries are also suggested.

The three Chapters are arranged according to the three broad levels now working in the dispute settlement process of the country - namely direct negotiation (bipartite negotiation), conciliation (tripartite negotiation) and adjudication (arbitration, labour courts and labour appellate tribunal). The present Chapter deals with direct negotiation between the plant level managements[1] and the plant level collective bargaining agents (CBAs)[2] or worker(s). Negotiations over disputes at the Head Office or Corporation[3] level between the corporation managements and the federations of trade unions of workers are also covered in this Chapter. The operation of the conciliation machinery will be taken up in Chapter VII. Chapter VIII will examine the ajudication process in three sections, each consecutively dealing with arbitration, labour courts and the labour appellate tribunal.

6.1 Introduction

For the purpose of this study, as stated in Chapter IV, industrial dispute is defined in a wider sense than in the Industrial Relations Ordinance (IRO), 1969 as adopted in Bangladesh. The spirit of the IRO, 1969 is to settle collective interest disputes through formal

collective bargaining between the management and the CBA, and in cases where direct negotiations fail, through subsequent institutional methods like conciliation, labour courts etc. In the real life labour management relations, however, in addition to such interest disputes, many other disputes, usually of an individual nature and not taken up by the CBA, also arise over the administration of many other labour laws.[4] To get a picture of the dispute settlement system, in its totality, disputes of both individual and collective nature have been investigated in this study.

Although the IRO, 1969, provides for only formal collective bargaining for the resolution of plant level disputes, the investigation for the present study in the sample plants found four distinct methods used for the purpose:

(a) Informal discussion;
(b) Grievance procedure;
(c) Participation Committee; and
(d) Formal collective bargaining.

Each of these is now examined in turn. Of all the methods, however, the study emphasises mainly on the last one, i.e. the formal collective bargaining.

6.2 Informal Discussion

Extent of Use

The informal discussion is the most frequently used method at the plant level for resolving disputes of individual nature. In view of more than 80% of the management people and more than 60% of the CBA leaders, this method was either always or frequently used in redressing individual workers' grievances and complaints.[5] On the other hand, for the resolution of collective disputes, the use of this method was not so frequent. Collective disputes were usually of a more or less serious nature and mere informal discussion on such issues usually could not bring any effective result. Still, as a first attempt at least informal discussion was sometimes held on collective issues also, as reported by 30% of the

plant management and 33% of the CBA leaders. About 48% of the management and 58% of the CBA leaders, however, reported that informal discussion was not an effective method for the settlement of collective disputes and as such this method was rarely or never used in practice.[6]

How does it work?

No prescribed rules or procedures were followed for the informal discussion. The persons to be involved in the informal discussion depended on the type of the dispute - i.e. whether it was an individual or a collective dispute. If it was an individual one, the next factor determining the nature of informal discussion was with whom the particular individual in question was in conflict. He might be in conflict with one of his co-workers or his immediate boss or any other superior bosses. In the case of a conflict with a co-worker, he usually took any of the following alternative approaches:

(a) He approached any other co-worker whom he thought capable of solving his problem.
(b) He approached any office bearer of his trade union to mediate in the problem.
(c) He approached his immediate boss to intervene in the problem.
(d) He approached the labour officer of his plant either directly or through any of the above channels.

In the case of a conflict with his immediate boss, he usually approached his next immediate boss, or alternatively, a trade union leader. In some cases he also approached the Labour Officer, or Personnel Officer or Administrative Officer, as the case might be,[7] either directly or through a union representative. In a conflict with any other superior, he usually took the help of a trade union leader, or alternatively, of the Labour Officer. The head of the plant was also approached in important cases. The informal

discussion on collective disputes usually occurred between the President or the Secretary of the CBA and the head of the plant concerned. In some cases, other trade union leaders, or some influential workers, or other officers or local political leaders were also involved depending on the situation of the case.[8]

In most developing countries, some family, kin, community or regional factors are generally involved in both formal and informal dispute procedures. But in the context of Bangladesh such community factors as race, religion and language seem to be rather less important insofar as the labour-management relationship is concerned. Almost all of both workers and management belong to the same nationality (Bangladeshi) and same religion (Muslim), and speak the same language (Bengali). Some family, kin or local factors, do play a significant role in the operation of the dispute procedures in the private sector industries. The typical organisational structure of a Bangladeshi private enterprise is highly centralised and personal. Key managerial positions in such an enterprise are generally filled, for the most part, from members of the family and the particular business community. Similarly, the workers are also recruited from known sources usually hailing from particular localities. Thus in the operation of the dispute procedures in the private enterprises, family, kin and regional factors have to be inevitably kept under consideration. But the influence of such factors is very rare in the public sector industries where the major considerations might be largely political and perhaps to some extent regional. One study has demonstrated that a large number of workers in the jute industry have been given employment merely on political grounds. The main job of the workers thus employed is not only to work for the employing plants but also to act as agents of the ruling party.[9] Regarding the regional factor, about 75% of all workers come from only four districts - Noakhali, Comilla, Dhaka and Chittagong.[10] But unfortunately no attempt has yet been made to link the regional composition of the workforce in a particular factory or industry with the origin of the particular trade union leaders or with the operation of the dispute procedures.

Problems of Informal Discussion

One precondition for the informal discussion to be effective in resolving labour disputes is the mutual trust and confidence and a sense of goodwill between the workers and management in understanding each other's viewpoints, problems and limitations. But this precondition is very much lacking in Bangladeshi industries, particularly in the public sector. The usual view of management about their CBAs is that they are highly political, unreasonable, unfair and suffering from serious inter-union rivalries.[11] The CBAs, on the other hand allege that managements are very strict to them; they are corrupt, negligent in duties and insincere to workers.[12] Public evidence also supports the above allegations against both labour and management in the public sector industries.[13] Under such an uncongenial working relationship between the parties concerned, informal discussion could not generally produce any effective result.

Fruitful informal discussion also depends much on the background of the people among whom such a discussion is to take place. In the public sector industries, the managers have primarily been drawn from the various administrative and military services, most of whom are well-qualified, if not in the appropriate professional management field.[14] It has been found that while more than 70% of the managerial personnel at the plant level possessed Graduation or higher degrees, the rest had education level up to Matriculation or Intermediate.[15] The average level of education of the managerial personnel was thus high and found to be higher than in the private sector, but the level of educational attainment itself said little of the relevance of this education to the needs of management.[16] The workers, on the other hand, have been found to have a rural origin[17] with very little or no education at all.[18] Thus the managers and workers in the Bangladesh public sector industries have come from completely separate social classes. They represent different interest groups, and their behaviour patterns are, for obvious reasons, different.

Another factor affecting informal discussion is the authoritarian attitude of the majority of the managers in the public sector. Authoritarianism in the labour-management relationship has deeper roots in Bangladeshi culture which prevent both managers and workers from conceiving of the possibility that both groups should meet as equals at the discussion or negotiation table. Managers regard themselves as being superior to the workers and the workers also reciprocate with a feeling of inferiority. Thus the worker as an individual has been conditioned to obey his superiors, and this makes the task of the unions of obtaining the commitment of the work force even more difficult.

Under the above differences in social background between workers and management in the public sector industries and in the absence of a reasonable degree of mutual trust and confidence between them neither an informal discussion nor any other form of direct negotiation could be expected to produce any mutually acceptable solution to workers' problems. Nevertheless, informal discussion, as a method of resolving disputes at the plant level, was being used, in some cases for collective disputes, and quite extensively for individual disputes. Had there been mutual trust and confidence between the parties concerned, this method could prove to be more effective.

6.3 Grievance Procedure

Use of Grievance Procedure

Individual disputes are rarely taken up by the CBAs.[19] But an individual dispute is not taken cognisance of as an industrial dispute under law, unless it is raised by the CBA. Then how to resolve disputes which are individual in nature, but not taken up by the CBA? One method of dealing with such disputes is the informal discussion, as described in the previous section. Another method, also extensively used, is the administrative action through the "proper channel". The law defines it to be a grievance procedure.[20]

The grievance procedure, as prescribed in law, has, however, aimed at the redressing of workers' grievances relating to such personnel matters as misconduct on the part of workers, lay-off, retrenchment, suspension, termination, discharge, dismissal etc. Workers, however, may have other allegations of injustice to them e.g., anomalies in the pay fixation, overtime allocation, promotion etc. This study showed that the vast majority of the individual disputes at the plant level related to personnel and disciplinary matters, as covered by the Employment of Labour (S.O.) Act, 1965; the next important category being financial matters.[21] If the CBA does not take up such individual disputes, the worker(s) concerned then approach their management through the grievance procedure in their individual capacity. Three-fourths of the management and more than 80% of the CBA leaders reported that the grievance procedure was frequently used in individual disputes as per the provisions of law and other administrative rules imposed by the corporations on the plants.[22]

How does it work?

It should be noted that in none of the sample enterprises was there any formal grievance procedure of its own.[23] All of the sample plants were using the grievance procedure, as provided in law,[24] which is in no way specific and about which the vast majority of the workers might reasonably be expected to be unaware of.[25] This grievance procedure only provides for bringing any complaint by any worker on personnel problems before the notice of management, who after making a domestic enquiry is to give a unilateral decision to the complainant. It does not define the term management or its different levels. Investigation into the matter revealed almost a similar procedure in all of the sample industries.

The grievance procedure in individual disputes worked in two ways according to the nature of the dispute i.e. whether the dispute in question was of the form of an allegation by management of a misconduct on the part of a worker or whether it was a complaint by a worker for the enforcement of a right guaranteed to him by or under any law or settlement.

Alleged misconduct: If a worker committed any misconduct,[26] a charge-sheet containing the specific allegations was issued to the worker concerned under the name of the plant manager. In the charge-sheet the worker was asked to show causes as to why he should not be dismissed from service or punished in some other way, within a specified period of time, usually 3 to 4 days. It happened that in some cases workers frankly admitted the allegations and sought excuse from punishment by management, and in most cases they were not punished. In cases where allegations were refused and explanations from workers were found unsatisfactory, notice of a domestic enquiry was issued, which contained the name of the Enquiry Officer (who was usually the Labour Officer), date, time and place of enquiry. In the hearing sessions, the worker in question usually presented his arguments through a member of the trade union. After the hearing was over, the Enquiry Officer submitted his enquiry report to the plant manager who, considering the gravity of the case and previous records of service of the worker concerned, awarded the final punishment or otherwise.

Workers' complaints: When the worker concerned had any grievance against the punishment given to him, or if he had any other complaint under any law or agreement, he usually lodged a written complaint, addressed to the plant manager, and submitted it to the labour officer. The labour officer, in consultation with the people concerned or through reference to a superior officer gave his decision within the statutory period of 30 days. If management failed to give its decision within the statutory period of time, or when the worker concerned was not satisfied with the management's decision, he generally filed a case in the appropriate labour court against management within 30 days of such failure or decision. Multi-stage grievance procedure with the right of appeal to top level management, as practised in the developed countries such as the U.K. and the U.S.A.,[27] were not found in practice in Bangladesh.

Grievance procedure for collective disputes: As for the disputes of individual nature, so also for collective disputes, some form of an informal grievance procedure which may more appropriately be termed as "administrative action" was found to be a, more or less, usual method of grievance resolution. Under this method whenever the CBA of a plant had any complaint over the implementation of the Wage Commission recommendations or any other corporation policy or over any local problem, it sent a representation to the plant manager who could rarely get the matter settled through direct discussion with the CBA within the limits of the corporation's guidelines. He then referred the matter to the corporation for an imposed administrative decision on the problem. More than 50% of all plant level respondents reported that this method was sometimes used, while according to about 40%, this was frequently or always used in resolving collective disputes.[28]

One reason explaining why administrative decision was being so extensively used in resolving the collective disputes might be that, the basic terms and conditions of service of workers in the public sector industries were not bargainable under law and any ambiguity in the implementation and interpretation of the terms and conditions of service were to be settled, usually not at the plant level but through reference to, and administrative decision of the corporation which is the central controlling body for all plants under it. Another possible reason explaining the extensive use of administrative decisions might be the lack of operational freedom of the plant management who had to work under the strict control of the corporation.[29]

6.4 Participation Committee

The underlying objective behind the legal requirement for the constitution of the Participation Committee, as described in Chapter III, seems to be very sound with the idea that management and workers will have a forum to exchange views and promote understanding between them so that differences may be reconciled. Let us now see how effectively this committee has been working in the public sector enterprises in Bangladesh.

Formation of the Committee

In the national context: Immediately before the fieldwork for this study, the Department of Labour prepared a statement on the latest position with regard to participation committees in certain major industries of the country. The Department of Labour ventured to prepare this statement in response to the emphasis placed on this committee by the Labour Policy, 1980. Letters were first issued from the Department requiring the managements to comply with the legal requirement to constitute this commitee in their respective plants. Only about 9% of the enterprises responded to the letter by forming this committee. Reminders were then issued to the remaining 91%. 64% of the total enterprises responded to the reminder and formed this committee. Thus, it is evident that more than one-fourth of all the enterprises did not or could not constitute this committee in their plants. The case of the jute industry, taken separately, was more discouraging. 30% of the jute mills were without participation committees.[30] A considerable degree of reluctance in forming the committee is evident from the above aggregate picture. The position in the sample industries can now be examined.

In the context of the sample industries: When asked to state if there was any participation committee in their plants, 62% of the management people, as against only 35% of the CBA leaders, gave a positive response.[31] It is interesting to note the wide divergence between the responses of the two sides. It is more interesting to see the divergence in reporting among the respondents of the same side. For example, the labour officer of plant X reported that there was no participation committee in their plant, but the administrative officer of the same plant reported that they had one. Similarly, the president of the unionin a plant gave a positive report on the question, while the general secretary gave a negative one.

Differences of opinion between the two sides were also found as to the method of constitution of such committees and the matters usually dealt with in such committees. For example, of those who admitted that they had participation committees in their plant, 80%

of management, as against 68% of the CBA leaders, stated that this committee was constituted with equal representatives from both sides. 22% of the CBA leaders mentioned that representatives of the management in this committee was more than those of the workers. This statement is in conflict with the legal requirement which provides that the number of workers' representatives in this committee should be at least equal to that of management, if not more.[32] As to the matters dealt with by the participation committee, the reports of management were more consistent with those provided in the law, but the reports of the union leaders were inconsistent on some points.

Performance of participation committees

All these differences of opinion between the two sides, and on some points, among the respondents of the same side, indicate that the participation committees were not properly working in the enterprises covered by the study. This is also evident from their responses to another relevant question on the extent of satisfaction on the performance of such committees. None was very satisfied, about one-fifth were reasonably satisfied and more than one-fourth of the management and more than half of the CBA leaders expressed their dissatisfaction by stating that it merely existed on paper and was practically inactive.[33] The inactivity of such committees is quite understandable from the following emphatical, though humourous, statement of a CBA leader in response to an investigator's question on the functions of the participation committee in their plant:

> "Truly speaking, this committee has nothing to do except welcoming visitors like you (research investigator)."

Problems of effective operation

The present study did not make any in-depth investigation on the factors accounting for the ineffective functioning of the participation committees. But some of these factors have, however, been identified by others. Hasnath[34] has ascertained the following bottlenecks standing in the way of effective operation of such committees:

(a) Vagueness about the area of jurisdiction of the committee;
(b) Unwillingness on the part of management to provide the workers with scope for participation beyond mere consultation, the policy being "this far and no further";
(c) Lack of adequate authority on the part of officers representing the management in the committee;
(d) The trade unions seeing this committee with suspicion that management uses it as an alternative to unions;
(e) Existence of CBAs with whom all matters may be negotiated;
(f) Lack of education and training on the part of workers to undertake the responsibility of joint consultation and discussion in the decision making process.

Khan and Ahmad[35] have observed that the presence of outsiders in the forefront of the trade union movement in Bangladesh was responsible for the failure of workers' participation. Where multiple unions exist, one of the most attractive propositions to the labour leaders from outside is to continuously concentrate on demands for better conditions of service which determine command over, support from and popularity among the workers. To work for workers' increasing participation in management may not appeal to them as this scheme would not involve them likewise, because workers' participation, by definition, is not supposed to encourage the involvement of non-workers.

It is perhaps for the above reasons that participation committees were either rarely or never used for resolving plant level disputes, as reported by 75% to 80% of the respondents at that level.[36]

Perceived necessity

In about half of the cases without a participation committee, the respondents did not even feel the necessity for this committee to be constituted.[37] Thus, although all of the laws on industrial relations in the country had provisions for a participation committee of one form or the other for promoting measures for

securing and preserving amity and good relations between management and workers and to resolve differences at the unit level, those provisions were hardly implemented, and where implemented, this was done only in letters but not in spirit. The law can provide a framework for social behaviour; it cannot infuse the spirit of cooperation necessary for a desirable solution to a problem; that must spring from a desire to cooperate. As the proverb goes, "you can take a horse to water, but you can't make him drink." People may be compelled by law to go through the motions but they may lack the spirit to carry out that law and such proved to be the case with the participation committee.[38] Given the present context of the union structure, the very low level of workers' educational attainment and the inherent attitude of the parties directly involved, the participation committee does not seem to be able to achieve the cherished objectives, as prescribed in law.

6.5 Collective Bargaining

The system of collective bargaining differs from one country to another depending on the social, economic and cultural environment prevailing in each country.[39] Due to variations in the stages of development of these various dimensions, each country develops a legal and institutional framework, peculiar to its own, for carrying out the process of collective bargaining.[40] Bangladesh is no exception in this respect. In the discussion of her legal and institutional framework,[41] it was found that collective bargaining, as a practice, in Bangladesh has been recognised and granted, in full, so far as the private sector is concerned, while in the public sector, it has been allowed only to a very limited extent. Depending on the management structure[42] of the public sector industries, collective bargaining is carried out at two levels - the plant level and the corporation level. The relevant Ministry is also involved in the corporation level bargaining.

6.5.1. Plant Level Bargaining

Plants being the actual production or service units of the respective corporations, collective bargaining, in its real sense of the term, actually starts from this level.

Extent of plant level bargaining

The massive nationalisation scheme undertaken by the Government of Bangladesh in 1972 ushered in a new dimension in the field of labour management relations in general, and in collective bargaining in particular, in the public sector industries.[43] Upon nationalisation of the major industries, the Government, in order to give effect to its constitutional commitment for the establishment of a socialist economic system[44] and to ensure equality of opportunity,[45] introduced uniformity in wage scales and fringe benefits payable to public sector industrial workers by appointing Wage Commissions and implementing their recommendations. By imposing restrictions on bargaining on wage scales and fringe benefits particularly at the plant level, the scope of collective bargaining has been significantly reduced.

Still, of the four methods used at the plant level, collective bargaining was reported to be the most widely used one for resolving collective disputes.[46] In response to a specific question on to what extent the institutional machineries were approached for dispute resolution, all of the CBAs and about 90% of the managerial people at both the plant and corporation levels reported that they either always or frequently used the collective bargaining process.[47] Thus, it is obvious that although Government takes care of most of the basic terms and conditions of service, collective bargaining is still being practised as a preferred method of dispute resolution. The next question that naturally arises is: what were the issues usually dealt with on the negotiation table?

Issues frequently negotiated

Issues frequently negotiated at the plant level were investigated in two ways: (a) by asking responses to a direct qustion in this regard to those who were practically involved in the negotiations and (b) by examining the sample of real dispute cases actually negotiated between the management and the CBAs.

Responses of the management and the CBA leaders to the direct question gave a list of as many as 13 specific issues[48] which could be briefly categorised into four types - financial, personnel and disciplinary, administrative and labour welfare. Thus categorised, it was found that only about one-fourth of all managements' responses and 18% of those of the CBAs related to financial matters. The financial matters, however, did not include any basic financial terms and conditions, as fixed by the Government. These were mainly about the anomalies in the interpretation and implementation of the imposed wage structure and about certain special allowances for certain special types of jobs. "Anomalies" in the operation of the national wages system are a very common issue for industrial disputes in the public sector industries at all stages of the dispute resolution process. Since they are referred to in many places in this and the Chapters that follow, a few examples of such anomalies relating to the electricity industry may be cited here on an anecdotal basis:

> Bangladesh Jatiotabadi Bidyut Sramik Dal, a federation affiliated to the labour wing of the Bangladesh Nationalist Party, then in power, submitted to the Board of Management a list of anomalies in 18 designations of the workers and employees of the BPDB (Bangladesh Power Development Board), on which a tripartite negotiation meeting was held. The meeting recognised the justification of such anomalies and agreed to refer them to a high level committee constituted by the Government. The argument of the federation was that although the NNPS (New National Pay Scale), 1977 was based on the RPS of 1962 and the NPS (National Pay Scale) of 1973, wages scales of many designations allowed in the NNPS did not match with those in the RPS and NPS, and such anomalies should, therefore, be adjusted in accordance with the RPS and NPS. Some of such anomalous instances are presented in the following statement.[49]

Statement showing some instances of anomalies in the implementation of the New National Pay Scale in BPDB

Designation	RPS,1962	NPS,1973	NNPS,1977 allowed	NNPS,1977 desired	Justification
Helper	Tk. 85-125	X	Tk. 225-315	Tk. 240-345	The post is a technical one and the job is risky. The RPS is higher than the lowest possible scale. It is a promotion post. The prescribed qualification of an apprentice helper is S.S.C. and he is to undergo a practical training before he can be finally appointed as a helper. So the helpers should be allowed the NNPS of Tk. 240-345.
Fitter 'B'/Attendant 'B'/ Electrician 'B'/Lineman 'B' and identical posts	Tk. 150-375	VIII	Tk. 325-610 and Tk. 300-540	Tk. 325-610	Those appointed or promoted after 1973 are getting Tk. 300-540 scale, whereas incumbents appointed or promoted before 1973 are getting the scale of Tk. 325-610. This discrimination should not remain.
Pump Operator/ Security Supervisor	Tk. 110-210 and Tk. 110-230	IX	Tk. 250-362	Tk. 275-480	The post of LDA (Lower Division Assistant) having RPS of Tk. 110-240 has been allowed the NNPS of Tk. 300-540. The posts in question are technical posts having almost the same RPS. The proposed scale is therefore quite justified.
Security Guard	Tk. 85-125	X	Tk. 225-315	Tk. 240-345	The RPS of Security Guard is higher than the lowest possible scale. The work performed by them is very important for vital installations. So this post should be allowed the proposed scale of Tk. 240-345.
Foreman, Gr.'C'	Tk. 350-750	VI	Tk.470-1135	Tk.625-1315	Other identical posts (i.e. Shift Supervisor/Unit Operators) have been allowed the grade of Tk. 625-1315. So this post should also be allowed the same grade.
Complaint Supervisor	Tk. 200-330	VII	Tk. 370-745	Tk. 400-825	This post is identical with UDA (Upper Division Assistant). The RPS of UDA is Tk. 200-330 and has been allowed the NNPS of Tk. 400-825. So, this post is also proposed for allowing the NNPS of UDA.
Assistant Teacher	Tk. 110-240	VIII	Tk. 250-362	Tk. 300-540	Both RPS and NPS of this post are identical to those of the post of LDA (Lower Division Assistant). The post of LDA has been placed in the NNPS of Tk. 300-540. The post of Assistant Teacher should, therefore, be allowed the same NNPS for the sake of uniformity.

Of the non-financial issues, labour welfare matters were the most frequently negotiated issues at the plant level (more than 50% of the total responses of both managements and CBAs were related to these matters). Other non-financial issues negotiated were administrative matters like the fixing of the production target, work organisation and allocation, leave matters etc., which acounted for about 22% of the management responses and about one-fourth of those of the CBAs. Following is a summary table of the negotiated issues, as categorised above:

Table 6.1
Summary of the issues frequently negotiated at the plant level, as reported by the respondents

Issues Negotiated	Percentage of Responses		
	Management	CBA	All
1. Financial matters	24.6	18.0	21.2
2. Living and working conditions (Labour welfare matters)	29.0	26.9	27.9
3. Personnel and disciplinary matters	24.5	28.3	26.5
4. Administrative matters	21.7	24.4	23.2
5. Miscellaneous issues	-	2.4	1.2
TOTAL	100.0	100.0	100.0

Analysis of plant level cases identified as many as 17 reasons for disputes that came across the negotiation table.[50] Placing the related issues into the same broad categories, as done above, the following summary of the issues for plant level disputes is obtained:

Table 6.2
Summary of the issues negotiated at the plant level, as obtained by analysing the sample cases

Issues for disputes	Percentage
1. Financial matters	32.9
2. Living and working conditions	15.1
3. Personnel and disciplinary matters	29.6
4. Administrative matters	22.4
TOTAL	100.0

The only difference between the two summary tables, as prepared above, is that of a 12% reciprocal compensating difference between the financial issues and living and working conditions issues. This could be so possibly because, while examining the plant level cases, some corporation level collective bargaining agreements on financial matters, sent by the corporations to respective plants for ratification by the individual plant level CBAs, were also taken into account.

The cross-tabulation analysis between industry and reasons for disputes revealed some significant inter-industry variations, however. For example, in the jute industry, financial and living conditions matters were more frequent than others, while personnel and disciplinary matters were more common in the water transport and administrative matters in the road transport. Prevalence of any particular type of disputes could not, however, be observed in the electricity.

Time taken in plant level bargaining

To ensure quick settlement of disputes at the plant level, the industrial relations laws of the country have fixed the maximum length of time within which management will have to settle the dispute in question through the procedure of a dialogue with the CBA. The time so provided was 7 days in the IRO, as originally formulated in 1969. This negotiation period was, however, gradually raised through subsequent amendments in the said Ordinance, as shown in the following table:

Table 6.3

Direct negotiation period provided in the various industrial relations laws

Industrial Relations Laws	Negotiation Period
The Industrial Relations Ordinance, 1969	7 days
The Industrial Relations (Amendment) Ordinance, 1970	10 days
The Industrial Relations (Regulation) Ordinance, 1975	14 days
The Industrial Relations (Regulation) Ordinance, 1982	21 days

Thus the direct negotiation period, as applicable at present is 21 days. But what was happening in this regard in the actual negotiations in the public sector enterprises? How far could this statutory time limit be adhered to? Were the gradual increases in the negotiation period justified? In an attempt to find answers to questions like these, the actual number of days taken in concluding direct negotiation on the plant level sample cases were examined; and as to the adequacy of the statutory time, views of the managements and the CBA leaders were sought.

It should be noted that the IRO, 1969, as amended up-to-date, does not make any distinction between the private and public sector industries and hence does not consider the peculiarity of the administrative structure of the public sector industries from that of the private sector. In the public sector, the plant management,

lacking adequate authority,[51] had to refer a large number of cases to the corporation,[52] which is the ultimate controlling body of the plants. Thus, for the purpose of this study, the direct negotiation period for the cases referred to corporation level was defined to mean the total time taken from the initiation of a dispute at the plant level to its final disposal by the corporation.

Surprisingly, the average direct negotiation period of the plant level cases was found to be about 70 days with a standard deviation of 82 days. This average and standard deviation became high due to the influence of some extreme cases (11.5%), which took as many as 151 to 545 days. Only 12.5%, 23% and 33% of the cases could be concluded within 10, 14 and 21 days respectively.[53] Thus, the gradual raising of the direct negotiation period through subsequent amendments in the IRO, 1969 seems to be reasonably justified at least for public sector industrial disputes.

One important point to be noted is that only one-third of the cases could be concluded within the presently applicable statutory period of 21 days, more than two-thirds within the average period of 70 days and the rest one-third took as many as 71 to 545 days. On the whole, however, 88.5% of the cases were concluded within a period of 150 days. This finding is conclusive of the fact that the present direct negotiation period, as prescribed in the law could not be adhered to in the sample plants, particularly in those cases that needed reference to corporations.[54] The breakdown of the direct negotiation period as to the outcome of the cases revealed that cases settled locally took 46 days on the average, while those needing reference to corporations took 131 days.

When asked to comment on the adequacy of the present statutory period for collective bargaining about 80% of the plant management, 62% of the corporation management and 77% of the CBA leaders reported that this was reasonably adequate for local problems within the jurisdiction of the plant management.[55] Only a quarter of the total respondents viewing this time to be inadequate, probably

referred to cases needing reference to corporations, because in reply to a next question put to them on the extension of time they wished for, an overwhelming majority of them stated that extending the negotiation period without granting any authority to local management would not make any sense.

Inter-industry differences: Some inter-industry differences as to time taken in concluding the cases are worth noting. Nearly half of the cases in the jute industry and 30% of those in road transport were concluded within the presently applicable statutory period, while the corresponding figures for electricity and water transport were only 16% and 7% respectively. Again, within the average negotiation period of 70 days, 80% of the cases in jute and 85% of those in road transport were concluded, whereas the corresponding figures for electricity and water transport were only 60% and 25% respectively. All cases in road transport were concluded within 150 days, while the corresponding percentages concluded during the same period for jute, electricity and water transport were respectively 94, 88 and 59 only.

The breakdown analysis revealed that although approximately 70 days, on average, were needed to conclude the direct negotiation, this average was very much affected by the very unusual delays made in concluding negotiations in water transport and electricity industries. For example, on average, as many as 82 days in electricity and 157 days in water transport, were needed to conclude direct negotiation, while the corresponding figures for jute and road transport were only 46 and 45 respectively (Fig.6.1). From this analysis it came out that BRTC (road transport) and BJMC (jute) were relatively more prompt in concluding direct negotiation than BPDB (electricity) and BIWTC (water transport), BIWTC being the slowest in this respect.

The size of organisation, degree of centralisation, and worker militancy might appropriately explain these differences as to time taken in the bipartite negotiations. Although organisationally largest, managements of the plants under the BJMC seemed to have enjoyed relatively more decentralisation in authority. Besides, the traditional militancy of the jute workers probably kept

management at all levels more alert in settling disputes with them. The organisation of the BRTC is the smallest compared to those of the other sample corporations. There existed a corporation level CBA in the BRTC and all plant level unions were branches of this corporation level CBA which could directly deal with the corporation management over any matter referred to them. Thus due to constant persuasion and follow-ups of the CBA, disputes in BRTC could probably be resolved relatively promptly. Union organisations (both at the plant and corporation levels) in BPDB were similar to those in the BJMC with the exception that electricity workers seemed to be less militant compared to jute workers. One reason for the low militancy of electricity workers is perhaps the declaration in law of their service as essential. Authority structures in electricity also seemed to be more centralised. Lastly, workers in the BIWTC were found to be disorganised and less militant compared to those in other sample corporations. Authority was also very much centralised in the BIWTC.

No significant variation in time taken in direct negotiation could be found as to the various reasons for disputes. Direct negotiation period, considered in relation to types of disputes, revealed that the individual disputes were being concluded somewhat more quickly than the group and collective ones. This general pattern was not, however, true for BIWTC, where the individual and group cases took the longest time (Fig.6.1).

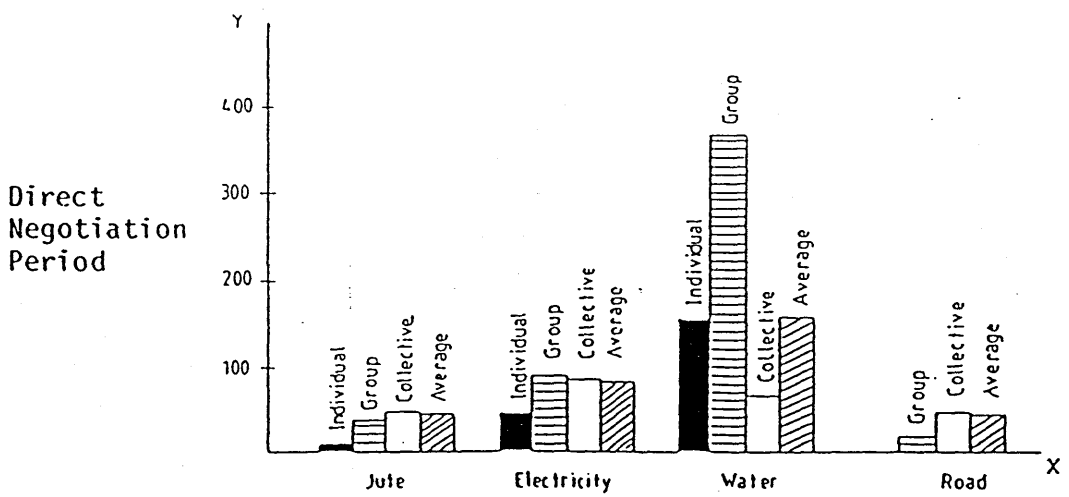


Fig. 6.1 BAR DIAGRAMS SHOWING AVERAGE DIRECT NEGOTIATION PERIOD (IN DAYS) OF THE THREE TYPES OF DISPUTES IN THE SAMPLE PUBLIC SECTOR INDUSTRIES

Effectiveness of plant level bargaining

Methods of investigation: Two methods were used in an attempt to examine the effectiveness of plant level bargaining - firstly, responses of those who were practically involved in the plant level negotiations were sought on their personal views about the effectiveness of the process, and secondly, actual result of negotiations on the sample plant level cases were examined in order to see how far plant level negotiations could resolve the problems that arose at that level.

(a) Responses to direct question: Responses to the direct question, as tabulated in Appendix B.19, show that in the view of 43% of the respondents, collective bargaining was either very effective or reasonably effective in resolving the plant level disputes. But it is important to note that, in the view of the majority of the respondents, this was either somewhat or not effective.

(b) Outcome of cases: Analysis of the outcome of the plant level cases revealed that only less than one-third (31%) of the cases could somehow be resolved on the plant level negotiation table; but the vast majority of the cases (69%) could not be settled at the plant level and those had to be referred to subsequent channels.[56] This finding, also consistent with the view of the majority of the respondents, is reasonably conclusive of the fact that the plant level collective bargaining could not be effectively utilised in resolving disputes arising at that level. However, there were significant inter-industry variations as to the effectiveness of plant level bargaining. For example, against 47% of the cases in the jute industry, only 24% of those in electricity, 5% of those in road transport and 4% of those in water transport could be resolved at their respective plant levels. Thus, although plant level bargaining in the public sector industries was, in general, not so much effective, this was particularly true for water and road transport.

Impediments to plant level bargaining: The next pertinent question is: Why could the plant level collective bargaining not play an effective role in the public sector industries? What constraining

factors were responsible for inhibiting the effective operation of the process? Investigations were carried out in the following ways in order to get an answer to this question:

Firstly, the parties concerned were asked to respond to a direct question in this regard. Secondly, the plant level cases which could not be resolved through plant level negotiations, were further scrutinised as to the reasons why they could not be so resolved. Thirdly, reasons for the failure of direct negotiation were also available in the short recitals of the conciliation level cases taken from the initial applications for those cases, requesting the conciliator to conciliate in them.

(a) Responses to direct question: While both management and CBA leaders identified some objective reasons standing in the way of effective negotations, some other reasons put the blame on each other. The two most common reasons identified by both the parties were: (i) lack of authority to plant management (identified by more than 80% of management and 60% of the CBA leaders) and (ii) poor financial position of the enterprises (identified by about 44% of management and 40% of the CBA leaders). Unreasonable demands beyond the jurisdiction of management was identified to be another constraining factor by about 70% of management and only 20% of the CBA leaders. One reason for this wide difference in responses between the two parties on the issue of unreasonable demands could be that what was unreasonable to management might be reasonable to the CBAs - management might have considered a demand unreasonable on the pleas of legal stipulations, whereas the CBA might have viewed it quite reasonable in terms of economic necessity. 52% of management blamed their CBAs, while as high as 80% of the CBAs blamed their managements as adamant and uncompromising at the negotiation table, for which direct negotiation could not succeed. Inter-union rivalry, communication gap between the parties, absence of an elected CBA and lack of assertion on the part of management were also identified, as other constraining factors in the way of sensible negotiations, by small percentages of respondents.[57]

(b) Analysis of cases: More or less similar constraining factors were also found through the analysis of the plant and conciliation level cases. Taking cases at both levels together, it was found

that lack of authority at the plant management level was a constraint in about 56% of the cases, the next most constraining factor identified as being illegal and unreasonable demands of the CBAs, which happened in 48% of the cases. In one third of the cases examined, managements were firmly fixed in their viewpoints and not ready to give any consideration to the CBAs' arguments over the disputes in question. The CBAs, on the other hand, exhibited their adamant attitude in one-fifth of the cases. That the managements had obstinate attitudes in negotiating disputes with their CBAs in apparently more cases could be somewhat unreal because plant level cases showed that management was adamant in only about 13% of the cases, while in conciliation level cases, this percentage rose to 50%. The adamant attitude of management as a reason for failing direct negotiation in a large number of conciliation level cases might be due to the fact that the reasons for the failure of plant level negotiations in such cases were sorted out from the initial applications for conciliation generally made by the CBAs, who usually blamed management for not conceding to their demands. Analysis of the plant level cases indicated that the stubborn attitude of the parties over negotiations, in fact, went hand in hand.[58] In 26% of the cases (of both levels), poor financial position of the enterprise was a factor limiting effective functioning of the collective bargaining. An antagonistic relationship between the parties concerned for a long time back also stood as a barrier in the way of effective settlement at the plant level, at least in about 24% of the cases examined. Two other barriers to effective settlement through bargaining, encountered in small percentages of cases, were the need to maintain uniformity with other enterprises under the same corporation (encountered in about 9% of the cases) requiring a centralised policy applicable to all enterprises, and lack of locus standi of the CBAs (encountered in 7% of the cases) in the eye of law.[59]

One very significant aspect relating to the failure of direct negotiation was revealed while analysing the conciliation cases - no negotiation meeting was arranged by the plant management in 47% of the cases examined on the plea that neither the issues raised by the CBAs were bargainable under law nor did they have adequate authority

to go for any negotiation over them. Thus when the CBAs found that their local management did not open any dialogue with them on the issues raised within the statutory period, they were bound to refer such cases to conciliators.

The impediments to effective collective bargaining in the public sector industrial enterprises, as identified through the analysis of the sample cases, are depicted in the form of a pie chart as shown in Figure 6.2.

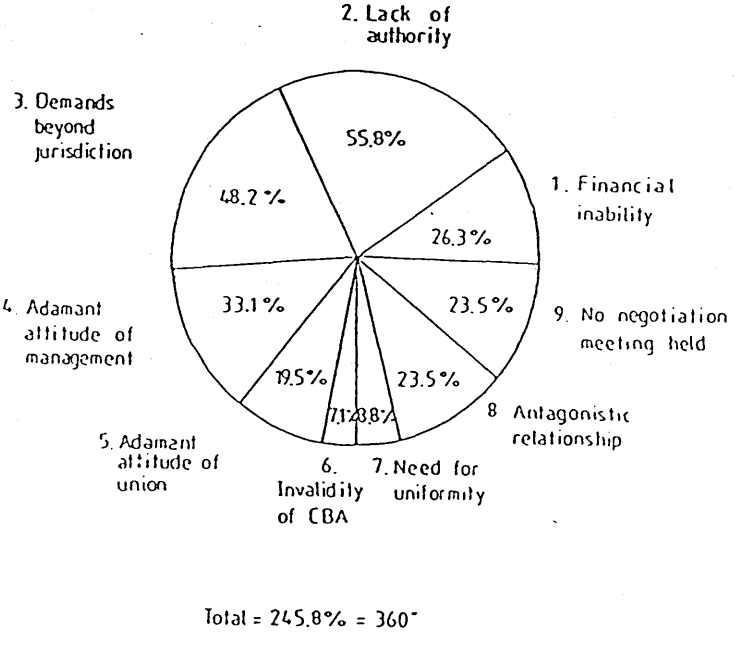


Fig. 6.2 REASONS FOR FAILING DIRECT NEGOTIATION BETWEEN PLANT MANAGEMENT AND PLANT LEVEL CBAs (Based on Appendix E.7)

Lack of authority of the plant management and illegal and unreasonable demands placed by the CBAs were very frequent constraints to effective bargaining and were responsible for failing direct negotiation in most cases.[60] It was found that collective bargaining at the plant level was frequently successful on disciplinary, administrative and leave matters. Labour welfare issues were equally successful and unsuccessful. It seems that labour welfare issues of minor financial implications, which were probably within the jurisdiction of local management could be

successfully settled; but those beyond the authority of the plant management probably failed. Negotiations on financial benefits were seldom successful. What emerges from the above is that in the absence of a well-defined bargaining structure, the CBAs raised all disputes to plant management, some of which could have been reasonably put to the upper level.

It should, however, be noted that the consequence of the failure of plant level negotiations was not smooth and peaceful in most cases. The unions seldom realised the practical limitations of management and often resorted to violence and many undemocratic and unconstitutional practices which may be described as forming a part of the informal system of dispute resolution. The politicisation of workers and consequent political pressure from outside the plant often aggravated the situation. During the course of interviews with them, the plant managements cited many examples of undue pressure exercised by the trade unions and local politicians. The extract of a written report (1974) by one Assistant Manager of a jute mill to his superior officer is given below as just one piece of anecdotal evidence:

> "At about 8.30pm I received a telephone call from Mr. ..... who asked ..... the reasons for non-payment of wages (to workers)..... I explained to him our difficulties ..... but he was not convinced ..... and in reply he advised me to inform my higher authority the following instruction: 'You will let me (telephone caller) know by Sunday (13.1.74) evening whether you will make payment on Monday (14.1.74) morning. If you feel that you will not be able to make payment, you and all your senior officers must resign and vacate company's quarters by Sunday evening; otherwise I will ask my workers to go on strike and close down the mills and throw all of you in the river. You will inform your higher authority and tell him that this is the instruction of the M.P.'....."

How to enhance the effectiveness of plant level bargaining

Notwithstanding, the measures to be taken for improving the effectiveness of plant level collective bargaining were very much implied in the bottlenecks to effective bargaining, as identified above, still a direct question was put to management and CBA leaders on what measures they could suggest, in the light of their practical experiences, to enhance its effectiveness. The measures they suggested may be seen at Appendix B.20.

One important suggestion offered by a large number of respondents (59% of the CBA leaders and 39% of management) was that the parties involved in the negotiation should be fair, honest and reasonable in dealings. This is perhaps very important in the context of the lack of mutual trust and confidence amongst the parties concerned and the allegation of adamancy by one against the other. Studies of actual negotiations and laboratory experiments suggest that, "successful negotiation stems from the character of the personal relations established by the negotiators."[61]

More than 60% of management, but none of the CBA leaders, suggested that the demands placed on and allegations raised against management should be real, reasonable and within the jurisdiction of bargaining. The polar differences of view as to the "reasonableness" of demands between the parties was there possibly because, as stated earlier, management's view was based on legal stipulations, while that of workers was based on bare economic necessities.

Although demands raised by workers were illegal, they were not illogical in the pragmatic sense, viewed in consideration of the failure of the assumptions of the Wages Commission to remain valid[62] and of the sharply increasing consumer prices in Bangladesh. Thus without providing a minimum living wage to workers, mere legal restrictions could not stop them from raising illegal demands. Under this situation, a large number of respondents (50% of the CBA leaders and about 39% of management) wished the law to ensure regular periodic meetings at the plant level on local and minor problems and an annual tripartite review meeting at the corporation level on major financial terms and conditions of service, to make adjustments in them, in view of the changes in economic conditions of the country during the last year. This arrangement might stop the workers from raising illegal demands to local management on the one hand, and effective settlement of local problems, on the other.

Under the present system of management of the public sector industries, almost all administrative powers rest with the corporations concerned, while the Ministries concerned remain as the overall controlling authorities. Enterprises, as operational units, have very limited authority. As high as 96% of the plant and corporation level respondents strongly felt that plant mangement had very little authority to settle collective industrial disputes.[63] Because of the present bureaucratic structure of administration, plant management did not take any risk and responsibility and frequently referred problems, even trivial ones, to corporations.[64] Under such a situation, inter-tier authority and responsibility needs to be clearly spelt out, with more authority being given to plant management.[65] Quick decision on matters referred to the upper levels should be ensured. The Ministerial officers should change their attitude of detecting frauds and mistakes rather than trying to solve the practical problems of the corporations and plants. About 55% of the CBA leaders and 39% of management held this view.[66]

Multiplicity of trade unions and the consequent rivalry between them acted as a serious bottleneck in the way of sensible negotiations.[67] The average number of registered unions in the plants under study was 2.2.[68] Due to workers' allegience to different unions, workers were sometimes not willing to abide by the agreements which had already been made.[69] Difficulties also arose over the determination of the CBA. In the absence of a properly elected CBA, management found it very difficult as to with whom to talk. About 39% of the management and 36% of the CBA leaders thought that the CBA should be properly determined. In this context, one-fourth of all the respondents (management and CBAs) advocated for only one union in each plant which should act as the permanent CBA, and representatives to which should be elected by the workers on the basis of the contesting leaders' personal qualifications and capabilities.[70] But any measure directed towards reducing the number of unions in the public sector industries may not be so easy because the problem is very much linked with the political process of the country. Unlike the

Western countries, trade unions in Bangladesh are very weak and unable to attain their ends by purely trade union methods. Therefore they require political assistance, and the political parties are only too ready to provide that assistance. All political parties thus have their own labour fronts with affiliated union organisations at all levels of management of the public sector industries, which are under constant competition between themselves. But none of the political parties can make the situation more tense than the party in power. Forcible changes in Government have been observed as a regular phenomenon in the short political history of Bangladesh. When a new party gets hold of political power, it wants to capture the union power as well, if necessary (in almost all cases it becomes necessary), by force through the help of police and management. In due course less than scrupulous "leaders" are recruited from within and outside the plants with the acquiesence of plant managements who are asked to do so by the ruling party. This is done with the connivance of the local police who refuse to entertain complaints from the aggrieved workers and existing union leaders. Meanwhile these new "leaders" in the name of the workers, occupy the union or CBA office at the plants. This way of occupying the role of the CBAs by the ruling regimes in Bangladesh has come to be popularly known as "union-hijacking" among workers. Some veteran trade union leaders with professional skill and a long record of service, who stand in the way of forcible occupation of the union leadership, eventually lose part of their following because the party in Government does not negotiate with and give any concession to other unions than the one it supports.[71] And since the Government supported union can secure some tangible benefits for them, a majority of the workers, on the face of their serious economic frustrations, directly or indirectly lend support to it. The opponent unions, however, carry on their organising activities, and given the unstable political environment, new elites come in power and which again float new unions. Thus the end result of this interpenetration of the political and union structures is the multiplicity of unions at all levels with consequent rivalries between them.

Finally, as stated in an earlier section, appropriate managers were not placed at the proper administrative positions in the public enterprises. The educational level of some managers was quite high but their education had little relevance to jobs they were entrusted with. Labour officers' knowledge of labour laws was quite shallow. The problem was even more acute with the trade union leaders, most of whom had very little education. 46% of management and about 23% of the CBA leaders, therefore, felt an urgent need for training of both the parties on the labour laws of the country and also on fair negotiating procedures. If both the parties could be made well aware of the various provisions of the labour laws and corporation policies, the communication gap between them might reduce which, in turn, might help in effective settlement of disputes.[72]

6.5.2. Corporation Level Bargaining

As already stated in Chapter IV, an in-depth investigation into the corporation level collective bargaining system could not be undertaken. Eight employees and labour relations managers and/or officers of the corporations under study, who by virtue of their positions, had to be involved in the bargaining process, were interviewed and some previous collective bargaining agreements, signed between the corporations and corporation level workers' federations were collected. Whatever information could be collected, can reasonably describe the working of the process, however. Since only eight officers, two from each corporation, were interviewed, statistical analyses on their responses were considered to be of no practical value. Under the same consideration, information available in the small number of collective bargaining agreements were not put to any statistical analysis.

Legal basis of bargaining with workers' federations

The law provides that no industrial dispute shall be deemed to exist unless it has been raised in the prescribed manner by a CBA.[73] Investigation into the sample corporations found that there was no corporation level CBA in any of them except in BRTC, where one CBA existed, but it was in a deadlocked position at the time of the fieldwork for this study, due to the allegiance of its office bearers to opposing political parties. In BRTC and BIWTC, central unions at the corporation level had strong organisational ties with plant level unions, which were actually branches of the central unions. In BIWTC, a CBA could not be determined due to inter-union rivalry. In the case of BJMC and BPDB, there were multiple federations of workers, but none of them had links with all or the majority of the plant level CBAs.[74]

In the absence of elected corportion level CBAs, how could corporation level workers' federations raise disputes to corporations? Corporation managements of the jute and electricity industries reported that there was no legal basis in this respect. This was just a mutual arrangement. Federations were authorised by the plant level CBAs to negotiate with the corporation on their behalf. In BRTC, plant level unions were the branches of the single central union which was a legal CBA. In BIWTC, there were three central unions, but because of extreme rivalry between them, none of them could be declared as a formal CBA, and as such no formal negotiation could occur there; all of the central unions wrote about workers' problems to corporation management, whenever needed, and management took executive action on them unilaterally without arranging any formal negotiating meeting. The following table depicts the pattern of plant level union organisations and their relationship with the corporation level central union/workers' federations in the sample industries:

TABLE 6.4

Relationship of the plant level CBAs with the corporation level central unions/federations

Corporation (Industry)	Existence of Plant Level CBAs	Number of Central Unions or Federations	Existence of corporation level CBA	Relationship of plant level unions with the corporation level central union/ federation
BJMC (Jute)	Plant level CBAs are there	Multiple federations are there	No corporation level CBA is there	No federation has support of the majority of the basic CBAs
BPDB (Electricity)	Plant level CBAs are there	Multiple federations are there	No corporation level CBA is there	No federation has support of the majority of the basic CBAs
BRTC (Road transport)	No plant level CBAs are there	Single central union is there	A deadlocked CBA is there	Plant level unions are branches of the central union
BIWTC (Water transport)	No plant level CBAs are there	Multiple central unions are there	No corporation level CBA is there	Plant level unions are branches of the central unions

Bargaining system at corporation level

Were all federations allowed to submit demands and bargain with the corporations? As already stated, a formal CBA was there in BRTC, and this question was not applicable to them until only recently when the leadership crisis created a dedlocked situation. In BIWTC, all central unions could submit demands, but no formal negotiation with them took place. All federations of the BJMC were allowed to submit demands and the corporation management talked with all, irrespective of whether they were registered or not, even

though explicit legal provisions are there to the effect that an unregistered union or federation shall not function as a trade union/federation.[75] This was a sheer contravention of the law of the country. In the case of BPDB, however, all federations were not allowed to negotiate with the Board. In BPDB, before sitting for negotiations with a federation, at least two points about it were examined - (a) if the federation submitting the demands was a registered one and (b) if such a federation had the support of the majority of the basic CBAs at the plant level. In practice, however, the latter criterion could seldom be stuck to.

In the case of the jute industry (BJMC), the process of corporation level bargaining started with the submission of the charter of demands by one or more federations. Following the submission of demand charters, if the BJMC considered that it was sufficiently competent to pursue negotiations on the demands so placed, formal meetings were arranged with the representatives of the federations. Alternatively, if all or some of the demands involved a decision of the Government, then it arranged to send all those demands to the Ministry of Jute for necessary approval. In such cases, formal negotiation meetings with the federation representatives were held only when the BJMC received instructions from the Ministry. A scrutiny of the formal collective agreements so far made indicated that, in all cases, final agreements were made between the BJMC and the various federations of workers only after getting approval of the Ministry. In all of the five agreements so far made, only the federations supporting the political party in power were involved. In three of the agreements, the Chairman, all directors, all zonal managers, the Secretary and the Manager (Employee Relations) signed on behalf of the corporation and the federation representatives on behalf of the federation. The other two agreements were signed only by the Secretary and the Manager (Employee Relations) on behalf of the corporation.

In the case of electricity, the Board framed the following procedure for disposing of the charter of demands of different unions or federations of unions:

(a) On receipt of a charter of demands from a basic CBA or a federation, the head of the enterprise concerned was to set the particulars of the demands in a proforma prescribed by the Board. The proforma has columns for description of the demands, comments of the enterprise head (usually a Superintendent Engineer), comments of the Chief Engineer concerned, comments of the Boards' Directorate of Labour Welfare, comments of the Board's Directorate of Personnel, comments of the Board's Directorate of Finance, comments of the Board's Directorate of Accounts and decision of the Board.

(b) After setting the demands in the proforma, the plant manager was to submit the same to the next superior officer after recording his comments in the column meant for him within 3 days of the receipt of such demands.

(c) Each of the next offices was to record its comments in the appropriate column of the proforma and send the same to the office mentioned in the column next to it within 3 days of the receipt the charter.

(d) After getting comments from the Directorates concerned, the Board was to decide as to how, with whom and when to sit for formal negotiations.

By examining the sample collective bargaining agreements between the BPDB and the federations of trade unions, two types of settlements could be found. Firstly, issues within the jurisdiction of the Board were settled in the periodical review meetings, usually held between the representatives of the federations of workers and the Board members. Secondly, issues that could not be settled at the review meetings were referred to the Ministry concerned. Federation leaders also followed their cases directly with the Minister-in-Charge. Issues involving major financial implications were thus settled in tripartite meetings between the representatives of the Board, federations of workers and the Government. The Board was represented by the Chairman, all members, the Secretary and the Director of Labour Welfare of the Board; the Government was represented by the Minister-in-Charge of Power, Water and Flood Control, the Secretary of the said Ministry and the Director of

Labour; and the federation was represented usually by the principal office bearers. As in the case of BJMC, so also in BPDB, the federations entering into agreements were the supporters of the political party in power.

A simple examination of the formal agreements, however, does not disclose a true picture of the real life industrial relations and dispute resolution process. The situation of a corporation level/tripartite negotiation does not develop easily with a mere submission of a charter of demands by a particular federation. Actual negotiations begin only after protracted struggles undertaken by the workers. The following is a typical example which describes how an agreement could finally be reached through a series of formal and informal actions on the part of the federation in question:

> "The Bangladesh Power Development Board Jatiotabadi Sramik Dal submitted a charter of demands to the Board on 24th April 1979. But all negotiations between the federation and the Board failed and no settlement could be reached within a reasonable period even after the expiry of the statutory negotiation period. The workers and the federation leaders held several unlawful assemblies and did some mischief to the Board's officials concerned and as an extreme course of action kept the Board's office gheraoed[76] for five days (from 10th to 14th December 1979). Under this deadlocked situation, the Chairman of the Board, after having repeated communications with the Ministry of Power, Water Resources and Flood Control, announced to the workers that the Ministry had agreed to sit in a tripartite negotiation meeting as quickly as possible, and accordingly, a tripartite meeting was held on 15th and 16th January 1980 with the State Minister of the Ministry concerned in the chair. In the meeting the State Minister told that most of the demands raised by the federation, being concerned with national policies, were under the active consideration of the Government. The federation leaders were not satisfied with this statement and demanded a specific deadline within which to accept their demands. The State Minister then assured the workers that the final decision on their demands would be given within one month from the date of the meeting; but nothing was done by the Government within the fixed time limit. The Sramik Dal then announced a programme for a 30-hour hunger strike with effect from 21st March. The Minister concerned came again into the scene and requested the workers' representatives to call off this strike by assuring the fulfilment of their demands, and acordingly another tripartite meeting was held on 27th March and a final agreement was signed between the Ministry, the Board and the federation in question.[77]

As another example of the use of coercive informal practices in resolving industrial disputes in the public sector, the remarkable case of the nationalised banks (1981) is also worth mentioning in this context.

> "In February 1981, the managements of the various nationalised banks, under the undue pressure of the Bangladesh Bank Employees Federation, a national level union having the blessings of the Bangladesh Nationalist Party (the then political party in power), were compelled to allow illegal promotions and advance increments to all bank employees without having any prior approval of the Government..... On the basis of the recommendations of an Investigation Committee appointed in this context, the Government decided to recover from the employees all excess monies they had received through reorganisation of their service and salary structures, in violation of the Government's New National Pay Scales of 1977. All bank employees unitedly protested against this Government decision and resorted to violent demonstrations and humiliated managements in many branch and regional offices by abuses..... A state of complete indiscipline and lawlessness prevailed in the banking sector..... (Under the situation), managements were directed to dismiss the unruly employees, including the office bearers of the union..... Accordingly, mass dismissals began from 22nd May 1981. 800 employees - mostly of the Sonali Bank (the largest commercial bank in the nationalised sector) - from different levels were sacked from service on the same day. ..... The union leaders became furious at this drastic action. On 23rd May, the union leaders and the dismissed employees gheraoed the head office of the Sonali Bank and confined the management for several hours without communication with the outside world..... At one stage the demonstrators became so aggressive that they unitedly attacked the offices of the General Manager and the Managing Director of the bank and caused serious physical injuries to them.[78]

The last stage of the corporation level bargaining process was the implementation of the agreement. The corporations, after signing the agreement arranged to send the copy of the same to the heads of the plants for implementation. The heads of the plants then got the agreement ratified by their respective CBAs. This ratification was essential because, as noted earlier, none of the federations had the support of all the basic CBAs in the industry concerned.

Issues bargained at the corporation level

The demands raised and negotiated at the industry level were not very different from those raised at the plant level. In fact, issues which could not be resolved at the plant level became the subject-matter of bargaining at the corporation level. The issues negotiated, as obtained from the sample agreements, could be broadly divided into two types - financial and non-financial.

The financial issues included were wages, arrear wages, wage adjustment, bonus, fringe benefits, arrear fringe benefits, deduction of house rent, ration subsidy, norm of efficiency, increment, arrear increments, incentive bonus, fringe benefits to badli workers, paid holidays, payment for idle hours, cost of hospitalisation, benefit for major accidents, reward for good attendance, food and canteen subsidy, free ferry service, various technical allowances etc.

The non-financial issues, on the other hand, included regular supply of materials and spare parts, disciplinary actions, recruitments, promotions, transfers, non-paid holidays, mode of payment, effective date of agreement, period of agreement etc. One aspect of the negotiation on demand charters at the corporation level was that most of the non-financial demands received very little attention and importance in the negotiation process.

Problems of corporation level bargaining

The corporation managements identified the following specific problems in relation to corporation level bargaining with the federation representatives:

(1) In the absence of an elected CBA at the corporation level it was very difficult to talk to and communicate with all the federations of unions.
(2) The Wage Commission recommendations could not be contravened.

(3) The corporations did not have full authority to negotiate; Government approval was necessary in many cases.
(4) The federations often placed unreasonable demands (e.g. 100% recruitment from within).
(5) Some demands of the federations involved heavy finance beyond the capacity of the corporations.
(6) Some federation representatives were very arrogant and uncooperative.

The major impediments on the way to effective corporation level bargaining, as identified by the corporation managements, were reasonably similar to those identified while analysing plant level collective bargaining, and similar measures, as were suggested in relation thereto might also be suggested to improve the effectiveness of corporation level bargaining.

6.6 Relative Use of the Institutional Machineries for Resolving Plant Level Disputes

Before concluding this Chapter on the direct negotiation, a note on the relative use of the institutional dispute resolution machineries, in disposing of the plant level cases should perhaps be worthwhile. In an earlier section, it was pointed out that only 31% of the plant level cases could somehow be resolved at the plant level. But what happened to the rest? Appendix B.12 indicated that a vast majority (59% of the total cases) were referred to the corporations, only 6% were referred to the conciliators and 4% to the labour courts.

But what happened to the cases referred to the corporations? Were they settled at that level? The corporations could settle only 52% of the cses so referred and the other 48% could not be settled at the corporation level.[79]

The next question which logically came up was: what happened to the cases that could not be settled at the corporation level? How were they resolved? Further examination of those cases revealed that

about 30% of them were referred to the labour courts, about 25% to the relevant Ministries and 11% to the conciliators. Strikes occurred in 5% of such cases and the remaining 30% were not taken any further.[80]

Thus, cases to conciliation were referred from two levels - (a) some directly from the plants and (b) others indirectly via the corporations. In an attempt to examine whether cases referred to conciliation could be resolved at that level, it was found that the conciliation machinery could not settle more than 70% of the cases referred to them.[81] The next point of interest was - what happened to the cases failed at the conciliation level? A large number of such cases (about 39%) were referred to labour courts, 23% sent back to corporations and about 8% to special committees consisting of workers' representatives, corporation officials and officials of the Ministry. The rest were either unsettled or not proceeded with any further.[82]

Cases to labour courts were, thus, referred in three ways - (a) some directly from the plant level, (b) some after failure at the corporation level and (c) some after the failure of the conciliatory efforts. The Ministries and the labour courts were the ultimate destination of industrial disputes in the public sector - the Ministries for interest disputes and the labour courts for rights disputes.

For a clearer grasp of the relative use of the institutional dispute resolution machineries, the total number of disputes examined at the plant level might be taken to be 100%, and the resolutions at each particular stage and referrals to subsequent stages might be expressed as direct fractions of 100. By using this approach, a flow chart (Figure 6.3) clearly shows the percentage of total plant level disputes resolved at each level of the whole dispute resolution process. It is obvious from this Chart that the majority of the disputes (42%) were resolved at the corporation level, 31% at the plant level, 15% at the labour court level, 7.5%

at the Ministerial level and only 4.5% at the conciliation level. The corporation level has been the most frequently used, while conciliation has been the least used machinery in resolving disputes in the public sector industries in Bangladesh.

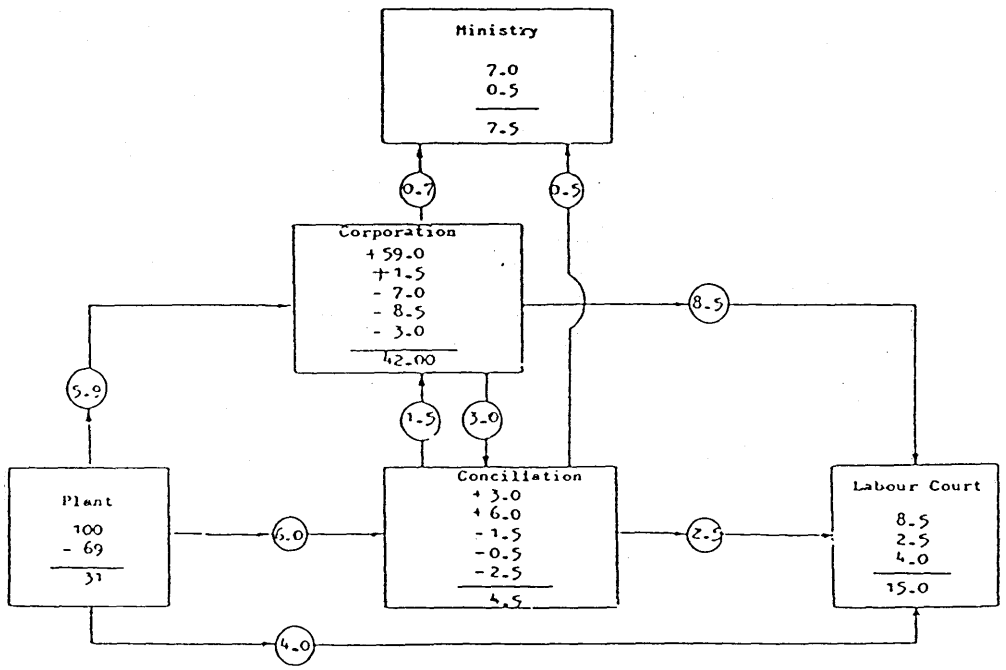


Fig. 6.3 RELATIVE USE OF THE DISPUTE RESOLUTION MACHINERIES IN RESOLVING PLANT LEVEL CASES

NOTES

1. Henceforth the term, "Management" will be used to refer to the plant management, unless otherwise specified.
2. Henceforth the term, "collective bargaining agent (CBA)" will be used to refer to the plant level CBA or the basic CBA, unless otherwise stated.
3. Henceforth the term, "corporation" will be used to mean the Head Office of the industries covered by the study, although in the case of electricity industry, the head office is termed as "Board".
4. Important among other labour laws are: the Payment of Wages Act, 1936; the Workmen's Compensation Act, 1923; the Employment of Labour (Standing Orders) Act, 1965; the Factories Act, 1965 etc. (all adopted in Bangladesh).
5. Appendix B.10.
6. Appendix B.11.
7. The designation of the officer dealing with labour problems varied in the sample industries. In subsequent discussions the term "Labour Officer" will be used to refer to this officer in any sample industry.
8. Based on the impressions of the author during the course of interviews with plant level respondents. Also see Quddus, M.A. et al. op. cit. pp. 56-57.
9. Ahmad and Company, J.U., Chartered Accountants, A Study of the Jute Industry in Bangladesh, Dhaka, 1974, pp.57-61.
10. Khan, A.A. and Choudhury, N.K., A Study on the BJMC Scheme for Awards to the Best Workers, (Dhaka : Bureau of Business Research, University of Dhaka, 1982), mimeo, p.74.
11. Appendix B.8.
12. Appendix B.9.
13. Martuza, G., "Causes of Weak Trade Union Movement in Bangladesh" the Personnel, vol. 2, December, 1982, pp. 78-81; Ali, M., "Reluctance to Work: A Search for a Solution to this National Problem", the Personnel, vol. 1, December, 1981, pp. 8-13; Islam, A.K.M.N., "Handling of Disciplinary Cases in Industry", the Personnel, vol. 1, December, 1981, p. 38; Imam, A., "Industrial Relations - Retrospect and Prospect in Bangladesh", the Personnel, vol. 1, December. 1981, p. 42; and Ahmed, I., "Workers Participation in Management", the Personnel, vol. 2 (Bengali section), December, 1982, p.6.

14. Khan, M.A., "Role of Personnel Policies in the Promotion of Sound Labour Management Relations in Bangladesh", Report: National Tripartite Training Course on Effectivce Labour Inspection and Workers Welfare, sponsored by the Ministry of Labour and Manpower, Government of Bangladesh and ILO office, Dhaka, 1982, p. 63; Yusuf, F.H., "The Human Relations in the Nationalised Industries of Bangladesh", Administrative Science Review, vol. XI, No. 4, December, 1981, p.72.
15. Appendix B.1.
16. Ahmad, M., "A Case of Managerial Service in the Public Enterprise Sector in Bangladesh", Journal of Management, Business and Economics, vol. 9, No. 3, 1983, p. 254.
17. Ahmad, M., "Labour Management Relations in Bangladesh: A Study in Participation", op. cit. p. 62; Khan, .A.A., A Study on the BJMC Scheme for Awards to Best Workers, Unpublished Research Report, BBR, University of Dhaka, 1982, p. 75; Husain, A.F.A., and Farouk, a., Social Integration of Industrial Workers in Khulna, BER, University of Dhaka, 1963, pp. 27-34.
18. Quddus, M.A. et al. op. cit. p. 49.
19. Appendix B.7.
20. See Chapter III (p.) of the present study.
21. Based on a cross-tabulation analysis done on the computer between the type of and reasons for disputes in the plant level cases (χ^2 significant at 1% level).
22. Appendix B.10.
23. Based on the author's personal interviews with respondents of the study.
24. Section 25 of the Employment of Labour (S.O.) Act, 1965.
25. About 94% of the workers covered by a recent study carried out by a team of research workers of the Bangladesh Society for Improvement of Human Rights reported that they were unaware of the Employment of Labour (S.O.) Act, 1965. See Bangladesh Times, March 8, 1982.
26. An extensive list of misconducts is prescribed in Section 17(3) of the Employment of Labour (S.O.) Act, 1965.
27. Thomson, A.W.J. and Murray,.V.V., Grievance Procedures, op. cit. Ch. 3.
28. Appendix B.11.

29. Alamgir, M., "Nationalised Industries in Bangladesh: Problems and Prospects", Bangladesh Development Studies, Vol.II, No.3, July 1974, p.704; Ahmad, Q.K., "Aspects of Management of Nationalised Industries in Bangladesh", Bangladesh Development Studies, Vol.II, No.3, July 1974, p.690.
30. Appendix A.5.
31. Appendix B.2.
32. Section 7 of the Industrial Relations (Amendment) Act, 1980.
33. Appendix B.5.
34. Hasnath, A., "Joint Consultation and Workers Participation in Management", Bangladesh Labour Journal, Vol.4, 1977, p.15.
35. Khan, M.M., and Ahmad, M., Participative Management in Industry, Centre for Administrative Studies, University of Dhaka, 1980, pp.65-66.
36. Appendices B.10 and B.11.
37. Appendix B.6.
38. cf. Reza, M.A., The Industrial Relations System of Pakistan, Bureau of Labour Publications, Karachi, 1963, pp.153-55.
39. ILO, Collective Bargaining and the Call of New Technology, Geneva, 1972, p.3.
40. Dunlop, J.T., "Structure of Collective Bargaining", in Rowan, R.L. (ed.) Readings in Labour Economics, 3rd edition, (Homewood: Irwin, 1976) p.237.
41. Chapter III of the present study.
42. Public sector industries in Bangladesh are managed through a three tier administrative structure - the relevant Ministry is the owner; the relevant corporation is the central controlling body; and the plants under the corporations are the operational units.
43. Alam, M.F., "Collective Bargaining in Bangladesh Jute Industry", op.cit., p.66.
44. The Constitution of Bangladesh, as originally formulated in 1972, Article 10.
45. Ibid, Article 19.
46. Appendix B.11.
47. Appendix E.1.
48. Appendix B.12.

49. Annexure-3 to the minutes of the tripartite meeting between the Bangladesh Jatiotabadi Bidyut Sramik Dal, the Bangladesh Power Development Board and the Minister for Power, Water Resources and Flood Control held on 11.5.81 at the Conference Room of the BPDB, Dhaka.
50. Appendix B.20.
51. Ahmad, Q.K., "Aspects of Management of Nationalised Industries", op.cit., pp.400-03.
52. Appendix B.13.
53. Appendix B.21.
54. Based on a cross-tabulation analysis between whether the case was referred to corporation and time taken in direct negotiation.
55. Appendix E.2.
56. Appendix B.13.
57. Appendix B.18.
58. Appendix E.7, and cross-tabulation done on the computer between reasons for disputes and reasons for failing direct negotiation on plant level cases (χ^2 significant at 1% level).
59. Appendix E.7.
60. Based on a cross-tabulation done on the computer between reasons for disputes and reasons for failing direct negotiation.
61. Stephenson, G., "Inter-Group Relations and Negotiating Behaviour" in Warr, P.B. (ed.) Psychology at Work, (Harmondsworth, Penguin Books, 1971), pp.347-73.
62. The Wages Commission (IWWPC) assumed a regulatory rationing system and full medical facilities for the workers and their family members to be provided by the Government. See Report of the IWWPC, 1978, pp.45-50.
63. Appendix E.6.
64. Appendices B.13 and B.9.
65. Ahmad, Q.K., "Aspects of Management of Nationalised Industries in Bangladesh", op.cit., pp.686-91.
66. Appendix B.19.
67. Appendix E.5.
68. In addition to the registered unions, some unregistered unions were also found operating in many of the plants. In most cases, these were the unions whose registrations were cancelled by the Labour Directorate on some legal grounds.

69. Appendix E.4 and Martuza, G., op.cit., p.80.
70. Appendix B.19.
71. Islam, M.A. "Industrial Relations in Bangladesh", op.cit.; Also see "Illegal Bank Strike", the Weekly Bichitra, op.cit.
72. Appendix B.19.
73. Section 43 of the IRO, 1969.
74. Alam, M.F., "Collective Bargaining in Bangladesh Jute Industry", op.cit., p.69.
75. Section 11 of the Industrial Relations (Regulation) Ordinance, 1975.
76. The word "gherao" means to surround or encircle. Maulana Bhasani, a renowned political leader of Bangladesh, used the "gherao" model in 1968 as a political weapon by which the officers of the bureaucrats and ministers were surrounded with a view to realising certain political goals. The same practice also spread to the mills and factories. Under this practice, the workers gherao the office of the management, wrongfully confine them in small spaces for hours together and thereby force and intimidate them to sign illegal agreements which under the law become binding on management. Ahmad, K., Labour Movement in Bangladesh, op.cit., pp.96-97.
77. Record of the conference held on 27th March, 1981 between the representatives of the Bangladesh Power Development Board Jatiotabadi Sramik Dal, the Power Development Board and the Ministry of Power, Water Resources and Flood Control at the Board's Conference Room, Dhaka.
78. "Illegal Bank Strike", in Weekly Bichitra, 18th September, 1981, pp.21-29.
79. Appendix B.14.
80. Appendix B.15.
81. Appendix B.16.
82. Appendix B.17.

CHAPTER VII
THE DISPUTE RESOLUTION MACHINERIES - CONCILIATION

In the world of today, conciliation as a peace-making process is most frequently and extensively used in the field of industrial relations. It aims to bring about a speedy settlement of disputes between management and workers without resort to work stoppages when these have already occurred. The steps that a conciliator may take to bring about an amicable settlement may vary from one country to another depending on the institutions developed in each country.[1] But irrespective of the institutional system the function of a conciliator is to help the disputant parties towards a mutually acceptable agreement, and hence conciliation is described as an "extension of collective bargaining with third party assistance," or simply as an "assisted collective bargaining."[2]

The legal framework of the conciliation system in Bangladesh having been described in Chapter III, the purpose of the present Chapter is to see how this machinery actually operates in practice, particularly in relation to the public sector industrial disputes. With this end in view, the whole Chapter is divided into seven Sections. A brief description of the structure of the conciliation service is first given in Section one. Section two examines the effectiveness of conciliation in relation to certain goals of the industrial relations laws of the country, in dealing with the sample public sector industrial disputes examined at the conciliation level. The two sets of conditions - objective and subjective - affecting the effective operations of the conciliation service in general are taken up respectively in Sections three and four. The specific factors responsible for failing conciliation in industrial disputes in the public sector industries are analysed in Section five. Certain measures for enhancing the effectiveness of conciliation suggested by the parties directly involved, have been stated, in relation to the problems identified in the earlier sections, in Section six. Finally, Section seven concludes the Chapter by making a short note on the role of conciliation in dealing with the public sector industrial disputes.

7.1 The Structure of the Conciliation Service

In Bangladesh, a permanent Directorate of Labour under the Ministry of Labour and Manpower is administered throughout the country to look after the labour situation and industrial relations obtaining in the country. The Directorate, being located at Dhaka, has four Divisional Offices in the four administrative Divisions of the country. Within the jurisdiction of the Divisional Offices, there are also Regional and Branch Offices located in the interior cities of each Division. The administrative structure of the Directorate is shown in Figure 7.1.

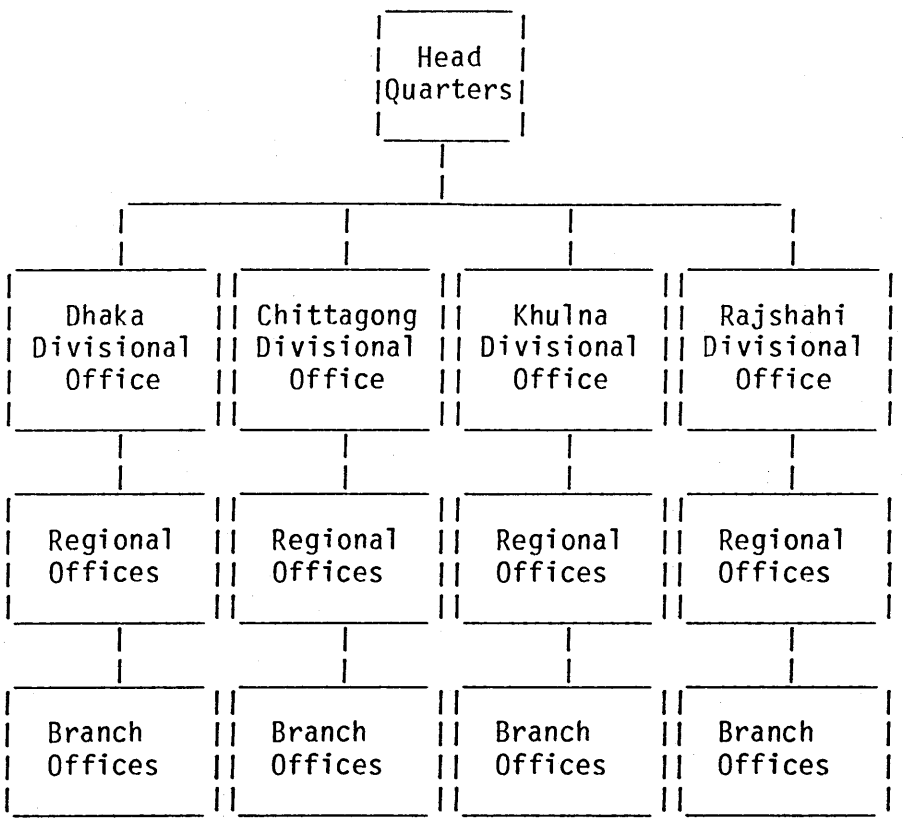


FIG. 7.1 Organisation Structure of the Directorate of Labour.

The Directorate headquarters are headed by a Director of Labour (DL) and each Divisional office by a Joint Director of Labour (JDL), each regional office by an Assistant Director of Labour (ADL) and each branch office either by a Labour Officer (LO) or by a Medical Officer. The headquarters has also an Additional Director of Labour (Add.DL). More than one Deputy Directors of Labour (DDL) and Assistant Directors of Labour also work in the headquarters and Divisional Offices. Provisions are there for at least one LO in each regional office and more than one LOs in each Divisional office.

The DL and the Add.DL have been notified to be the conciliators for the whole of the country, while the JDLs, DDLs, ADLs and LOs in the Divisional, regional and branch offices have been notified by the Government to be the conciliators in their respective areas under section 27 of the IRO, 1969.[3] Thus all Officers of the Directorate of Labour down to the rank of LO, have been declared to be conciliators in Bangladesh, both for the private and public sector industries. The total number of officers actually doing the work of conciliation, as obtained from the Directorate headquarters, was estimated to be 30 (Table 7.1)

Table 7.1

Number of active conciliators in Bangladesh

Director of Labour	1
Additional Director of Labour	1
Joint Director of Labour	4
Deputy Director of Labour	11
Assistant Director of Labour	22
Labour Officer	6
Total number of Officers down to the rank of Labour Officer	45
Less officers involved in functions other than conciliation, e.g. administration, registration of trade unions, etc.	15
Officers actually doing conciliation	30

Before looking at the actual mechanics of the conciliation machinery, two given constraints on the operation of the process - one relating to the external environment and the other to the internal environment - need to be appreciated. Firstly, under the present legal framework, as described in Chapter III, the conciliators at any level have very little to do in resolving disputes over the basic terms and conditions of workers in the public sector industries. Most unions in these industries are aware that the rigid industrial relations laws applicable to the public sector have made it almost impossibe to secure any concession from management either through direct negotiation or through conciliation unless the Government agrees or gives approval to such concessions. The workers and their unions, particularly those supported by the party in power, therefore, find it more propitious to lean heavily on Government support through political lobbying e.g. with the MPs at the local level and with the Minister concerned at the corporation or industry level, instead of going through the conciliation process. During the course of interviews with them, the conciliators cited many cases where the unions, after seeking the assistance of conciliators, by-passed them and started direct communication with the Minister concerned. In examining the possibility of effective conciliation over public sector industrial disputes, this environmental constraint should be kept in consideration.

Secondly, it will be demonstrated that the Directorate practises a very centralised structure of authority so that the conciliators at the branch and regional levels cannot act independently in performing their function of conciliation in the disputes referred to them from their respective areas of jurisdiction. The function of the conciliators at the lower level is mainly to keep a constant watch on the industrial relations situation in their respective localities and to send reports from time to time to the Divisional offices. All lower level conciliators report that they could conciliate only in minor cases coming largely from the private sector. In all important cases, they usually make arrangements for

conciliation meetings to be led by their superior officers from the Divisional/Head offices. They cannot prosecute a recalcitrant party without the permission of the Joint Director of Labour or the Director of Labour. Thus due to the lack of appropriate authority, the lower level conciliators could not do their job as effectively as they otherwise could.

7.2 Effectiveness of Conciliation

Measuring the effectiveness of conciliation is not an easy task because very few have ever attempted this venture and no one has yet laid down any method as to how the actual operations of the conciliation service can be measured. No standards are also available against which to examine the actual performance of the service.[4]

To examine the effectiveness of conciliation, particularly in relation to public sector industrial disputes, is rather more difficult, because whatever data are available from the Directorate of Labour are all aggregate data and not segregated into public and private sectors. However, based mainly on the field data, an attempt has been made in this section to see how far certain goals of laws could be achieved in the conciliation of public sector industrial disputes in Bangladesh.

7.2.1 Quickness in intervention

The law does not specifically provide when the conciliator should start intervention after a dispute has been reported to him. The law only provides a maximum time limit within which the conciliator should dispose of the dispute. It, however, states that he should call the first conciliation meeting "as soon as possible".

While examining the conciliation level cases, number of days within which notice of the first meeting was issued, were recorded. It was assumed that the intervention practically started when the conciliator, after examining the validity of the locus standi of the applicant, proceeded to issue to the parties a notice of the first meeting. It was found that this notice was issued to the parties

within an average period of 6 days with a standard deviation of ± 4 days. In 96% of the cases, notices were given within 14 days.[5] Given a normal conciliation period of 30 days in the first instance,[6] with further provisions for continuing conciliation even after the expiry of the normal period[7] and the formalities involved in verifying the representativeness of the applicant, time taken in starting the conciliation as noted above, does not seem very unreasonable.

7.2.2 Adherence to time allowed

The normal statutory period for conciliation, as applicable at present, is 30 days. If the conciliator fails to settle a dispute within this normal period, the aggrieved party is to serve a 21 days notice of work stoppage on the other party, with a copy of this notice being given to the conciliator.[8] It is to be noted that the conciliator is to continue to conciliate in the dispute notwithstanding the notice of work stoppage.[9] Thus the total conciliation period, in fact, comes to 51 days.

The analysis of the conciliation level cases revealed that, on the average, 41 days were needed to conclude the conciliations. 64% of the cases were concluded within the normal statutory period of 30 days and 83% of the cases within 50 days (normal period plus work stoppage notice period), but the remaining 17% of the cases took as many as 51-250 days.[10] Some inter-industry differences as to the time taken in concluding conciliation should be noted in this context. Whereas 96% of the cases in water transport were concluded within the normal 30 day statutory period, the corresponding percentages for electricity, jute and road transport were 82, 56 and 48 respectively. Again, whereas all of the cases in water transport were concluded within 50 days, the percentage of cases concluded within the same period in electricity, jute and road transport were respectively, 89, 81 and 76.[11] Thus contrary to the findings of direct negotiation in this respect, conciliation cases in water transport and electricity were concluded relatively promptly than those in jute and road transport. Inter-industry variations in the issues involved in disputes, the result of conciliation and the reasons for failing conciliation largely

explain this variation in the time taken in concluding conciliation. As will be demonstrated in subsequent sections, most cases from the water transport and electricity involved "rights issues" which were likely to be less amenable to conciliation. Regarding the outcome of conciliation, most cases from these two industries were found to be unsuccessful, probably giving little scope for extended conciliation. In the absence of valid CBAs in water transport, probably the conciliation process either could not start, or where started, did not continue for long.

Thus it is evident that although the normal statutory conciliation period of 30 days could not be adhered to in more than one-third of the cases, only 17% of the cases remained unresolved after the work stoppage notice period. Since provision is also there for further extension of the conciliation period with the consent of both the parties, the goal of law regarding the adherence to time in concluding conciliation in the public sector labour disputes seems to be reasonably achieved.

The views of the parties and conciliators are worth noting in this context. The vast majority of the parties (70%) thought the present statutory period to be either adequate or more than adequate.[12] All of the conciliators interviewed disapproved any move for an extension of the presently applicable statutory period by arguing that the presently allowed time is quite sufficient (reported by 75%), or that such an extension will be frustrating to the workers (reported by 42%) or that the present time limit could be extended, whenever needed, with the consent of the parties concerned (reported by 33%).[13]

That the present time provided for conciliation was adequate is also evident from the annual disposal rate of the total cases [14] referred to the conciliators, as presented in Table 7.2. Over a ten year period from 1973 to 1982, slightly more than 11% of the total cases for disposal remained pending. An abnormally high number of pending cases were observed in 1974 for reasons not known. With the exclusion of this abnormal year almost all (more than 99%) of the cases for disposal in each year or over the whole decade could be disposed of (column 5 of Table 7.2).

Table 7.2
Year-wise disposal of Conciliation cases in Bangladesh, 1973-82

Year (1)	Cases for disposal (2)	Cases disposed of (3)	Cases remaining pending (4)	Disposal rate in percentages (5)=(3)÷(2)
1973	1,645	1,465	180	89.1
1974	883	496	387	56.2
1975	469	462	7	99.9
1976	311	296	15	99.5
1977	276	266	10	99.6
1978	408	405	3	99.9
1979	361	346	15	99.6
1980	570	560	10	99.2
1981	673	641	32	99.5
1982	408	392	16	99.6
Total	6,004	5,329	675	88.8
Total*	5,121	4,833	288	99.4

* Excluding 1974.
Source: [15]

7.2.3. Use of statutory powers

Whether the granting of statutory powers to conciliators might be helpful to effective conciliation is a matter of controversy. According to some, conciliation is a voluntary process and nothing in the way of compulsion should be present,while according to others, without some sort of legal compulsion, parties may not cooperate with the conciliators to the fullest extent. In this respect the economic, social and cultural contexts of a country are perhaps important. In the industrially developed countries like the U.K. and U.S.A., for example, where the parties have developed a sound basis of industrial relations and accepted an organised system of collective bargaining, the conciliators think that more powers would merely hurt their simple and cordial relations with both management and labour, who now go to them willingly.[16] But in a developing country like Bangladesh, where industrialisation is in its nascent stage and where the parties are not yet so much used to the collective negotiation system, the law assumes that the granting of some statutory powers might facilitate participation of the hesitant parties in the conciliation meetings.

In fact, the industrial relations laws in Bangladesh have made the non-appearance of the parties before the conciliator a punishable offence and granted certain powers to him, including the powers to inspect any books or documents of the enterprise concerned, to enter into its premises and require any person about the dispute in question and to make any suggestion or modification in the offers of the parties involved.[17] Considering all these powers given to the conciliator, the system of conciliation in Bangladesh should better be called mediation. Mediation is a broader term than conciliation. According to Kerr,[18] mediation occurs at four levels of intensity: (a) where the mediator convenes the parties and transmits their offers back and forth; (b) where the mediator makes suggestions and raises considerations of his own; (c) when the mediator makes possible recommendations; and (d) where the mediator tries to manipulate the situation against the wishes of the representatives of the parties. The first level of mediation is, in general, accepted as conciliation. But in Bangladesh the conciliators can go up to the second level of mediation by suggesting concessions or modifications to either of the disputant parties, in addition to enjoying the powers as stated above.

The laws have conferred the above powers to the conciliators with a view to enhancing the effectiveness of conciliation. How frequently did the conciliators use these powers in conciliating in the public sector industrial disputes? Were these powers really helpful to the conciliators in enhancing the effectiveness of conciliation? In response to a question of how frequently they had to use legal powers, slightly more than 77% of the conciliators interviewed were equally divided between "either always or frequently" and "sometimes" in having used legal powers. Less than one-quarter (23%) of the conciliators reported that they used these powers only rarely.[19] In response to another question on whether they thought the parties would have cooperated with them in the absence of their legal powers, an overwhelming majority (70%) of them reported that they would have "never" cooperated.[20] In response to a somewhat related statement, 58% of the plant

management, 73% of the CBA leaders, 37% of the corporation management and all of the conciliators either strongly or slightly agreed that the compulsory conciliation service had significantly reduced the number of strikes in Bangladesh.[21]

Conciliators in Bangladesh not only thought their present powers to be necessary, but, in fact, a majority of them urged for some more powers. More than 60% of the conciliators thought their present powers to be inadequate.[22] What additional powers were they wishing for? Slightly more than 62% of the conciliators wishing more powers stated that powers should be given to them to directly prosecute the recalcitrant party, 50% wished some arbitrary powers to bind the parties, slightly more than 37% felt their status to be increased so that management feels an obligation to care for them. Other extension of powers desired were: ensuring free and unhindered entrance of the conciliators into the premises of the plants in question (desired by 25%), simplification of the penalty procedures (desired by 25%), empowering the local conciliators to take independent action in the cases within their territorial jurisdiction (desired by 25%), and, requiring the labour courts to consider the conciliator's suggestions (desired by 12.5%).[23]

Thus the present powers granted to the conciliators in Bangladesh do not seem to have raised any controversy among the conciliators in that the majority of them were wishing some more powers, in addition to those already given, and some others thought the present powers to be quite adequate.

7.2.4 Settlement of financial issues

One important law governing the industrial relations in the public sector industries is the State Owned Manufacturing Industries Workers (Terms and Conditions of Services) Act, 1974, which provides that eight financial terms and conditions of service of the workers in the public sector industries will be fixed by the Government and that no person should allow any amount on these issues in excess of

what the Government determines.[24] How far was this law adhered to? An examination of the issues in disputes and the result of conciliation on such issues is necessary to get an answer to this question.

Issues in disputes were obtained in two ways - by directly asking the conciliators about what matters they usually had to conciliate in the public sector industries and by objectively examining the sample conciliation cases. The issues in disputes, as reported by the conciliators, are categorised according to ILO Practical Guide[25] and shown in Table 7.3 which shows that about 42% of the issues related to the anomalies in and interpretation and implementation of the statutory financial terms and conditions, as determined by the Government.

TABLE 7.3

Distribution of the conciliators* classified according to their report on the issues frequently conciliated** in the public sector industries

Issues usually conciliated	Number of Responses	Percent of Responses
Statutory financial benefits:	15	41.7
Anomalies in the pay and wages structure	9	25.0
Implementation of the Governmment/ corporation circulars/orders	3	8.3
Interpretation of statutory benefits:	3	8.4
Arrear wages and other payments	1	2.8
Bonuses	1	2.8
Post-service benefits (gratuity)	1	2.8
Non-statutory financial benefits:	8	22.4
Various allowances (special)	2	5.6
Payment for idle hours	2	5.6
Overtime allowances	1	2.8
Labour welfare matters	2	5.6
Liverage	1	2.8
Right disputes:	13	36.1
Compensation for accidents	1	2.8
Disciplinary matters	7	19.4
Other personal matters	5	13.9
Total	36	100.0

* Total number of respondents (N) = 13.
** Multiple answers were permitted.

The non-statutory financial benefits which were, in fact, amenable to conciliation comprised only slightly more than 22% of the issues. Rights issues, comprising 36%, for which a separate adjudication machinery was in operation, still came to the conciliators. It appears that the conciliators did not conciliate in illegal demands for any basic change in financial terms and conditions fixed by the Government.

The issues obtained through the examination of the 190 conciliation cases are categorised in a similar way and shown in Table 7.4. This Table shows that about 40% of the issues related to statutory financial benefits, one-quarter of which were about anomalies and interpretations and three-quarters were for basic changes in financial allowances fixed by the Government. It was found that

TABLE 7.4

Percentage distribution of the conciliation cases* by reasons for dispute**

Reasons for dispute	Number of Responses	Percent of Responses
Statutory financial benefits:	398	39.3
Pay anomalies	68	6.7
Implementation of the Government and corporation circulars	31	3.1
Illegal demands:	299	29.5
Bonus	78	7.7
Fringe benefits	115	11.3
Holidays and leaves	76	7.5
Post-service benefits (Gratuity)	30	3.0
Non-statutory financial benefits:	193	19.1
Labour welfare matters	94	9.3
Special ad-hoc reliefs	32	3.2
Various special allowances	51	5.0
Miscellaneous arrears	16	1.6
Factory administration:	104	10.3
Work allocation and organisation	47	4.6
Workers' representation in various Committees	12	1.2
Administration and distribution of common funds	28	2.8
Prevention of corruption by management	17	1.7
Right disputes:	237	23.3
Physical working conditions	38	3.7
Disciplinary matters	76	7.5
Other personal matters	123	12.1
Unfair labour practices:	83	8.2
Illegal strike or threat to illegal strike	16	1.6
Other unfair practices relating to trade union activities	26	2.6
Misbehaviour and harrassment by management	41	4.0
Total	1015	100.0

* Total number of cases (N) = 190.
** Multiple issues were involved in most cases.

cases relating to anomalies and interpretations were either successful or not proceeded with and demands for basic changes all turned unsuccessful. The non-statutory financial benefits were involved in only 19% of the issues, most of which could be successfully conciliated. The non-financial interest disputes, mainly related to factory administration, accounted for slightly more than 10% of the issues and most of them turned unsuccessful. Rights disputes, including unfair labour practices, which were also adjudicable through the labour courts of the country, involved in slightly more than 31% of the total issues and most of them were either successful in conciliation or not proceeded with by the initiating party.[26] Examination of the industry-wise issues in disputes revealed that most of the issues in water transport and electricity were about "rights" as categorised in the Table. Issues in road transport were mostly on non-statutory financial benefits and disciplinary matters. In the jute industry, on the other hand, predominance of any particular type of issues were not found.[27]

It is evident that in the conciliation proceedings in the public sector, the conciliators were always guided by the Government guidelines. In the non-bargainable interest disputes, the conciliators either did not intervene, or where intervened did not go beyond Government policies and guidelines.[28] 80% of the management held the view that the conciliators should follow the Government policies. Half of the CBA leaders, on the other hand, thought that they should not stick to Government guidelines,[29] and possibly on that feeling, they raised some illegal demands before the conciliators, but almost all of these demands were bound to fail either because the conciliators did not intervene in them or because they did not want to bring any basic change in them.

7.2.5. Success in signed agreements

One implied objective of the law is to encourage voluntary agreement not only by transmitting offers back and forth between the parties but also by suggesting to either party to the dispute such concessions or modifications in its demands as are, in the opinion

of the conciliator, likely to promote an amicable settlement of the dispute. If a settlement is arrived at, the conciliator is to send a report thereof to the Government together with a memorandum of settlement signed by the parties to the dispute.[30]

In order to get an idea about the success rate of conciliation in the public sector industries, the conciliators were asked to make, on the basis of their personal experience, a self evaluation of their own success rate in the public sector industrial disputes. Gross variations were observed in their reports in this respect. Some, on the one hand, evaluated their success rate to be as low as less than 20%, while some, on the other hand, reported it to be as high as more than 80%, the mean reported success rate being about 57%.[31] The content analysis of the conciliation cases, however, produced a somewhat contrasting and discouraging picture. Agreements could be signed in only about 36% of the cases examined, about half of them being successful and the remaining half being partly successful.[32] Significant inter-industry differences as to the success rate may be noted, however. Most of the cases in water transport and electricity were either unsuccessful or not proceeded with. The proportions of success and failure were about the same in the jute industry. In the road transport industry, on the other hand, most of the cases were either partly successful or unsuccessful.[33] The reasons for such inter-industry differences in the success rate of conciliation will be examined in Section 7.5

Analysis of the aggregate dispute cases, which also included private sector disputes, published by the Department of Labour, indicated that the average success rate[34] of conciliation in non-strike cases over a period of eight years was about 50% (Table 7.5), while the average success rate in the strike cases over a period of ten years was only about 30% (Table 7.6). This is supportive of the fact that a strike has a direct impact on the success of conciliation. Remedial conciliation after the strike issues had been made public was more difficult than preventive conciliation before a deadlock developed. The mean success rate, considering both type of cases together was found to be 45.5%.

TABLE 7.5

Percentage Distribution of the industrial disputes not involving stoppage of work according to result of conciliation, Bangladesh, 1973 - 80

Year	Total Number of Cases Conciliated	Outcome of Conciliation (in %)					
		Successful	Partly Successful	Unsuccessful	Not Proceeded With	Not Available	Total
1973	1465	33.8	22.7	23.8	19.5	0.2	100.0
1974	496	43.4	15.9	32.5	5.6	2.6	100.0
1975	462	56.3	17.3	17.3	9.1	-	100.0
1976	296	43.9	0.3	43.9	10.8	1.0	100.0
1977	266	34.6	8.6	51.1	5.6	-	100.0
1978	405	24.9	3.4	57.3	14.3	-	100.0
1979	346	32.9	2.9	51.7	12.4	-	100.0
1980	560	32.9	3.0	52.3	11.7	-	100.0
TOTAL	4296	37.0	12.9	36.3	13.3	0.4	100.0

Source: Bangladesh Labour Journal Volumes 1-7, Department of Labour, Government of Bangladesh

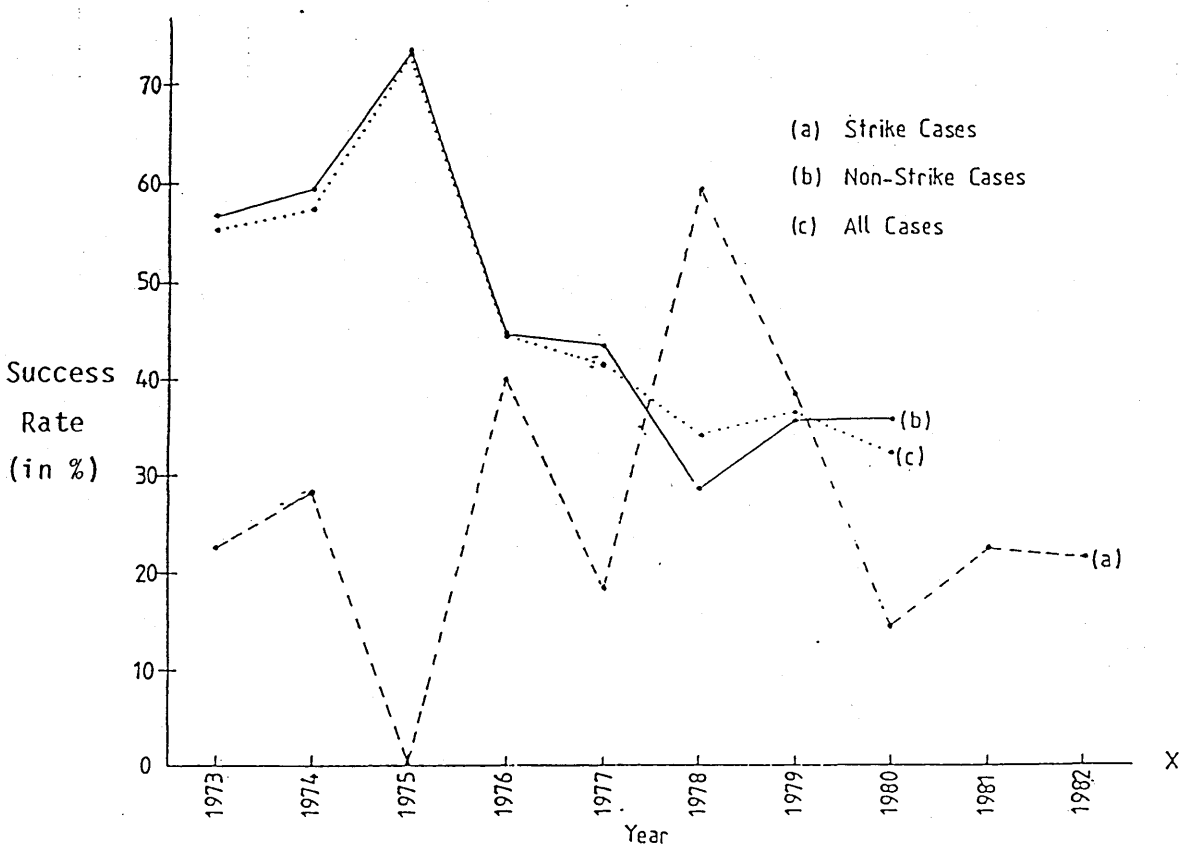
TABLE 7.6

Percentage Distribution of the industrial disputes involving stoppage of work (strikes) classified according to methods of settlement, Bangladesh, 1973-1982

Year	Absolute Number of Disputes	Methods of Settlement (in %)				
		Direct Negotiation	Mediation by Conciliators	Unconditional Return to Work	Others	Total
1973	58	51.7	22.4	25.9	-	100,0
1974	32	25.0	28.1	46.9	-	100.0
1975	2	50.0	-	50.0	-	100.0
1976	5	20.0	40.0	40.0	-	100.0
1977	22	9.1	18.2	72.7	-	100.0
1978	89	35.9	59.5	4.5	-	100.0
1979	96	20.8	38.5	34.4	6.2	100.0
1980	104	29.3	14.3	4.1	52.2	100.0
1981	80	40.0	22.5	31.2	6.2	100.0
1982	55	60.0	21.8	1.8	16.4	100.0
TOTAL	543	32.8	29.8	20.8	16.6	100.0

Source: Bangladesh Labour Journal, Volumes 1 - 8, Department of Labour, Government of Bangladesh.

The graphical representation of the success rates of conciliation, as depicted in Figure 7.2, reveals that although no discernible trend could be ascertained in the success rate of the strike cases, definite decreasing trends in the success rate of the non-strike and combined (both strike and non-strike) cases are clearly visible.[35]



NOTE Details of outcome of conciliation cases relating to 1981 and 1982 were not available.

FIG 7.2 SUCCESS RATE OF CONCILIATION IN BANGLADESH, 1973-1982

7.2.6. Reference to arbitration

Another objective of the industrial relations law in Bangladesh governing the conciliation process has been enunciated in Section 31 of the IRO, 1969 which provides that -

> "If the conciliation fails, the conciliator shall try to persuade the parties to agree to refer the dispute to an Arbitrator, who may be any person borne on a panel to be maintained by the Government or any other person agreed upon by the parties."

To ascertain how far this objective was achieved, the conciliators were asked to state if they tried to refer the unsuccessful cases to an arbitrator. About 54% of them answered the question in the affirmative and the rest in the negative. Those who answered in the affirmative were, in turn, asked to state how frequently they succeeded in such reference attempts. All of them reported that they either rarely or never succeeded.[36] In fact, none of the unsuccessful cases examined were referred to the arbitrator. A considerable reluctance on the part of both the conciliators and the parties is evident. Why they were so reluctant towards this provision of law has been taken up in the next Chapter.

Of the various goals of law examined above, the two seem to be important - adherence to statutory time provided and success in signed agreement. As to time adherence, the performance of the conciliation machinery has been found to be fairly reasonable. But mere adherence to time is not all. For measuring the effectiveness of operations of the conciliation service, the most important criterion to look at is perhaps its rate of success in signed agreements, in terms of which actual achievement has been found to be discouraging. What factors are responsible for this unsatisfactory performance of the conciliation machinery? The subsequent three sections will be concerned with these aspects. The factors generallyaffecting the effective operation of the machinery will be taken up first and then the specific factors responsible for the failure of conciliation in the public sector industrial disputes will be examined.

7.3 Objective Conditions under which Conciliation Machinery Works

The conciliation of industrial disputes in any country is generally affected by two sets of conditions. These are, on the one hand, the objective conditions - factors external to the conciliators - and on the other, the subjective conditions - factors which relate to the conciliators themselves and their individual performance. The present section handles the objective conditions. The subjective dimensions will be looked at in the next section.

The objective conditions include the aspects like the nature of the issues involved in disputes, the system of collective bargaining, the importance accorded to conciliation in the national system of dispute settlement, the attitude of the parties towards conciliation, the conciliators' workload and the administrative problems of the conciliation service itself. Each of these conditions will be examined in the context of Bangladesh, particularly insofar as they relate to the public sector industries.

7.3.1. Issues amenable to conciliation

In various countries, the law itself distinguishes between various types of disputes and provides for different settlement procedures on the basis of the nature of issues involved. The ILO has, considering the practices of various countries, identified the following four distinct types of disputes:[37]

(a) Interest disputes:[38] These disputes arise over economic matters of give and take. There are no definite standards for settlement of such disputes and as such any settlement on these issues essentially depends on a compromise between the parties. In the context of Bangladesh, the IRO, 1969, as amended up-to-date, provides for the settlement of these disputes through direct negotiation between the parties, and failing direct negotiation, through conciliation.

(b) Grievance disputes:[39] These disputes arise from day to day workers' grievances or complaints. For the settlement of this type of dispute, there are some more or less definite standards, e.g. relevant provisions of the collective agreement, employment contract, works rule or law, and customs and conventions. In Bangladesh, for settling disputes of this type, a separate adjudication machinery, the labour courts, is there in operation, and as such these are not usually amenable to conciliation.

(c) Disputes over unfair labour practices: This type of dispute usually includes attempts by the management of an undertaking to discriminate against workers for being trade union members or for doing trade union activities. Undue and unconstitutional pressure

by the trade union or management to sign agreements through coercion and intimidation are also included in this type of disputes. In Bangladesh quite extensive lists of unfair practices on the part of both management and workers have been provided in the law.[40] These disputes are to be settled through the labour courts and are not, therefore, within the purview of conciliation machinery in Bangladesh.

(d) Recognition disputes: This type of dispute arises when the management of an undertaking refuses to recognise a trade union. In Bangladesh management is legally bound to recognise a registered trade union and specific provisions are there in the law regarding the requirements for and the process of getting a union registered.[41] If any dispute arises in this respect, the labour adjudication machinery is to handle it and such a dispute should not normally come before the conciliator in Bangladesh.

Thus, of the four types of dispute identified by the ILO, only the first category of disputes i.e. the interest disputes, usually lend themselves best to conciliation in Bangladesh. For the other three types, it is the labour courts which are usually to deal with them. It should, however, be noted that there is no legal bar to settling the adjudicable disputes through bipartite negotiation or tripartite conciliation.

7.3.2. System of collective bargaining

The collective bargaining practices, which vary from one country to another, have an important bearing on the effectiveness of conciliation.[41] The collective bargaining system in Bangladesh has been taken up in detail in Chapter VI, in which it has been pointed out that bargaining over economic disputes, also usually amenable to conciliation, has been allowed only in the private sector. Major financial terms and conditions of service in the public sector industries are fixed by the Government and not determinable through collective bargaining and/or conciliation. Economic issues, if any, other than those within the Government's jurisdiction, and problems exclusively local to the plant or industry concerned are collectively determinable and hence amenable

to conciliation. Thus, the law has kept a very limited scope for conciliation in the Bangladesh public sector industries. One plant manager observed:

> "After nationalisation, the role of the conciliators has been significantly reduced. Over the last twelve years, we have almost forgotten their existence."

7.3.3. Importance given to conciliation

The chance of success in conciliation is greatly affected by the importance accorded to it and the chances of reference to arbitration or adjudication.[43] The Government of Bangladesh accords utmost importance to peaceful settlement of interest disputes through direct negotiation and conciliation. In the event of failure of direct negotiation, neither of the parties are allowed to resort to work stoppage without getting a failure certificate from the conciliator.[44] Thus the conciliation, as a method of dispute settlement, has been made compulsory on the parties concerned, at least to sit in sessions, if not to reach an agreement.

It is sometimes argued that when compulsory arbitration or adjudication is available to the parties, the task of the conciliator may become more difficult because in that case either side may think that it can obtain more favourable terms under an arbitration award and may feel tempted to avoid a settlement by conciliation.[45] In Bangladesh, although there is a provision in the law for the parties to go to the arbitrator or labour court to enforce a binding agreement after the failure of conciliation[46] this tendency of the parties in the public sector industries is difficult to prove because until today not even a single interest dispute from the public sector was ever referred to the arbitrator or the labour court.

7.3.4. Parties in conciliation

There is little doubt that the two important factors restraining the capacity of conciliation to achieve compromise are those relating to the nature of the disputants and the pressure under which they work. The chance of successful conciliation is likely to be lessened if

the parties lack motivation to negotiate due to a lack of mutual trust and confidence on the one hand, and if they are under fire within their own organisation or feel bound to compete in militancy with rival organisations on the other.[47]

More than 90% of the CBA leaders and the conciliators either strongly or slightly agreed with the statement that management of the public sector enterprises were reluctant to attend the conciliation meetings.[48] The CBAs, on the other hand, seem to be quite willing to attend such meetings. Only 8% of the plant management and one-quarter of the corporation management slightly agreed with the CBAs reluctance to attend conciliation proceedings. All of the conciliators, however, reported that the CBAs had no reluctance to attend conciliation meetings.[49] The unwillingness of management to appear before the conciliators is also evident from the number of notices served on the second party, usually management, calling it to appear or represent in the conciliation proceedings. On the average, 2.2 notices were needed to bring the management to the tripartite negotiation table. Only slightly more than one-quarter (27%) of the management responded at the first notice and in one-third of the cases, it needed 3 or 4 notices.[50] On the point of parties' unwillingness, about one-quarter of the conciliators and labour court members felt that unions usually did not try to solve problems through negotiation with management.[51] The same allegation was raised against management by about 60% of the conciliators and labour court members.[52] The parties' unwillingness is also evident from the distribution of the sample conciliation cases in terms of the number of meetings held. Due to a lack of cooperation on the part of management no meeting could be held in about one-quarter of the cases examined; in another one-quarter of the cases as many as 3 to 7 meetings were held and the rest involved one to two meetings.[53]

Though unions were more enthusiastic than management to attend conciliation meetings and to settle disputes through negotiations, serious inter-union rivalry usually stood as a bottleneck in the way of sensible negotiations.[54] That the parties in the public

sector industries lacked mutual trust and confidence was pointed out in the previous Chapter. Under such attitudes and behavioural characteristics of the parties, concilatory efforts could hardly be expected to achieve any reasonably successful outcome.

7.3.5. Conciliator workload

It is likely that the more over-burdened a conciliator is, the less effectively can he perform his functions. The number of cases handled by a conciliator over a specified period may be one measure of his workload. But this measure will be an imprecise one, in the sense that no two cases are similar and the magnitude of crisis in each case is different from the other. Still in the absence of any other suitable criterion, this very rough measure might give some idea about his workload.

But a further problem arose. The number of cases handled by each conciliator was not available in the Department of Labour. The number of active conciliators and the total number of cases handled by them could be collected and an average workload per conciliator could be calculated (Table 7.7).

TABLE 7.7

Average workloads of an active conciliator in Bangladesh over a period of 10 years, 1973 - 1982

Year	Strike Cases	Non-strike Cases	Total Cases (2+3)	Number of Active Conciliators [55]	Average Workload (4 ÷ 5)
1	2	3	4	5	6
1973	58	1465	1523	30	50.8
1974	32	496	528	30	17.6
1975	2	462	464	30	15.5
1976	5	296	301	30	10.0
1977	22	266	288	30	9.6
1978	89	405	494	30	16.5
1979	96	346	442	30	14.7
1980	104	560	664	30	22.1
1981	80	80	160	30	5.3
1982	55	88	143	30	4.8
TOTAL	543	4464	5007	300	16.7

Source: [56]

The annual average workloads over a period of ten years have been depicted in Figure 7.3, which indicates a decreasing trend in workload per conciliator. Over a period of ten years, an average conciliator handled only 16.7 cases a year and 1.4 cases a month. Considering the cases handled by the conciliators in other countries, the conciliators in Bangladesh seem to be very underloaded. In New Zealand, for example, one mediator handled about 100 cases a year.[57]

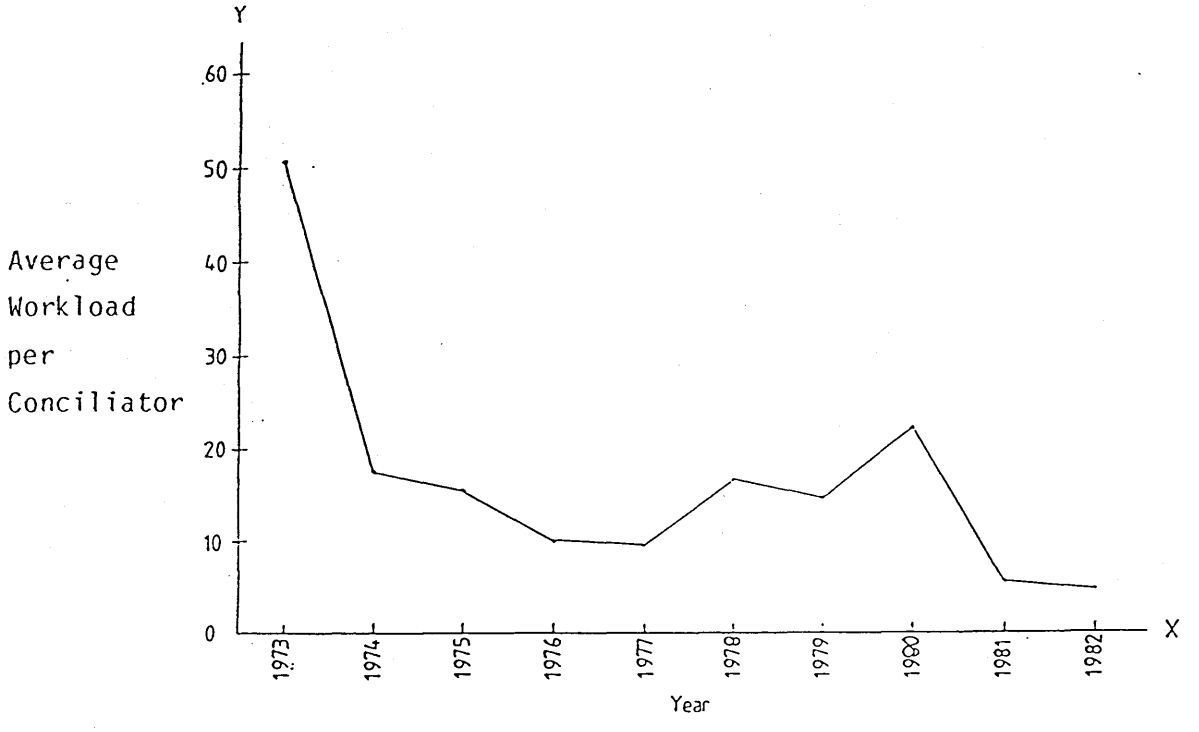


FIG. 7.3 THE AVERAGE WORKLOAD PER CONCILIATOR OVER A TEN YEAR PERIOD IN BANGLADESH, 1973-82

That the conciliators were, in fact, underloaded was admitted by themselves. 46% of the conciliators strongly disagreed that they were overloaded. Less than one quarter (23%) of the conciliators interviewed, however, strongly agreed that they were overloaded. In a search to get an explanation to their contrasting views, it was found that only the conciliators at the upper level thought themselves overloaded, possibly because, on the one hand, they had to remain busy with the Ministry and the Martial Law Authority for reasons not related to conciliation, and on the other hand, due to excessive centralisation, they had to work on and dispose of many

routine files related to administration and other functions of the Department of Labour.

The workload of the conciliators did not have any effect on the success rate of conciliation. This might be evident if one considers the workload graph (Figure 7.3) and the success rate graphs (Figure 7.2) together. The decreasing trends in all these graphs indicate that the decreasing workload could not actually increase the chances of success, which, in other words, means that the increasing failure rate in conciliation could not be explained by the amount of workload of the conciliators, but was to be explained by some other factors.

7.3.6. Administrative problems of the Service

The conciliation machinery in Bangladesh operates under certain administrative problems which are very likely to have an adverse impact on the effectiveness of operations of the Service. All of the respondent conciliators reported that they had a shortage of trained conciliators and staff, particularly at the lower level. Secondly, the administrative structure of the Service was reported (by 54%) to be very much centralised so that the local conciliators could not act on their own without the approval of the respective Divisional offices and sometimes of the Headquarters. Thirdly, slightly more than 46% of the conciliators mentioned that they had a shortage of transport for official purposes. Fourthly, another 46% reported that they had to run their offices under very poor budgetary allocations. Conciliation proceedings continued for hours together, but in many cases, the representatives of the parties could not be offered even a cup of tea due to financial stringencies. Fifthly, conciliation offices were not properly equipped and furnished (reported by 38%). Sixthly, there was ashortage of office supplies (reported by 38%). Other problems mentioned by small percentages of the conciliators interviewed were lack of coordination on administrative matters between the officers (15%), shortage of space in the conciliators' offices (8%), dirty physical conditions of the concilation offices (8%), excessive business of the top level officers with the Ministry and the Martial Law Authority (8%), and outside interference in the normal work (8%).[58]

7.4 Subjective Conditions of Conciliation

Regarding the subjective conditions of conciliation in Bangladesh, attempts have been made to see the personal qualities of the conciliators, their background and professional qualifications in relation to those suggested by the specialists in the field.

7.4.1. Age

In the socio-cultural context of a country like Bangladesh, other qualities remaining the same, the age factor of the conciliators might have an impact on the outcome of conciliation. In the social system of Bangladesh, parties may usually accept conciliation by a relatively older person of wisdom and sagacity. The age distribution of the conciliators indicates that about one-quarter (23%) of them were aged up to 35 years and the vast majority (77%) were aged between 36 and 55 years.[59] Their average age has been calculated to be slightly more than 42 years. Thus, by Bangladesh standards, most of the conciliators, particularly at the upper level[60] were old enough to command respect from the parties.

7.4.2. Level of education

A conciliator, to do his job effectively, should possess some professional qualifications. He should see himself as a repository of knowledge and experience. He should be well-versed in many branches of knowledge, including Industrial Relations, Personnel Management, Economics, Sociology, Employment Practices, etc.[61] In the conciliation meetings, he should employ all his knowledge of travel, history, philosophy, art - everything he commands - for the purpose of illustration or bringing a little variety that will be appreciated by all.[62] To what extent do the educational level of the conciliators in Bangladesh meet these standards of knowledge?

46% of the conciliators interviewed were graduates. Some had educational level as low as S.S.C. (approximately 8%) and H.S.C. (approximately 8%). The postgraduates working in the service were only 38.5%. Only 15% had a Law degree and the vast majority had no

knowledge in the relevant fields.[63] It is to be noted that the postgraduates and those having specialisation in Law were all officers at the lower level (LOs and ADLs),[64] who usually had very little scope to intervene in the public sector disputes, and even where they intervened, they had no authority to act independently on their own due to legal restrictions[65] and centralised structure of authority. The under-qualified people at the upper level was another cause of frustration among the qualified officers at the lower level. As one Labour Officer observed,

> "I am a B.A.(Hons.), M.A., but have to work under a simple Intermediate, who is very much fixed in his ideas. I can't work independently; everything must go through my boss."

Thus the standards of knowledge and education of the overwhelming majority of the conciliators in Bangladesh do not seem to be reasonably adequate in view of the demands of the work they had to perform.

7.4.3. Previous job experience

It is likely that a conciliator who begins his career with a certain amount of previous training and experience should do better than one without such a background. What kind of job experiences or training did the conciliators in Bangladesh have before taking up their career as conciliators? About one-quarter of the conciliators interviewed joined fresh to the Service and had no previous experience; about one fourth were the clerical assistants of the Directorate, who were later on promoted as conciliators; and the remaining half had a variety of experience - teaching, research assistance, trade unionism, holding offices in the Directorate or other temporary programmes of the Government and other private firms.[66] It is evident that very few of the conciliators had previous experience in the relevant fields.

7.4.4. Experience as conciliator

An experienced conciliator is expected to have handled various types of cases and been exposed to a wide variety of situations. In dealing with a case, an experienced conciliator can employ techniques he found useful in previous cases. Thus the more experienced a conciliator is, the better he is expected to do his work of conciliation. But what is the position of the Bangladeshi conciliators with regard to their experiences?

The law requires the conciliator to do the job of conciliation in a manner he deems fit.[67] Immediately on appointment, he is called upon to discharge his duties as a conciliator. There is no system of training for him either before or after being assigned with his new function. He has to depend on his commonsense and on the job training. He has mainly to draw on his own experience. The distribution of the conciliators interviewed according to their experience in the conciliation service shows that the modal class of experience (11 to 15 years) held as many as 31% of them, their average experience being 13.6 years. 30% of the conciliators had experience up to 16 to 25 years.[68] Thus, in terms of experience on the job, the conciliators in Bangladesh seem to be on a reasonably good footing.

It has been found that officers at the upper level of the Service (DL, Add.DL, JDLs and DDLs) were more experienced than those at the lower level (ADLs and LOs).[69] This is supportive of the fact that the present upper level officers, with relatively fewer qualifications, were originally appointed as lower level officers, and in the course of time, they were gradually promoted to upper level posts. In fact, the present DL and Add.DL, having only simple graduation, were originally appointed as Labour Officers some 25 to 27 years ago.[70]

7.4.5. Independence and neutrality

Independence and neutrality are the two attributes which every conciliator should possess, regardless of their qualifications and experience. A conciliator must be above suspicion. It is essential that both sides should have confidence in his integrity and neutrality.[71] But the neutrality of the conciliators in Bangladesh were called in question by a vast majority of the parties. For example, about 80% of the plant management, about 85% of the CBA leaders and half of the corporation management either strongly or slightly agreed that "conciliators are not neutral."[72] In a developing country like Bangladesh, there are usually differences in the social status and prestige of the parties' negotiators and in the strength of the organisations they represent, and the conciliators could be easily swayed or influenced by these factors. As one plant manager observed;

> "Before the nationalisation of industries, we had always to be alert about the Labour Directorate. At the end of each month, we had to pay bundles of money to them to get their kind favour. In some cases, they also took bribes from the poor workers. Now, after nationalisation, they have become orphan; they can't lead their lives. Now we do not have to bother much about their existence."

On the question of neutrality and independence, while management alleged that the conciliators took bribes, the conciliators themselves attributed some external constraints and pressures for not being able to act neutrally. About half of the conciliators interviewed agreed with the statement that they could not be neutral in the conciliation proceedings due to some undue pressures from outside.[73] Thus in the absence of an unquestionable integrity and neutrality, the conciliators possibly could not perform their functions as effectively as expected.

7.4.6 Status

A conciliator, to be effective, must be a person of high status with extensive experience of industrial relations.[74] The parties will have respect for and confidence in him because of high status in the society. In the developing countries, particularly of Asia, including Bangladesh, Government officers enjoying personal prestige and the authority of the office, usually act as conciliators.[75] As already stated in Section 7.1, all officers to the Directorate of Labour, down to the rank Labour Officers have been notified to act as conciliators in Bangladesh. Officers down to the rank of ADL (Assistant Director of Labour) are the first class Government Officers, while the Labour Officers are the second class Government Officers. The status of the conciliators, thus apparently seems to be quite high. But the conciliators themselves were not happy with their present status and service conditions. During the course of interviews with them, the fieldwork team noticed serious frustrations among all the responding conciliators with regard to their pay and service conditions.[76] The feeling of a Labour Officer is worth mentioning here.

> "Labour Officers are Gazetted officers, but their starting pay is only TK. 425 (approximately £11). We cannot manage our living with this small pay. No official transport is provided to us. We cannot afford to hire a rickshaw (tricycle pulled by man) and have to walk on foot. We have no social status and always feel an inferiority complex. Managerial people earning much more than us and living a luxurious life, do not see us as officers. I feel ashamed when managers offer 555 cigarettes (a status brand for Bangladeshi rich people, costing about TK. 40 per pack) to me, while I myself cannot offer even a star cigarette (an ordinary brand, costing only TK. 3 per pack."

Thus it is evident that the present status and service conditions of the conciliators in Bangladesh could not give them prestige enough to win the respect and confidence of the parties, particularly of management.

7.5 Reasons for Failing Conciliation in the Public Sector

The success rate on the cases reported to the conciliators has been found to be far from satisfactory. What barriers actually stood in the way of successful conciliation of the public sector industrial disputes? Some of the factors accounting for the failure of conciliation are evident from the above objective and subjective dimension of conciliation. But in order to get a definite idea in this respect attempts were made to identify these factors in their proper perspective.

In the first step, the conciliators were asked to state certain problems which they faced while conducting conciliation proceedings over public sector industrial disputes. The most important problem, reported by about 62% of the conciliators, was the ignorance of the union leaders about provisions of the law and policies of the corporations. Being unaware of the laws and company policies, they raised demands but could not produce any justification in support of those demands. Secondly, 54% of the conciliators experienced non-cooperation from management in many respects; for example, they usually did not feel any obligation to respond to the conciliators' letters; if responded, they used to be absent from the conciliation meetings; and when not absent, they used to conceal facts. Thirdly, slightly more than 46% of the conciliators felt the superiority complex of the management in the conciliation meetings. Fourthly, adamant attitude of the parties stood as another barrier on the way to successful conciliation. Management was reported to be more adamant (reported by 38.5%) than the CBA leaders (reported by 23%). Fifthly, though the law does not entitle the parties to be represented by a legal practitioner[77] in the conciliation proceedings, veteran lawyers, in fact, represented the management's side in the guise of company officers, while the CBA's were represented by leaders of the national federations of unions, and thus the conciliation proceedings became tougher. 38.5% of the conciliators mentioned this problem. Sixthly, about 31% of the conciliators identified the undue interference of the union/federation leaders to be one problem. Seventhly, antagonistic

relationships between the parties and politicisation of the unions were reported by an equal number (23%) of the conciliators to be another two hindering factors to effective conciliation. Finally, certain other problems reported by small percentages of the conciliators were: lack of authority on the part of management, by-passing habit of the union, inter-union rivalry, ambiguity in the orders and instructions of the corporations, shortage of office supplies, etc.[78]

In the next step, attempts were made to ascertain the actual reasons for the failure of conciliation proceedings in the public sector by asking responses to a direct question from the conciliators, in the first instance, and then by examining the sample unsuccessful cases at the conciliation level. Considering the percentage responses of the conciliators[79] and summarised records of the unsuccessful cases,[80] eight major factors, in order of rank, could be identified, which were responsible for the failure of conciliation in the public sector industries:

(a) Placement of "illegal" or "unreasonable" demands by the CBA leaders;
(b) Adamant attitude of the management in the conciliation meeting;
(c) Financial inability of the enterprise;
(d) Adamant attitude of the CBA/federation leaders;
(e) Non-cooperation of the management;
(f) Lack of authority on the part of management;
(g) Weak leadership of the CBAs, which could not justify their demands; and
(h) Lack of locus-standi of the CBAs in the eye of law.

The causes responsible for failing conciliation, however, differed significantly among the sample industries. Whereas lack of authority on the part of management was a common factor to all industries, as a second reason, however, illegal and unreasonable

demands was prominent in the jute, poor financial position of the enterprise in the road transport, non-cooperation of management in the electricity and lack of CBA's locus standi in the water transport. Again as a third reason, adamant attitude of management was significant in the jute, adamancy of the CBA in the road transport, weakness of the CBA in the electiricty and non-cooperation of management in the water transport.[81]

From the above review of the structure of the conciliation service, the various subjective and objective situations of conciliation and the specific reasons for failing conciliation in the public sector industrial disputes, it may be deduced that the conciliation process in Bangladesh, insofar as it relates particularly to the public sector, is subject to several environmental constraints which affect its operational effectiveness, but over which the conciliators have very little control. Firstly, the legal restrictions on the scope of negotiations over the basic terms and conditions of service of industrial workers in the public sector have left very little scope for the conciliators to play. On the one hand, the law has made negotiations over interest disputes in the public sector to be illegal and provided for the adjudication machinery for the settlement rights disputes on the other. Under this objective situation, instead of seeking assistance from the conciliators, the parties generally prefer lobbying with the Government for their interest disputes and to take the shelter of the labour courts for their rights disputes. Secondly, the bureaucratic structure of controls of the public sector industries has left very little authority to plant managements, and in some cases to corporation managements, to make negotiated settlements with their unions/federations either directly or through the intervention of the conciliator. Thirdly, compared with the status of the public sector managers, the status of the conciliators, particularly at the lower levels, has been rendered very poor, so that managements of the public industries, being drawn mostly from the civil service and having considerably authoritative orientations, do not generally feel any obligation to estend required cooperation in the conciliators' pursuits to resolve the disputes referred to them. Fourthly, such objective factors as restrictive industrial relations

laws, multiplicity of unions and their political orientations etc. hinder the determination of valid CBAs in most cases at both the plant and corporation levels, and this in turn, prevents the conciliators from entertaining disputes referred to them or from carrying on effective negotiations over such disputes even after these have been entertained. Fifthly, under the centralised structure of the conciliation service itself, the conciliators at the branch and regional levels do not have appropriate authority to handle the disputes referred to them and to exercise the legal sanctions against the recalcitrant parties, where necessary. Finally, the conciliation machinery suffers from certain administrative problems e.g. shortage of transport, poor physical conditions of offices, outside interference in the normal operation of the machinery etc.

In view of the above environmental constraints under which the conciliation process in Bangladesh has to operate, with particular respect to public sector industrial disputes, it is implied that the effective operation of the machinery is, to a large extent, beyond the control of the conciliators.

7.6 How to Make Conciliation more Effective

Despite the fact that the measures to be suggested to make the conciliation system more effective are evident in the above discussion of the subjective and objective conditions of conciliation, the problems faced by the conciliators in the course of proceedings and the factors responsible for the failure of conciliation, views of the parties involved in the process, including the conciliators themselves, were still taken in this respect. The reports of the parties are shown in Appendix C.16, while those of the conciliators in Appendix C.17.

Since the respondents gave their responses to an openended question as to what they could suggest to enhance the effectiveness of the conciliation machinery, their emphasis on the same point varied considerably. Some gave many responses, others very few. Despite

these limitations, their views, however, were reasonably in line with what emerged from the observations in the previous sections.

One common measure suggested by a considerable number of respondents of all the three categories (58% of the management, 25% of the CBAs and 31% of the conciliators) was the engagement of expert persons in the Service. With regard to a specific statement in this context, more than three-quarters of the conciliators themselves had either a strong or slight feeling that the lack of expert conciliators was one of the reasons for failing conciliation in Bangladesh.[82] In the light of the observations on the subjective conditions of conciliation, this seems to be important.

The second common suggestion offered by the respondents of all categories (21% of the management, about 80% of the CBAs and about 31% of the conciliators) was the granting of some more powers to the conciliators, with which they could bind or oblige the recalcitrant parties. Since the attitude of voluntarism could not yet develop, particularly among the management in Bangladesh, and when the present powers, in fact, facilitated the operation of the Service, provisions for some arbitrary powers (e.g. the power to directly prosecute the recalcitrant party) might be considered.

In the last common suggestion offered by the three categories of respondents (26% of the management, one-third of the CBAs and 38.5% of the conciliators) was about the increasing of the conciliators' status. In view of the observations of the subjective and objective conditions and the problems faced by the conciliators in the course of their work, this seems to be all the more important. If the status of the conciliators were not increased, parties, particularly the management, will neither feel it obligatory to extend their cooperation nor would they shun their superiority complex.

Some suggested measures were common between two categories of respondents e.g. between the management and the CBAs or between the CBAs and the conciliators, while others were exclusively independent suggestions of each category. One common suggestion between the management and the CBAs was that the conciliators should be fair and

impartial (suggested by more than 84% of the management and more than 62% of the CBAs). The ILO emphasised the point of neutrality in the following words.

> "Even a single incidence in which the independence and impartiality becomes suspect to one party can adversely affect his (conciliator's) reputation for a long time afterwards, and indeed, he may never succeed in repairing it."[83]

It is very unfortunate to note that the conciliators in Bangladesh have lost this important quality. This should be seriously taken by the conciliators and the Government. As a second common suggestion, about 32% of the management and 12.5% of the CBAs mentioned that the conciliators should be more active than they are now.

Two suggested measures were common between the CBAs and the conciliators. Fristly, about 17% of the CBAs and slightly more than 38% of the conciliators felt that the conciliators should be well-trained. While very few of the conciliators had relevant educational and job background, the usefulness of an arrangement for their training should be beyond any controversy. Secondly, about 30% of the CBAs and slightly more than 15% of the conciliators suggested for the improvement of the physicial conditionsof the conciliation offices. The effect of working conditions on the performance effectiveness is now widely accepted. The ill-furnished and ill-equipped conciliation offices should, therefore, be improved.

The conciliators offered a number of exclusive suggestions, of which, considering the frequencies two seem to be important. Firstly, 38.5% of the conciliators felt that their service conditions hould be improved and they should be given an adequate remuneration. This seems important in consideration of the fact that in face of serious economic frustrations, one could neither expect the existing conciliators to do their role effectively, nor could one expect the efficient people from outside to feel attracted to the service. Considering the underload of the present

conciliators, it may be argued that a few expert and efficient conciliators, with good pay and status provided to them, may be more desirable than a large number of underloaded, inefficient and ill-paid conciliators. Secondly, 31% of the conciliators thought that, for conciliation efforts to be effective, the parties must change their traditional attitude and be well-aware of the labour laws of the country, and to that end, both the management and the CBA leaders also needed training on the industrial relations system, the dispute settlement procedures and the legal position of the parties involved.

It should be noted that in offering their views about making the conciliation machinery more effective, those involved in the conciliation process have assumed the present contexts of public sector dispute resolution as given and as such emphasised largely on the subjective dimensions of conciliation. But as pointed out in the previous Section (Section 7.5), some of the important constraints on the process derive from major environmental factors and any measures aimed at enhancing its practical effectiveness must, therefore, ensue largely from eventual changes in those environmental constraints.

7.7 Role of Conciliation in Resolving Public Sector Industrial Disputes

Before concluding the Chapter, in relation to the above observations on the actual working of the conciliation machinery, a brief note on its role in resolving disputes in the public sector industries seems to be worthwhile. It has been pointed out in the earlier Chapters that the scope of collective bargaining in the public sector industries has been made very limited by imposing restrictions on bargaining on the basic economic terms and conditions of service of the workers. Conciliation being defined as an assisted collective bargaining, its scope has also been likewise reduced. A very small number of cases are therefore reported to conciliation from the public sector industries. The fieldwork team for this study found

it very difficult to find 200 sample conciliation cases relating to the four sample industries over the entire period from 1976 to 1983. It was found that, of the small number of cases referred to conciliation from the public sector industries, an overwhelming majority came from the manufacturing sector and a very few from the service and utility sectors. Of the 190 sample cases examined at the conciliation level, slightly more than 73% were from the jute and only about 27% from the other three industries, the share of water transport and electricity being very nominal (only 6% to 7% each).[84]

In response to a direct question as to how frequently the conciliation machinery was approached in resolving disputes between them, 84% of the plant management, 87% of the corporation management and 77% of the CBA leaders reported that they rarely or never approached this machinery.[85] The objective analysis of the plant level cases also revealed that of the various institutional machineries of dispute resolution, the conciliation is the least used one in resolving public sector industrial disputes. Only 4.5% of the total cases examined at the plant level were somehow settled at the conciliation stage.[86] The general feeling of the parties about the effectiveness of conciliation in settling public sector industrial disputes explains why this service is so infrequently used by them. On the average, only about 14% of all the respondents involved in the direct negotiation (plant management, corporation management and CBAs) felt the Service to be reasonably effective. The vast majority (65%), however, thought it to be only somewhat effective and the rest either stated it to be totally ineffective or could not tell anything because they were not familiar with the system.[87]

The objective limitations on the conciliation process derived from the environmental factors, the particular contexts of the public sector industrial relations and certain weaknesses in the subjective dimensions of the conciliators themselves have contributed to create a situation where the conciliation machinery cannot play an effective role in resolving disputes arising from the public sector industries.

Indeed when the plant management and the conciliators always stuck to the Government laws and policies, it seems to be meaningless to raise disputes on the basic economic issues to the plant management and then refer them to conciliation. Demands on basic financial conditions of service should be directly referred either to the relevant Ministry or to the corporation. Issues which are within their jurisdiction should be raised before the plant management and the conciliators. Under the present context of institutional framework, the conciliation indeed has a very small role to play in dealing with industrial disputes relating to the public sector industries.

NOTES

1. ILO, Conciliation in Industrial Disputes : A Practical Guide, (Geneva: 1973), pp.3-4.
2. Ibid, p.4.
3. Islam, K.N., "Settlement of Industrial Disputes", in Industrial Relations Laws, Policies and Principles, ILO, Dhaka, March 1982, p.A/71.
4. In preparing this section, the author got some guidelines from the following two studies:
   (a) Howells, J.M., "Successful Mediation : A New Zealand Case Study", International Labour Review, Vol.115, No.2, 1977;
   (b) Galin, A., and Krislov, J., "Evaluating the Israeli Mediation Service", International Labour Review, Vol.118, No.4, 1979.
5. Appendix C.24.
6. Section 9(3) of the Industrial Relations (Regulation) Ordinance, 1975; and Section 6(5) of the Industrial Relations (Regulation) Ordinance, 1982.
7. After the expiry of 30 days, conciliatory attempts are to be continued during the next 21 days work stoppage notice period. Besides, the conciliation period may be further extended, if needed, with the consent of both the parties. See Section 29 of the IRO, 1969, as amended in 1980 and Section 30(5) of the IRO 1969, as amended in 1970.
8. Sections 28 and 29 of the IRO, 1969.
9. See note 6 above.
10. Appendix C.29.
11. Based on a cross-tabulation analysis done on the computer between the industry involved and time taken in concluding the conciliation.
12. Appendix E.2.
13. Appendix C.10.
14. Both private and public sectors combined.
15. Various issues of the Bangladesh Labour Journal, published by the Department of Labour, Government of Bangladesh.
16. Meyer, A.S., "Function of the Mediator in Collective Bargaining", Industrial and Labour Relations Review, Vol.13, No.2, 1960, p.161.

17. See Chapter III of the present study.
18. Kerr, C., "Industrial Conflict and its Mediation", The American Journal of Sociology, Vol.IX, No.3, November 1954, p.332.
19. Appendix C.8.
20. Appendix C.9.
21. Appendix C.22.
22. Appendix C.6.
23. Appendix C.7.
24. Vide Chapter III of this study.
25. ILO, Conciliation in Industrial Disputes : A Practical Guide, op.cit. pp.13-17.
26. Based on a cross-tabulation analysis done on the computer between the reasons for disputes and the outcome of conciliation (χ^2 significant at 1% level).
27. Based on a cross-tabulation analysis done on the computer between industry involved and reasons for disputes in the sample conciliation cases (χ^2 significant at 5% level).
28. Appendix C.11.
29. Appendix E.9.
30. Section 30 of the IRO, 1969.
31. Appendix C.5.
32. Appendix C.27.
33. Based on a cross-tabulation analysis done on the computer between industry and outcome of conciliation (χ^2 significant at 5% level).
34. Taking both successful and partly successful cases into account.
35. cf. Bhattacharjee, D. et al, Dispute Settlement and Promotion of Industrial Peace, op.cit., pp.108-10.
36. Appendix C.15.
37. ILO, Conciliation in Industrial Disputes, op.cit., pp.13-17.
38. These disputes are also described as "economic disputes" or "collective labour disputes".
39. These disputes are also variously called "conflicts of rights", or "legal disputes" or "interpretation disputes".
40. Section 16 of the IRO, 1969.
41. Sections 3 to 14, Ibid.
42. ILO, Conciliation in Industrial Disputes, op.cit., p.18; and Howells, J.M., "Successful Mediation", op.cit., p.234.
43. ILO, Ibid, p.20.
44. Section 32 of the IRO, 1969.

45. ILO, Conciliation in Industrial Disputes op.cit., p.21.
46. Section 34 of the IRO, 1969.
47. Howells, J.M., "Successful Mediation", op.cit., p.229.
48. Appendix C.20. Also see Bhattacharjee, D. et al, Dispute Settlement and Promotion of Industrial Peace, op.cit. p.111.
49. Appendix C.21.
50. Appendix C.25.
51. Appendix B.22.
52. Appendix B.23.
53. Appendix C.26.
54. Appendix E.5. Also see Bhattacharjee D. et al, Dispute Settlement and Promotion of Industrial Peace, op.cit. p.111.
55. 30 Conciliators were active in 1983 (see Table 7.1 in the text). This figure might vary slightly from one year to another due to casual vacancies or official transfer to other Departments. But this limitation should not seriously affect the point emphasised here.
56. Bangladesh Labour Journal, Vols.1-8, published by the Department of Labour, Government of Bangladesh and information collected from the Department of Labour.
57. Howells, J.M.,"Successful Mediation", op.cit., p.229.
58. Appendix C.12.
59. Appendix C.1.
60. Based on a cross-tabulation between designation of the conciliators and their age.
61. ILO, Conciliation in Industrial Disputes, op.cit., p.28.
62. Meyer, A.S., "Function of the Mediator in Collective Bargaining", op.cit., p.162.
63. Appendix C.2.
64. Based on a two-way distribution of the conciliators in terms of their designation and educational level, done on the computer.
65. Section 15 of the Industrial Relations (Amendment) Act, 1980.
66. Appendix C.3.
67. Section 30 of the IRO, 1969.
68. Appendix C.4.
69. Based on a cross-tabulation of the conciliators in terms of their designation and job experience, done on the computer.

70. Kriegel, R.C., Labour in East Pakistan : 1947-59, (mimeo), Dhaka, 1959, p.192.
71. ILO, Conciliation in Industrial Disputes, op.cit., p.24.
72. Appendix C.18.
73. Appendix C.19.
74. ACAS, Industrial Relations Handbook, (London: HMSO, 1980), p.57.
75. Bhattacharjee, D. "The Industrial Dispute Settlement System and its Operational Effectiveness in Bangladeah", Dhaka University Studies, Part C, Vol.3, No.2, 1982, p.77.
76. Also see Appendices C.12, C.13 and C.16.
77. Section 49(2) of the IRO, 1969.
78. Appendix C.13; cf. Bhattacharjee, D. et al, Dispute Settlement and Promotion of Industrial Peace, op.cit., p.111.
79. Appendix C.14.
80. Appendix C.28.
81. Based on a cross-tabulation of the unsuccessful conciliation cases, done on the computer, in terms of "industry" and "reasons for failing conciliation" (χ^2 significant at 5%).
82. Appendix C.19. Also see Bhattacharjee, D. et al, Dispute Settlement and Promotion of Industrial Peace, op.cit., p.111.
83. ILO, Conciliation in Industrial Disputes, op.cit., p.20.
84. Appendix C.23.
85. Appendix E.1.
86. Chapter VI of this study, Section 6.6.
87. Appendix E.3.

CHAPTER VIII
THE DISPUTE RESOLUTION MACHINERIES - ADJUDICATION

The voluntary machineries for the resolution of the public sector industrial disputes have been examined in the previous two Chapters. The present Chapter deals with the compulsory settlement system. When the voluntary methods of resolution fail, the law provides for a compulsory settlement binding on the parties concerned. Three machineries for binding settlement are available - (a) arbitration and (b) labour courts, as alternatives and (c) the labour appellate tribunal as a subsequent level after the labour court. Accordingly this Chapter is divided into three sections - the first dealing with arbitration, the second with the labour courts and the third with the labour appellate tribunal. Considering the relative insignificance of the arbitration and the appellate tribunal in the dispute settlement system of Bangladesh, with particular reference to the public sector disputes, emphasis is given mainly on the functional aspects of the labour courts.

8.1 Arbitration

On the failure of conciliatory efforts on an industrial dispute on collective issues, the law encourages it to be settled through an arbitrator who should be a single person agreed upon by the parties concerned. But in so far as it could be gathered, this spirit of the law has not been realised by the people involved. In reply to a direct question as to how frequently they approached the arbitration machinery for the resolution of the disputes arising between them, 90% of all the respondents (plant management, corporation management and CBA leaders) reported to have never used this machinery; others reporting to have used it only rarely.[1] The analysis of the sample cases at the plant and conciliation levels revealed that not even a single dispute from the public sector industries was ever referred to an arbitrator.[2]

Most people involved in industrial disputes in the public sector are not familiar with the functional aspects of the arbitration machinery. This is evident from the responses of the respondents of this study to two direct questions in this regard. 55% of all the respondents (plant and corporation managements and CBA leaders) could not tell anything on the adequacy of the statutory time provided for giving the arbitration award.[3] When asked to comment on the effectiveness of arbitration in the resolution of the public sector disputes, about three-fourths of the respondents (plant and corporation managements and CBA leaders) gave "don't know" responses, because they were not aquainted with the system.[4]

Even those who had a knowledge of this legal machinery were not enthusiastic at all in using it as an alternative to labour courts. The fact of a considerable reluctance on the part of the conciliators and the direct parties towards arbitration has been pointed out in the previous Chapter. Several factors are responsible for the reluctance of the concerned parties.[5] Firstly, the parties have no confidence in arbitration. About 70% of the conciliators had this view. Secondly, since the law has made the arbitration award to be final and binding on the parties, they do not want to be bound by the award of a single arbitrator.[6] About 54% of the conciliators held this view. Thirdly, 46% of the conciliators mentioned that no forum for arbitration was in vogue. The Government, as per law, is to maintain a panel who could act as arbitrators. But on enquiry it was found that no such panel was ever maintained by the Government and as such the system could not become popular. Fourthly, lack of distinguished personalities who could act as arbitrators was put forward as another factor by about one-fourth (23%) of the conciliators. Fifthly, about another one-fourth of the conciliators felt the lack of agreement between the parties in selecting a particular arbitrator. For example, one party liked to refer the dispute to a District Magistrate, while the other to a Member of Parliament. Lastly, about 8% of the conciliators reported that the parties were not under compulsion to go to the arbitrator and this optional nature of the system also acted as a deterrent to it. Thus because of the reasons noted above, the provisions of the law relating to settlement of industrial disputes through arbitration remained practically ineffective in its totality, particularly in the public sector industries.

8.2 Labour Courts

Of the three adjudication machineries, provided by law, labour courts is the one most extensively used in the settlement of the public sector industrial disputes usually of an individual nature. This is, therefore, examined in some depth. Discussion of the whole section proceeds in a sequence of five sub-sections. Sub-section one describes the working process of the labour courts in particular reference to the public sector industrial disputes. Sub-section two examines the effectiveness of labour courts in achieving certain goals of law in handling the public sector disputes. The usual factors affecting the operations of the labour courts in general are explained in sub-section three. The specific reasons for delay in deciding cases from the sample public sector industries are analysed in sub-section four. Finally, sub-section five concludes the section by suggesting certain measures based on the problems identified in the earlier sub-sections and reports of the people involved, for enhancing the future effectivness of operations of the labour courts.

8.2.1. Operation of the Labour Courts

Constitution of the Labour Courts: In Bangladesh, as per law, the labour courts take a tripartite nature, consisting of a Chairman and two members, one representing the employees and the other representing the workers. All members of a labour court, including the Chairman are appointed by the Government but the process is varied. The Chairman of a court who acts as a full-time chief of the court in allmatters including administration, official correspondence, making the cases ready for hearing and passing orders etc., is directly appointed by the Government. But the members are only part-time appointees of the court and their appointment entails the following steps:[7]

(a) The Director of Labour, in the first instance, seeks nomination of the employers' representatives from the Bangladesh Employers' Association and those of the workers' from the various registered federations of trade unions.

(b) The Bangladesh Employers' Association, in turn, seeks nominees from its member organisations. From the nominees of the member orginisations, it renominates certain representatives to the Director of Labour. In the same way, the federations of trade unions also nominate their respective representatives to the Director of Labour.

(c) On receipt of nominees of the employers and workers from the respective organisations, the Director of Labour makes a scrutiny about the representativeness of those nominees and recommends a panel of five representatives from each side for each labour court to the Ministry of Labour and Manpower.

(d) The Ministry then finally appoints the nominees recommended by the Director of Labour as members of the Labour Courts.

The above selection process may be clearly depicted in the form of a chart, as shown in Figure 8.1. At present there are six labour courts in country - three located in Dhaka city and the other three in the other three Divisional Headquarters of Bangladesh.

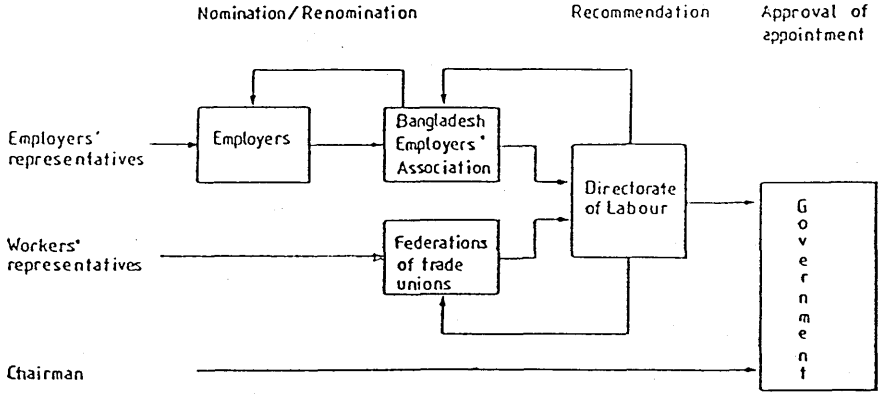


FIG. 8.1 CONSTITUTION OF LABOUR COURTS

Types of Labour Court Cases: Almost all of the cases filed in the labour courts from the public sector industries are of individual nature. As indicated by Appendix D.17, 88% of the cases examined at the labour court level involved industrial workers' grievances or complaints of one sort or the other. Only about 4% of the total cases examined were categorised as "collective" according to its

legal definition.[8] It was found that the collective issues in the public sector industries usually involved alleged unfair labour practices on the part of management and the Director of Labour, rather than economic issues. 8% of the cases were categorised as "group cases" but these were also individual cases in the sense that they usually involved a group of workers applying individually to the labour courts against some alleged unjust treatments done to them under certain common allegations by their management.[9]

Initiator of the Cases: It is the individual workers who usually file cases to a labour court. While the CBAs sometimes go to labour courts, the management and unions other than CBAs approach such courts only rarely.[10] Of the total cases examined at the labour court level about 89% were filed by the individual workers (or by their wives as their inheritors), slightly more than 5% by the CBAs and about 7% by a group of workers punished by management on similar grounds. Not even a single individual case was taken up by the CBAs.[11]

Extent of Use: The labour court, as a dispute resolution machinery, is not very frequently used by workers in the public sector industries. In reply to a direct question in this context, an overwhelming majority of the respondents (plant and corporation managements and CBA leaders) stated that they had to use this machinery either "rarely" (reported by 43.5%) or "sometimes" (reported by 39%).[12] The industrial distribution of the sample labour court cases revealed that more than 80% of the cases originated from the jute and the road transport. The electricity and the water transport accounted for only around 9% of the cases each.[13] The prevalence of a large number of temporary and casual workers in the jute and the shrinkage of business in the road transport, with their consequent effect on employment relations, in contrast to the situations prevailing in the water transport and electricity might largely explain these inter-industry variations in filing cases to labour courts.

Maintainability Criteria: Do the labour courts entertain and decide all the cases referred to them? The labour court members mentioned three criteria to be satisfied before a case could be entertained by a labour court.[14] Firstly, the case in question must be covered by the law. As per law a non-worker cannot file a case to a labour court and different laws have different coverages as to the definition of a worker. Thus before a case can be entertained by a labour court, the first criterion that is looked for is whether the party filing the case is legally entitled to take the shelter of such a court (42.5% of total responses). Secondly, there are specific territorial and functional jurisdiction of the labour courts operating in the country. Before entertaining a particular case, the court in question examines whether it has the appropriate territorial and functional jurisdiction to decide it (30% of total responses). Thirdly, different labour laws prescribe different time limits within which the cases are to be referred to the labour courts.[15] The labour courts do not usually entertain cases which are time barred (27.5% of total responses).

Laws involved in the cases: Cases may be filed in the labour courts under various labour laws. However, by summarising the sample labour court cases, five broad categories could be identified:[16]

(a) Complaint cases: These are the cases entertained under Section 25 (1)(b) of the Employment of Labour (Standing Orders) Act, 1965. This Act provides for the terms and conditions of employment of workers. For disciplinery actions, procedures have been laid down in the said Act. Cases coming before the labour courts under this law were all initiated by the individual workers who had been removed from service in any way or otherwise punished by their management. About 59% of all the cases examined were filed under this law.

(b) Legal rights enforcement cases: These are the cases entertained under Section 34 of the IRO, 1969 for the enforcement of any right guaranteed by any law or award or settlement. These cases could be initiated either by a CBA or a worker against the management. Slightly more than 28% of the cases examined were filed under this law.

(c) Criminal cases: These cases are entertained under the various penal provisions of the various labour laws. Maximum penal provisions are there in the IRO, 1969 (Sections 54-56). There are penalty provisions for breach of settlements, awards or decisions; for unfair labour practices on the part of both management and workers; for illegal strikes or lockouts and other illegal actions. Criminal cases in the sample public sector industries accounted for slightly more than 7% of the total cases examined.

(d) Cases of cancellation of trade union registration: These cases are filed under Section 10 of the IRO, 1969 by the aggrieved trade unions against the Registrar of trade unions for baseless or illogical complaints made by him to a labour court requiring it to pass orders for cancellation of registration of the trade union concerned. These cases accounted for slightly more than 5% of the sample cases.

(e) Industrial dispute cases: These cases are entertained on complaints by either of the parties to industrial disputes which have failed at the conciliation level. This is the outcome of Section 32 (1A) of the IRO, 1969 and Section 6 of the IR(R)O, 1982 which provide the labour courts to be the ultimate machinery for peaceful resolution of industrial disputes. But this category of disputes, also called as "collective interest disputes" or "charter of demand cases" were very rare in the public sector industries. In the 208 cases examined, only one case was found to be related with charter of demands.

Of the five categories of disputes mentioned above, the first four may be termed as the rights disputes, while only the last as the interest disputes, as per ILO classification of industrial disputes, already referred to in the previous chapter. The interest disputes having been found to be almost nil in the sample cases examined, it may be concluded without any reservation that the public sector labour disputes adjudicated by the labour courts are all rights disputes.

Selection of cases for hearing: In the absence of any legal prescription as to the way in which the cases are to be selected for hearing, the respondents at the labour court level were asked a direct question in this regard. Their responses might be seen in Appendix D.8. The vast majority (62%) of the respondents reported that the cases were selected for hearing usually on a "first-in-first-out" (FIFO) basis. But the actual working of the process was best described by one labour court member in the following way:

> "It is true that cases are started on a FIFO basis but there is no basis as to their final disposal. Several factors are involved in the final disposal of the cases."

Another member said:

> "As soon as a case is filed, the peshkar (bench clerk) prepares the case; a written statement from the second party is asked; a hearing date is fixed and the process of hearing goes on. Some cases are decided fairly promptly depending on the nature of the cases and the willingness of the parties, while many others take much longer time to finally decide them."

It was assumed that collective cases might get preference to individual ones with respect to hearing. But the respondents had differing opinions on the issue. Some said that collective issues sometimes got preference; others said that they got preference only rarely; while still others said that there was no hard and fast rule in this regard. About 80% of the respondents, however, reported that the urgency of the cases, for example, cases of essential services, cases referred by the Government, cases for interim order etc. sometimes got preference to others.

The most usual basis of selection, as reported by more than 70% of the respondents was quite interesting. They said that the bench clerk (peshkar) actually determined the cases to be heard. He prepared the cases according to the urgency of the parties who usually had to offer money (bribes) to him and were to do constant "tadbir" (follow-up and running after) of the cases. As one member told,

> "The peshkar takes money from the parties, takes up cases, fixes and refixes dates."

The Registrar of one court remarked,

> "The peshkar is all in all in this court. He earns more than double of what I earn."

In response to a specific question as to whether urgency of the parties in the form of persuasion or offer of bribery was a factor in influencing the basis of selection, 42% of the respondents told that this was usual, while another 46% told that this was sometimes the case.

It was assumed that the ex-parte cases where either or both of the parties were absent, or criminal cases, on the ground of their seriousness, might have been taken up first for hearing. But the majority of the respondents reported that there was no hard and fast rule in these respects. Suitability of the court, considered from the view point of total case position, was sometimes a factor, as reported by 58% of the respondents.

Thus it emerges that no formal procedures are followed in selecting the cases to be heard first. Whims of the peshkars and persuasions by the parties are the usual bases.

Reasons for the cases: Two approaches were used to ascertain reasons for the cases that were usually filed from the public sector industries - first, the respondents were asked a direct question in this respect and second, the sample labour court cases were examined as to their reasons.

The summarised responses to the direct question,[17] showed that disciplinary cases like discharges/dismissals were the most frequent cases from the public sector industries (reported by all respondents). The next frequent reason was termination for union activities (reported by 62%). Other issues in order of frequencies were: Charter of demands cases (reported by 37%), implementation of agreements and previous awards of the labour courts (reported by one-third), arrear wages (reported by 17%), cancellation of registration of trade unions (reported by 17%), compensation for accidents(reported by 12%) and wage anomalies (reported by 4%).

The analysis of the 208 practical cases revealed a different order, however.[18] Disciplinary cases like dismissals/discharges comprised about 31% of all the cases. Other disciplinary measures like supervision, prevention order on joining, fines, demotion etc. comprised the next important category (about 24%). Personnel matters other than disciplinary matters comprised the third category (13%). Thus two-thirds of the cases related to personnel matters as a broad category. The issues comprising the rest one-third were: pay anomalies (8%), post service benefits (6%), cancellation of registration of trade unions (5%), illegal deduction from wages (4%), various special allowances (3%) and others (less than 1%).

Outcome of the cases: On an examination of the final result of the decided cases in relation to whether decisions of the court on such cases were favourable or unfavourable to the initiator of the cases,[19] it has been found that three-fourths of the total decided cases examined were not contested up to the last - 41% were dismissed on default, 28% resulted in mutual compromise in the course of their hearings and therefore withdrawn from the courts and another 5% were not proceeded with by the first party. Of the remaining one-fourth of the decided cases, which were contested to the last, only one-half were successful to the applicant and the other half were unsuccessful.

8.2.2. Effectiveness of labour courts in achieving certain goals of law

In the absence of availability of any criteria for measuring the effectiveness of operations of the labour courts,[20] the purpose of this section is to examine their effectiveness in achieving certain goals expressed or implied in the labour laws of the country. The industrial relations laws, in Bangladesh, do not specifically define the objectives of labour courts. Two major objectives in relation to the adjudication of public sector industrial disputes, are however implied in the two basic laws governing industrial relations in the public sector. Firstly, that the IRO, 1969 emphasises quick settlement of the cases referred to labour courts is implied in the fixation of a maximum time limit of two months within which the

cases so referred are to be decided. As an exception, however, it provides that the awards or decisions of a labour court should not be invalid on the ground of any delay made by it.[21] To facilitate realising this basic objective, the industrial relations laws and rules also provide for the following procedural summarisations:

(a) Absence of the court members should not interrupt the normal workings (hearing and deciding cases) of the court.[22]
(b) In an unintimated absence of the first party to a case, the court should dismiss it on default. Similarly, when the second party absents from hearing without intimation, the case against it should be decided ex-parte;[23]
(c) A labour court should follow summary procedures in hearing the cases and giving decisions on them;[24] and
(d) The lawyers should be discouraged from representing the parties in the hearings of the cases.[25]

Secondly, the State-owned Manufacturing Industries Workers (Terms and Conditions of Services) Act, 1974 provides that none should allow any financial benefit to public sector workers in excess of what the Government determines. This implies that a labour court should not decide any collective interest disputes over economic issues arising in the public sector industries. How far, in fact could the labour courts in Bangladesh adhere to and achieve these objectives of laws in dealing with the cases referred the sample public sector industries?

(1) Adherence to statutory time: It has been found that[26] only 10% of the cases of the first labour court were decided within the statutory time limit of two months and the remaining 90% took upto a maximum of 54 months. 40% of the decided cases in the first court took 12 to 18 months. More than three-fourths were decided within 18 months. The mean time taken by the first court in deciding the cases has been calculated to be 17.5 months. The situation in the second labour court was more aggravating. Not even a single case could be decided within the statutory period. The time length of the decided cases of the second court ranged from 3 to 72 months. The modal class of cases (23%) took 36 to 42 months. The average time taken to decide the cases by the secondcourt has been found to be slightly more than 31 months.

As to pending cases, it has been found that[27] the cases of the first court were remaining pending for upto a maximum of 54 months; the modal group of cases (31%), however, remained pending for 6 to 12 months. The mean period for the pending cases in the first court has been found to be 15.7 months. The cases of the second court, on the other hand, were remaining pending for up to a maximum of 60 months. The mean period of the cases pending in the second court has been estimated to be slightly more than 24 months.

Thus both the sample courts utterly failed to adhere to the statutory time in so far as the disposal of the cases from the public sector industries was concerned. One important point to be noted, however, is that the second court took relatively more time than that taken by the first court in both the decided and pending cases. The meantime taken by the two courts in both types of cases, as shown in Table 8.1, reveals that, overall, the second court took 74% more time than that of the first court. Compared to the first court, the second court took 78% more time on the decided cases and 54% more on the pending cases. Section 8.2.4 will look at these inter-court variations as to the reasons for delay in decisions.

TABLE 8.1

Court-wise Meantime for the Decided and Pending Cases

	In Days	In Months
All sample cases (both courts)	687	22.9
First Labour Court		
Decided Cases	524	17.5
Pending Cases	470	15.7
All Cases	487	16.2
Second Labour Court		
Decided Cases	932	31.1
Pending Cases	726	24.2
All Cases	852	28.4

Having observed a total failure of the labour courts in adhering to the statutory time in disposing of the public sector cases referred to them, an attempt is now made to see how far the labour courts followed the procedural summarisations, as specified above.

(a) Members' Absence: The role of the members of the court is merely advisory. The opinions of the members are not binding upon the Chairman of the court.[28] If any member of the court is absent from, or is unable to attend, for any reason whatsoever, in any sitting of the court, the proceedings of the court should continue, and the decision/award might be given in the absence of such a member. But in actual practice, as reported by the majority of the respondents at the labour court level,[29] members were not assiduous in attending the courts and in the absence of either of the members, courts did not constitute or sit in sessions. This practice of the court stood as a hindrance to the quick disposal of cases. The members absented or delayed in 85% of all the cases examined from 1 to 17 times; their average absence per case being about 4 times with a standard deviation of 3.06 times.[30] The law also provides that if a member absents from three consecutive meetings, he might be removed from the court.[31] The sample labour court cases could not be examined to the depth as to in how many occasions members were absent from the three consecutive meetings. But so far it could be gathered, not even a single member was ever removed on this ground. The liberalism of the court in members' absences is quite evident.

(b) Parties' absence: As per law, if the first party fails to represent in the proceedings on a specified date, without intimation, the court may dismiss the case in question outright on default. In 75% of the labour court cases examined, the first party absented from 1 to 8 times. On the whole, the average absence of the first party per case was 2.1 times with a standard deviation of 1.77 times.[32] The power of dismissal on default was also frequently exercised by the court.[33] 41% of all the decided cases examined were dismissed on default.[34]

In the event of an unintimated absence of the second party to a case on a particular date, the court is also empowered to give an ex-parte decision. But, as stated by the majority of the labour court members,[35] this power was infrequently used by the court in actual practice.[36] In 44% of the total cases examined at the labour court level, the second party absented from the proceedings of the court from 1 to 8 times. The mean absence of the second party per case was 1.27 times with a standard deviation of 1.78 times. Only 9% of the sample cases were decided ex-parte. But it is curious to note that the cases so decided ex-parte were subsequently revived by the court.[37]

It is also interesting to note that both the parties simultaneously absented from the hearing of the court in slightly more than 17% of the total cases examined from 1 to 3 times.[38] Despite the absence of both the parties, such cases were not dismissed and subsequent hearings on them went on. Thus it emerges that the courts were very liberal in exercising the power given to them by law. It also appears that the courts were more liberal to management than to workers.

(c) Summary procedures: To ensure economic and social justice the law requires the labour courts to follow, as nearly as possible, summary procedures, as provided under the Code of Criminal Procedure, 1898. In actual practice, however, summary procedures were not usually used by such courts. In response to a specific statement in this context, the respondent labour court members became equally divided in reporting "to have" and "not to have" used summary procedures.[39] One experienced member remarked,

> "Because of procedures followed by the labour courts, these are identical with the civil courts. Representation by lawyers, examination and cross-examination, shifting of hearing dates, presence of witnesses, presentation of evidences - all are done."

About one-third of the cases examined involved spot enquiry, examination and cross-examination of facts from 1 to 8 times.[40] As to time prayer (asking for delays) by the parties, it was found that the first party (usually workers) prayed time in 78% of the

cases from 1 to 19 times. Modal time prayer by the first party was 2 times and the mean was 4.1 times with a standard deviation of ±3.8 times. Time prayer by the second party (usually management) was still more frequent. In 96% of the cases analysed, the second party prayed time from 1 to 23 times; the mean being 8.3 times with a standard deviation of ±5 times. Interestingly, in about 23% of the sample cases, both parties jointly prayed time from 1 to 8 times. The average joint time prayer was 0.41 times per case with a standard deviation of +0.9 times.[41] In view of such frequent prayers for time by the parties, it seems that seeking time (by the parties) and giving dates (by the courts) has become a historical tradition in Bangladesh. The legal requirement for observing summary procedures seems to be largely ignored. The practical implications of this delay will be taken up in a subsequent section.

(d) Representation of the parties: The law requires the parties to be represented in the hearings by themselves, or by an officer of the union/CBA, in the case of a worker and by an authorised Officer, in the case of an employer/management. A legal practitioner is not allowed to represent a party without the permission of the court. The spirit of law is to discourage the lawyers from representing the parties. But, as reported by the respondent labour court members, the actual practice was a considerable deviation from the spirit of the legislature. [42] The legal practitioners were appointed in all cases,. As one member reported,

> "The law asks for permission before engaging lawyers, but nobody obeys this law."

Another member remarked,

> "The lawyers always represent on behalf of the parties. Exception of the law has now become the general practice."

This practice of representation of the parties by the lawyers who usually try to prolong cases in their professional interest seem to be one reason for delay in courts' decisions.

Thus except for dismissal of cases on default of the first party, other procedural summarisations prescribed by the industrial relations laws and rules are not being properly followed by the labour courts.

(2) Settlement of financial issues: On the question of the settlement of collective economic issues, an overwhelming majority (78%) of the labour court members interviewed reported that such disputes from public sector industries usually did not come to the labour courts. Another 28% stated that when such disputes really came to the courts, they adjudicated them acording to the IWWPC recommendations and other Government guidelines.[43] A majority (62%) of the direct parties (plant level management and CBA leaders) to the cases also felt that the labour courts should not give any decision or award outside of the declared policies of the Government.[44] The content analysis of the labour court cases revealed that only one collective interest dispute was filed with the first labour court by the central CBA of the BRTC, which was lying pending during the periodof the fieldwork for this study.[45] Thus the restriction of law regarding the settlement of the collective financial terms and conditions of service of the public sector workers are being effectively adhered to by the labour courts.

8.2.3. Factors generally affecting the operations of labour courts

From the above analysis of the effectiveness of labour courts, the basic objective of ensuring industrial justice through quick settlement of cases referred to them, the labour courts seem to have totally failed. On the point of subjective effectiveness of operations of the labour courts, about two-thirds of the direct parties (plant and corporation managements, and CBA leaders) felt that the labour court decisions were not reasonablyeffective.[46] During the course of interview with them some labour court members themselves told the author that some labour court decisions were wrong and others were right but delayed. This and the next sections attempt to identify the factors which might be held responsible for such below eexpected effectiveness of operations of the labour courts. The factors affecting their operational effectiveness in general are taken up in this section and the specific reasons for delay in the sample cases will be examined in the next section.

Some of the factors affecting the operations of the labour courts are evident in the liberal attitude of the courts in pursuing the procedural summarisations, as described above. Certain other factors will now be looked at.

(1) Subjective conditions: The personal attributes of the labour court members might be expected to influence the operational effectivness of such courts. Four of their personal characteristics, which seem to be important are mentioned here.

(a) Age: The average age of the labour court members (including the Chairman) was found to be 46.2 years with a standard deviation of ±6.7 years. The members representing the parties seemed to be neither too young nor too old but, by Bangladesh standards, mature enough to deal with the cases coming before them. But all Chairmen were aged more than 50 years with one aged 62.[47] The retirement age in Bangladesh being 57, the Chairman of all the labour courts were found to be either on the verge of retirement or practically retired but appointed on a contractual basis for a term of one or two years.[48] This was also confirmed by the respondent labour court members in the course of interviews with them. As one experienced member observed,

> "They (Chairmen) can hardly concentrate on their duties. They prepare more for retirement than for their official jobs." [49]

(b) Academic qualifications: More than 70% of the labour court members were graduates with specialisation in related fields, 12% were general graduates and the remaining 17% were non-graduates. The non-graduates' level of education varied from class VI to Intermediate. [50] These non-graduates were all workers' representatives of the courts. [51] As is evident from their selection process, workers' representatives were all federation level leaders, and this finding is indicative of the low level of education of even the national level trade union leaders in

Bangladesh. Although the number of members with education below graduation were not too many, still it seems a bit surprising as to how a person with eduction of class VI or VIII could effectively advise the Chairman about the intricate problems of legal interpretations and economic and social implications involved in the cases before them.

(c) Job background: It has been found that the workers' representatives of the labour courts were mostly (70%) professional trade unionists and others were technicians, clerks and advocates.[52] It should be noted that the federation level professional trade unionists in Bangladesh were all outsiders having little direct link with industrial work.[53] The employers' representastives, however, were mostly high ranking managers dealing with employees. The Chairmen of the courts were senior members of the judicial service, who had necessarily devoted the major part of their service in the convential civil and criminal courts.[54] The adjudication of labour disputes was an entirely new field to them.[55] As one experienced labour court member remarked,

> "They (Chairmen) know very little about the objectives of labour laws and always follow ordinary court procedures and prolong the disposal of cases."

Thus the Chairmen of the labour courts and a majority of the members representing the workers had very little orientation with industrial way of life and the peculiarities of problems that might arise therefrom.

(d) Experience in the labour courts: The average experience in the labour courts for the parties' representatives and the Chairmen have been found to be 3.5 years and 1 year respectively. The court members, including the Chairmen, were usually appointed on a two-year contract basis. The term of office of the members, who were relatively younger than the Chairman, could be renewed through subsequent contract(s). But the Chairman were appointed at the last stage of their retirement as Judges. These about-to-retire Judges could hardly perform their duties as effectively as expected. Before they prepared as Chairmen of the courts, they had to prepare themselves for retirement or death.

(2) Workload of the labour courts: Bhattacharjee[56] argued that the effectiveness of operations of the labour courtswere adversely affected due to a heavy workload on them. He could not compare the actual workload of the courts against any standard for disposal, however. In fact, no such pre-determined standard was actually available. However, by considering the past performance of the labour courts over a period of years and making a best judgement, a reasonable standard, though arbitrary, might be derived.

One such annual standard disposable load might be the average of the cases disposed of by all labour courts over a period of eight years, for which data are available (Table 8.2). This average is calculated to be 373 per year. But this average is affected by extreme inter-court and inter-year fluctuations. For example, in 1975 the Chittagong labour court disposed of as high a record number of cases as 958, while in 1977, the Rajshahi labour court disposed of as low as only 2 cases (Table 8.2 and Figure 8.2).

TABLE 8.2

Number of cases disposed of by the various Labour Courts in Bangladesh during the period 1975-82

	1975	1976	1977	1978	1979	1980	1981	1982	Total	Average
First Labour Court, Dhaka	554	644	698	422	229	302	391	452	3692	461
Second Labour Court, Dhaka	557	499	533	551	260	207	220	268	3095	387
Third Labour Court, Dhaka	-	-	-	-	-	-	41	615	656	328
Labour Court, Chittagong	958	727	323	406	253	341	148	908	4064	508
Labour Court, Khulna	802	179	190	433	279	250	555	180	2868	358
Labour Court, Rajshahi	159	155	2	102	172	109	112	381	1192	149
TOTAL	3030	2204	1746	1914	1193	1209	1467	2804	15567	
AVERAGE	606	441	349	383	239	242	244	467	373	

Source: [57]

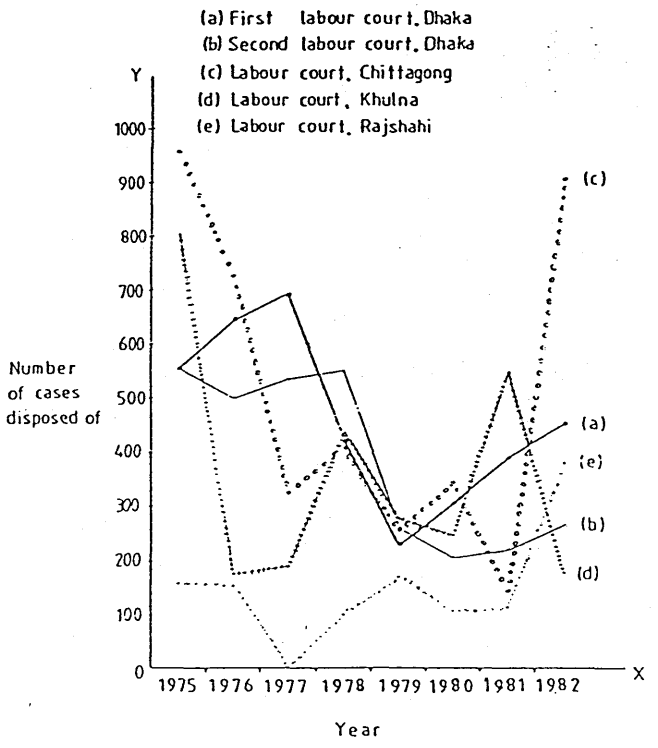


Fig. 8.2 DISPOSAL OF CASES BY THE VARIOUS LABOUR COURTS IN BANGLADESH 1975-82.

The number of cases filed in the various courts were also not uniform. The highest number of cases were filed in the Chittagong Court, followed by the Khulna court, the Dhaka first court, the Dhaka second court and the Rajshahi court (Table 8.3). There exists a significant positive correlation between the cases for disposal and the cases disposed of which indicates that the pressure of cases might have an influence on their disposal rate. In the absence of a uniform work pressure on the courts their average disposal can not be taken to be a good standard. In fact, the average disposal, as noted above, would be a very easily attainable standard, considering the average disposals of the Chittagong court and the Dhaka first and second courts.

Another standard might be the disposal of the best performer. But how can one determine which court performed well? As argued by Bhattacherjee and his colleagues,[59] the court with the highest disposal rate (calculated as the ratio of the cases disposed of to the cases for disposal) is the best performer. But this criterion of best performance does not also seem to be a sound one. Because

TABLE 8.3

Number of cases for disposal in the various Labour Courts in Bangladesh during the period, 1975-82

	1975	1976	1977	1978	1979	1980	1981	1982	Total
First Labour Court, Dhaka	855 (18.9)	1077 (26.6)	982 (24.3)	753 (18.8)	536 (16.3)	707 (18.2)	735 (17.1)	1020 (15.2)	6655 (19.2)
Second Labour Court, Dhaka	807 (17.8)	790 (19.5)	952 (23.6)	831 (20.7)	645 (19.6)	718 (18.5)	725 (16.9)	783 (11.7)	6251 (18.0)
Third Labour Court, Dhaka	-	-	-	-	-	-	206 (4.8)	1144 (17.1)	1350 (3.9)
Labour Court, Chittagong	1283 (28.3)	1014 (25.0)	795 (19.7)	819 (20.4)	734 (22.3)	1224 (31.6)	1228 (28.6)	1937 (28.9)	9034 (26.0)
Labour Court, Khulna	1394 (30.8)	929 (22.9)	1152 (28.6)	1357 (33.8)	1124 (34.2)	1017 (26.2)	902 (21.0)	562 (8.4)	8437 (24.2)
Labour Court, Rajshahi	193 (4.3)	238 (5.9)	151 (3.7)	250 (6.2)	251 (7.6)	210 (5.4)	497 (11.6)	1258 (18.8)	3048 (8.8)
Total	4532 (13.0)	4048 (11.6)	4032 (11.6)	4010 (11.5)	3290 (9.5)	3876 (11.1)	4293 (12.3)	6704 (19.3)	34785 (100.0)

Source: [58]

Note: Figures in parentheses indicate percentages.

TABLE 8.4

Case disposal rates of the various Labour Courts in Bangladesh during the period 1975-82

	1975	1976	1977	1978	1979	1980	1981	1982	Total	Average
First Labour Court, Dhaka	64.8	59.8	71.1	56.0	42.7	42.7	53.2	44.3	434.6	54.3
Second Labour Court, Dhaka	69.0	63.2	56.0	66.3	40.3	28.8	30.3	34.2	388.1	48.5
Third Labour Court, Dhaka	-	-	-	-	-	-	19.9	53.7	73.6	36.8
Labour Court, Chittagong	74.7	71.7	40.6	49.6	34.5	27.9	12.0	46.9	357.9	44.7
Labour Court, Khulna	57.5	24.5	16.5	31.9	24.8	24.6	61.5	32.0	273.3	34.2
Labour Court, Rajshahi	82.4	65.1	1.3	40.8	68.5	51.9	22.5	30.3	362.8	45.3
Total	348.8	284.3	185.5	244.6	210.8	175.9	199.4	241.4	1890.3	
Average	69.7	56.9	37.1	48.9	42.2	35.2	33.2	40.2	363.4	45.4

Source: [60]

as shown in Table 8.4, according to this criterion, the Rajshahi court dealing with only 9% of the total cases over the eight year period (Table 8.3) and disposing of the lowest number of cases proves to be a good performer over the Chittagong, Khulna and Dhaka first courts (Table 8.2). The court which disposed of the highest average number of cases should better be taken as the one achieving best performance. In terms of this criteria, the Chittagong court disposing of an annual average of 508 cases, performed best (Table 8.2).

Before making a final judgement about the standard disposal, personal views of the labour court level respondents (Chairmen and members of the courts) are considered relevant. A majority (58%) of such respondents strongly felt that the labour courts were overloaded in the present contexts, although more than one-fifth strongly held the opposite view.[61] As a step to reducing the present workload, only 37.5% of the respondents had a strong or slight feeling that more courts should be constituted, while a majority (54%) strongly felt that there was no need to constitute more courts.[62] In the course of interviews with them, several members reported that deciding two or three cases per day was not at all difficult for them.

Thus if two cases are taken to be disposed per working day and 300 working days are assumed per year, the standard disposal comes to 600 cases per year. Considering the socio-political context of Bangladesh, if the number of working days are reduced by another 30 days, the standard annual disposal then comes to 540[63] (i.e. 45 cases a month). This is somewhat nearer tothe Chittagong court's actual average disposal of 508 cases a year or 42.3 cases a month. Thus, in view of the respondents' personal feelings and the average performance of the best performing court, the estimated standard for disposal of 540 cases per year seems to be reasonably attainable.

What could happen to the cases presently pending in the various labour courts in Bangladesh, if all of them could dispose of this standard number of cases? Table 8.5 shows that in total 3371 cases were accumulated over the past few years and pending at the end of 1982. If all the courts could achieve the arbitrary standard disposal of 540 cases annually, a total of 6,696 more cases could have been disposed of, which is far above the actual pending cases at the end of 1982. At this standard, all courts other than the Chittagong court where an exceptionally large number of cases were filed could run short of cases. In that situation, the quotation of the Chairman of one labour court, as reproduced below, could be quite in consonance:

> "In fact, we are not overloaded. We can exhaust the pending cases if we really want to. But we don't do that. Because in that case we shall have no work and the court might be eliminated."

Thus it emerges that although the present size of the pending cases gives an apparent impression that the labour courts in Bangladesh are very overloaded, in fact, this is not true for most of the courts.

TABLE 8.5

Hypothetical position of pending cases at the end of 1982

Courts	Cases for disposal	Cases disposed of	Cases pending	Arbitrary standard disposal	Average disposal	Deviation from standard	Total Deviation over 8 years	Total pending - total deviations
1	2	3	4=(2-3)	5	6	7=(6-5)	8	9=(4-8)
First Labour Court, Dhaka	1020	452	568	540	461	- 79	- 632	- 64
Second Labour Court, Dhaka	783	268	515	540	387	-153	-1224	-709
Labour Court, Chittagong	1937	908	1029	540	508	- 32	- 256	+773
Labour Court, Khulna	562	180	382	540	358	-182	-1456	-1074
Labour Court, Rajshahi	1258	381	877	540	149	-391	-3128	-2251
Total	5560	2189	3371	2700	1863	-837	-6696	-3325

Note: Third Labour Court, Dhaka was constituted only in 1981 and hence it has been excluded from the present analysis.

(3) Problems faced while conducting adjudication: The effectiveness of adjudication is also likely to depend on the nature of the problems faced by the courts in the course of hearing the cases. In reply to an open ended question in this context, responses of different types were received from the respondents at the labour court level, which could be broadly classified into four categories, according to the sources which generated these problems.[64]

(a) Problems created by parties: It is evident that the parties themselves and the lawyers as their representatives created most of the problems. As to parties, they could not produce documents and evidence before the courts in support of their claims and arguments (felt by 48% of the respondents); they also resorted to false statements (felt by 17%). Parties' ignorance about the laws was another problem as felt by 13% of the respondents. In response to a structured question, more than 90% of the respondents, either strongly or slightly felt that they (Parties) were not well-aware of the legal provisions.[65] The frequent time prayers (felt by 13%) and the absenting habit (felt by 9%) of the parties were other problems, mention about which was already made in an earlier section.

(b) Problems created by lawyers: All respondents had allegations of some sort against the lawyers as the parties' representatives. About half of the respondents alleged that the lawyers used to come to the courts without sufficient preparation on their parties' cases and pleaded on spot thinking. About 40% alleged that the lawyers tried to drag the cases in their professional interest (because the more time a lawyer got, the more he earned). It was also alleged that they usually made the simple cases distorted (felt by 9%). The frequent absence of the lawyers was another problem (felt by 4%). In fact, it was gathered that the same group of lawyers represented in all the three courts in Dhaka city. If a lawyer was present in one court, he obviously had to be absent in another. One labour court member observed that the statement like, "let us stop the hearing today. I (lawyer) have another business elsewhere" was very common in our labour courts.

(c) Problems created by Chairman: About 40% of the members (parties' representatives) raised an allegation that the Chairmen of the courts were too authoritarian to give consideration to the feelings of the members about the cases they heard. One member expressed his feelings in this respect as follows:

> "As a legal requirement, we give our written opinion (W/O) on the cases we hear; but I am in a real doubt whether the chairman reads it or not. He takes our opinion just for the sake of taking it. He thinks himself to be well-known in all respects."

Another member remarked,

> "W/Os are taken merely for the sake of a legal requirement. The chairman does not go through them. In some cases W/Os are collected after giving the decisions only to keep them in file."

The validity of the members' observations, as above, were, in fact, affirmed in the following statement made by the Chairman of a labour court:

> "While an employer's representative is busy with the employer's interest and a worker's representative with the worker's interest, I am busy with social justice. I rarely read the W/Os of the members."

(d) Other problems: Other problems faced in the course of adjudication, mentioned by a relatively small number of respondents, were lengthy process followed by the court (reported by 17%), ambiguity in the definition of a worker legally entitled to file cases (reported by 41%), lack of spot verification facilities (reported by 41%) etc.

(4) Administative problems of the labour courts: In addition to the various problems faced in the course of adjudication, the labour courts in Bangladesh have to operate under certain administrative problems which could reasonably be expected to have adversely affected the effectiveness of adjudication. The various administrative problems, also collected from the labour court level respondents through an open-ended question, may be classified into four broad categories.[66]

(a) Physical conditions problems: 70% of the respondents stated that the courts did not have any separate room or place for the members where they could sit and discuss with the parties, see files and write opinions. Dirty, unhealthy and uncongenial working environment was reported to be another problem by more than half of the respondents. The author himself observed the deplorable conditions of the courts. The courts had neither any adequate space for the clients and witnesses (reported by 26%) nor any required number of furnitures, fixtures and equipments (reported by 35%).

(b) Problems of office facilities: The courts did not have any transport for official purposes (reported by 35%); office supplies were inadequate (reported by 30%); no office facilities were available for the members (reported by 30%); and finally, the courts had to run their offices under very poor budgetary allocations (reported by 9%).

(c) Staff Problems: The official staff of the courts were short in number (reported by 43%), inefficient in skill (reported by 13%) and corrupted in morality (reported by 9%).

(d) Other Problems: Other problems mentioned by small percentages of respondents, but nevertheless not unimportant, were:

(i) In the cases of retirement, resignation or death of the chairman of a court, the Government sometimes took a long time to appoint a new chairman and in the meantime the court could not work (reported by 9%).[67]

(ii) The Government could not provide any fixed venue for the labour courts (reported by 9%). It was gathered that all the three courts of Dhaka city were presently working in the three abandoned (by former Pakistanis) houses located at three different places. In slightly more than 12% of the cases, hearing dates had to be shifted due to shifting of the courts.[68]

(iii) Finally, the honorarium given to the members was felt to be poor (reported by 4%). It is to be noted that the members were paid no allowances other than a fixed daily allowance which was only TK 100. (equivalent to about £2.5). This might be one reason for their frequent absence from the courts.

8.2.4. Reasons for delay in deciding public sector cases:

The factors mentioned in the previous sub-section generally affects the adjudication of cases by the labour courts - irrespective of whether such cases come from private or public sector industries. The extent to which each factor affects the effective operations of the courts could not be determined. The present sub-section specifically examines why the labour courts could not adhere to statutory time provisions in adjudicating the sample cases from the public sector industries.

The reasons for delay were examined in both subjective and objective ways. Subjectively, the reports of the respondents at the labour court level, in reponse to an open-ended question, were obtained. Such reports could be broadly categorised into six.[69] Firstly, 87% of the respondents alleged that the parties themselves were responsible for the delay in some way or the other. Frequent time prayer by the parties (reported by 67%) and their absenting habit stood in the way of quick disposal of the cases. Secondly, 82% of the respondents attributed this delay to one or other of certain objective conditions like increasing number of cases being filed (reported by 54%), staff shortage (reported by 12%), cases filed on trifling issues (reported by 12%), cases filed at individual capacity (reported by 41%) etc. Thirdly, in view of 70% of the respondents, negligence or very liberal attitude of the courts delayed courts' decisions. Fourthly, members' irregularity in attending the court or in submitting the written opinion to the chairman was reported to be other reasons for delay by more than 60% of the respondents. Fifthly, 54% of the respondents alleged that the lawyers' delaying attitude in their professional interest (reported by 37%) or their late attendance also delayed courts' decisions. Finally, lack of interest on the part of the chairman (reported by 21%) and their absence from the court (reported by 17%) were also responsible for delay in decisions.

Turning to the objective analysis of the sample cases, first of all, the number of days taken in serving notice on the second party requiring it to file a written statement to the court against the allegations made by the first party was recorded. It was found that on the average, 31 days were needed to serve notice on the second

party. This was about 4.5% of the mean length of time taken by the cases of both types considered as a whole. The next attempt was to examine the factors accounting for the remaining 95.5% of the time length.[70] Due to the complexities involved and the shortage of time, it was not possible to examine the actual fractions of the time length of each particular case by specific factors. The number of times hearing dates had to be shifted and the reasons for such shifting could, however, be recorded on a case by case basis.

In total, 18 factors explaining the reasons for delay could be identified. All these factors were, however, not applicable to all cases. The frequencies of their occurrence also differed from one case to the other. Appendix D.21 summarises the magnitude of and the extent to which these factors were involved in the sample cases.

Clearly, the means of such factors are not additive. In order to better understand the relative significance of each of these factors, an attempt to somehow make them additive is made. The sums of all these factors are first calculated and totalled. This total is taken to be 95.5%[71] and the individual sums are expressed as fractions of 95.5%. Table 8.6 presents these factors, made additive in this way, under similar broader classifications, as done in the subjective approach.

Assuming that a somewhat standard time interval was maintained in between two hearings, which in fact might not be true though, it appears from Table 8.6 that parties themselves were responsible for about half of the total delays (the first party for 20% and the second party for 30%).[72] They either prayed for time or failed to attend the court on the scheduled dates. Members of the court were responsible for 14% of the delays. They either physically absented or delayed in submitting their written opinions. Chairmen's absence accounted for more than 5% of the delays.[73] Court procedures and pressure of work on it explained more than 22% of the total time length. Certain extraneous factors beyond the control of the court and certain other miscellaneous factors accounted for only 2.5% of the total delays. Missing factors were responsible for more than 6% of the total time length.

TABLE 8.6

Factors accounting for delay in decisions classified by courts

Reasons for Delay	First Labour Court	Second Labour Court	Both Courts
1. First Party:	20.2	17.9	18.5
Prayed for time	11.1	12.9	12.3
Absented	9.1	4.8	6.2
2. Second Party:	25.1	30.0	28.3
Prayed for time	21.9	25.9	24.5
Absented	3.2	4.1	3.8
3. Both Parties:	1.7	2.3	2.1
Prayed for time	0.9	1.4	1.2
Absented	0.8	0.9	0.9
4. Members representing the parties:	13.6	14.6	14.2
Absented	11.2	12.0	11.7
Delayed written opinion	2.4	2.6	2.5
5. Chairman absented:	6.8	4.9	5.5
6. Court:	22.9	21.9	22.5
(a) Procedures:	7.4	5.7	6.5
- Time taken in serving notice on the second party	5.7	3.6	4.5
- Enquiry, examination and cross-examination of witnesses	1.7	2.1	2.0
(b) Business:	15.5	16.2	16.0
- Hearing could not be started	9.1	10.2	9.9
- Hearing started but had to be adjourned	6.4	6.0	6.1
7. Extraneous factors (sudden Government holiday, court shifted etc.)	1.8	1.1	1.4
8. Miscellaneous (revival of cases, legal complexities, mistakes made by clerical staffs etc.)	0.8	1.0	1.0
9. Refixation of hearing dates for unknown reasons	7.1	6.3	6.5
TOTAL	100.0	100.0	100.0

Inter-court variations as to reasons for delay: The reasons for delay in disposing of the cases by the labour courts are evident. But why did the second court take 74% more time than that of the first court? Table 8.6 also summarises the court-wise reasons for delay. The percentage form of summarisation, as made in that table, and the two pie-charts, one for each court, prepared by using those percentage data (Figure 8.3), do not disclose any significant inter-court variation as to the various reasons accounting for the delay in decisions. This means that the pattern of influence of the delaying factors were relatively similar, but in absolute terms there must have been some differences between them.

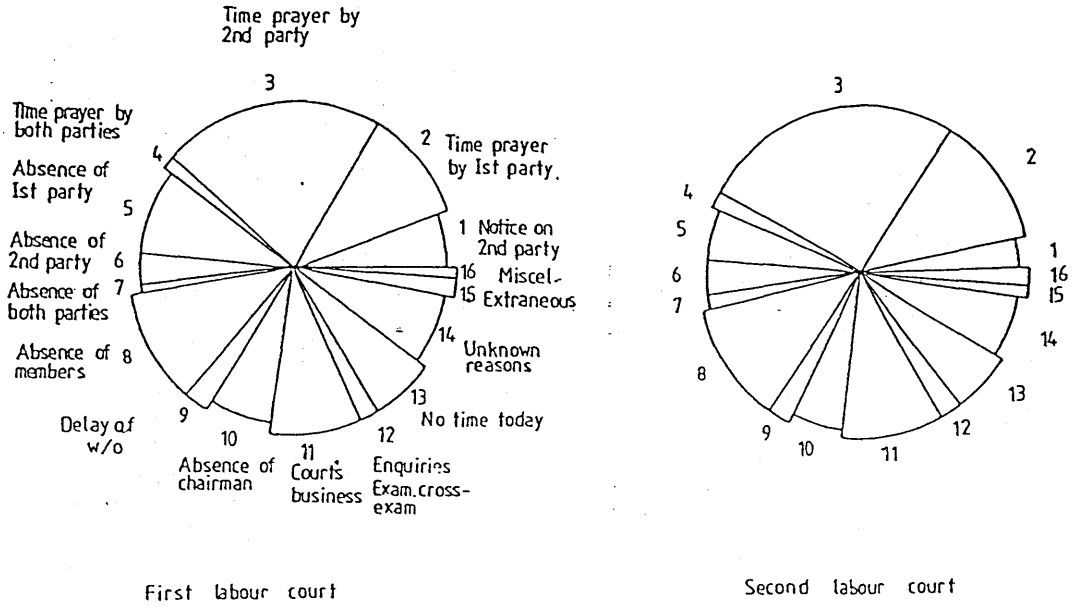


Fig. 8.3 REASONS FOR DELAY IN DECISIONS IN THE FIRST AND SECOND LABOUR COURTS, DHAKA

With a view to finding out this pattern of absolute differences, court-wise sums of these factors are taken (columns 1 and 2 of Table 8.7). Since the number of cases taken as samples from the two courts were not equal, proportionate increases (for the first court) and decreases (for the second court) are made to make the sums for 100 cases (columns 3 and 4 of Table 8.7). The sums of the second court are then expressed as percentages of those of the first court (column 5). The calculated percentage increases or decreases, presented in column 6, show that, except for the two minor factors (first party's absence and sudden Government holidays), all other procrastinating factors rigourously prolonged the second court's disposal of the cases. For example, compared to the first court, hearing dates in the second court had to be shifted 53% times more due to the first party, 108% times more due to the second party and 133% times more due to both the parties. The absence of members and Chairmen in the second court were 88% and 25% times more respectively than in the first court. The procedures followed and the court's business resulted in 86% times more shifting of dates in the second court. The unknown factors shifted the second court's date by 56% more of the times, as compared to the first court.

TABLE 8.7

Variations as to reasons for delay in decisions between the first and the second labour courts

	1st LC Sums for 94 cases (1)	2nd LC Sums for 114 cases (2)	1st LC Sums for 100 cases (3)	2nd LC Sums for 100 cases (4)	Sums of 2nd LC as a % of 1st (5)	% Increase (6)
1. First Party:	437	812	465	712	153	53
Prayed for time	240	591	255	518	203	103
Absented	197	221	210	194	92	- 8
2. Second Party:	541	1367	575	1199	208	108
Prayed for time	472	1182	502	1037	207	107
Absented	69	185	73	162	221	121
3. Both Parties:	37	104	39	91	233	133
Prayed for time	19	64	20	56	280	180
Absented	18	40	19	35	184	84
4. Members representing the parties:	293	667	311	585	188	88
Absented	242	547	257	480	187	87
Delayed written opinion	51	120	54	105	194	94
5. Absence of the Chairman:	147	222	156	195	125	25
6. Court:	371	839	394	735	186	86
a. Procedures: Enquiry, examination and cross-examination	36	96	38	84	221	121
b. Business:						
- Hearing could not be started	196	468	208	410	197	97
- Hearing had to be adjourned	139	275	148	241	163	63
7. Extraneous factors:	38	53	40	46	115	15
Sudden Government holiday	30	35	32	31	97	- 3
Court shifted	8	18	8	16	200	100
8. Miscellaneous factors:	17	59	18	52	288	188
Revival of cases	5	14	5	12	240	140
Legal complexities	8	34	8	30	375	275
Mistakes made by clerks	4	11	5	10	200	100
9. Shifting of hearing dates for urknown factors:	152	289	162	253	156	56

Cross-tabulations of the cases by courts and delaying factors also reveal significant tendency for the second court to be severely affected by these factors. But the basic question still remains. Why did all the delaying factors combine to prolong the second court's decisions? Certain possible answers might be as follows:

Firstly, the distribution of the decided and pending cases between the two sample courts were not uniform. More than 61% of the cases examined at the second court were decided and, as already pointed out, the decided cases took more time than the pending cases. Secondly, a cross-distribution of the cases by courts and industries, reveals that the second court dealt with more of the

cases from the jute industry (x^2 significant at 1% level). Cases in the jute industry took relatively more time than those in other industries (x^2 significant at 5% level). Thirdly, the cases in the second court were mostly complaint and right enforcement cases which, as revealed by breakdown and cross-tabulation (x^2 significant at 1% level) analyses, took relatively more time. Fourthly, a cross-distribution of the cases by Courts and outcome indicates that more cases in the first court and less of those in second court were "withdrawn" and "not proceeded with" cases. "Compromises" and "not proceeded with" cases took relatively less time (x^2 significant at 1%). Fifthly, and probably more importantly, the second court was more liberal in allowing time to the parties and shifting dates and less serious in disposing of the cases. Lastly, the territorial jurisdiction of the courts could have some influence on the disposal of the cases. In addition to some other areas, the Dhaka metropolitan city was within the jurisdiction of the first court. The head offices of the PDB (Electricity), BRTC (road transport) and BIWTC (water transport) wherefrom the majority of the cases in the first court were filed, were located within the metropolitan city and as such the affected parties could make easy and frequent follow-ups of their cases. But the situation in the second court was different in this respect.

Practical implications of delay: From the above findings regarding their operations, it seems that the labour courts have largley failed in achieving the purposes for which they were constituted. The excessive delay made in giving decisions or awards have diverse implications to those concerned. The workers especially seem to be hurt by long delay in decisions. The workers in Bangladesh are very poor in general. Many of them do not dare to file cases against management and then run after the courts due to their financial weakness. A few of the aggrieved workers, who take the shelter of labour courts feel very frustrated due to frequent changes of hearing dates. Some lose interest in their cases and do not follow them up to the last. Others fail to attend the courts on the scheduled dates and find their cases dismissed on default. In the cases which are contested to the last, they get only delayed decisions. And as the well-known maxiom goes, "justice delayed is justice denied", the workers do not have real confidence in the labour courts.

It seems that the present provisions of law regarding the operations of labour courts could not ensure adequate justice to workers. In dismissal cases, a labour court cannot question the quality of a domestic enquiry if proper procedures are followed by management at the plant level. The penalty provisions for non-implementation of the labour court decisions seem to be very liberal,[74] and the recovery of money due from an employer under a settlement or award to be vey cumbersome,[75] so that management does not care to implement the decisions of the labour courts in come cases. 7% of the cases examined were in respect of violation of courts' orders.

The lingering of the cases seems to bring a favourable effect to management in that they automatically win in the cases dismissed on default of the workers. The managerial people being more educated and conscious about the legal implications, they usually keep the labour courts informed of their absence by showing reasonable grounds and as such a very few of the cases are decided ex-parte. Even when ex-parte decisions are given in exceptional cases, managerial people can get their cases revived by exerting pressure and influence on the courts. The stronger financial strength of managements allows them to keep the cases pending for an unlimited period. Practically, however, they also have to spend a lot in terms of time, money and effort in following up the cases for years together.

Due to long delays made in giving decisions, cases pile up as pending and the courts are artificially shown to be very overloaded. Since the parties are always represented in the court by the labour lawyers, long time taken in deciding the cases merely perpetuates the income of these unscrupulous lawyers who usually try to drag the cases in their professional interest.

Looking at the lengthy process of deciding cases by the labour courts, the author is strongly confident that if a comparative statement could be prepared as to the total cost incurred in getting a labour court decision on a case and the outright admission of the claim in question (by management) or the acceptance of the status quo before filing a case (by workers), the latter might prove to be

less costly. By making this statement, the author does not, however, suggest that the parties should not go to the labour courts, but rather emphasises that such courts should be operated as effectively as to ensure industrial justice to the parties concerned.

8.2.5. Enhancing the effectiveness of labour courts:

But how can the effectiveness of operations of the labour courts be ensured? In view of the problems identified in the previous sub-sections, certain measures may be suggested in this connection:

(1) Chairman of the courts: The Chairman of a labour court being the final authority and ultimate decision maker of the cases, the appointment of appropriate persons as Chairmen will probably enhance the effectiveness of such courts to a great extent.

(a) In view of the lack of an interest of the Chairmen due to their old age, it is strongly felt that the young High Court or District Court Judges should be appointed as Chairmen of the labour courts for a term of at least five years so that they could give more time to their duties without keeping themselves busy for retirement.

(b) Labour courts being an entirely new field to the Chairmen, they should have some exposure to and orientation with industrial life. They should be sent for some short training in Economics, Business Administration and Industrial Relations.

(c) In removal of their frustration over service conditions, it is suggested that their present status and service facilities should be increased at least in line with other High Court or District Judges.

(2) Court procedures: A streamlining of the court procedures along the following lines is expected to largely enhance the effectiveness of labour courts in dispensing industrial justice:

(a) In avoidance of the present liberal attitude, the labour courts should be more serious in exercising their present powers of procedural summarisations.

(i) The labour court proceedings should continue with the chairman and one member as per existing provision of the law.

(ii) In unintimated absences of the parties, the labour court should act strictly as per laws by either dismissing the case on default or deciding it ex-parte, as the case might be. The cases once decided ex-parte should never be revived.

(iii) A labour court should deem itself more as a court of arbitration rather than of law, and accordingly, it should follow summary procedures as frequently as possible.

(iv) The legal practitioners should be strictly barred from representing the parties in the hearing of their cases.

(b) A realistic standard for monthly case disposals should be set out and a monthly return on the actual number of cases disposed of should be sent to the Ministry of Labour.

(c) Instead of sitting for only about one and a half hours per working day, as they do at present, the courts should sit for the whole day with only a lunch break at noon.

(d) Time for prayers by the parties should not be allowed as a general rule. If time is allowed in exceptional cases, it should not exceed more than one week.

(e) A realistic maximum limit should be set (say 120 days), which the courts should be obliged to adhere to.

(f) The Chairman of a labour court should be obliged to consult with the written opinion of the members and mention such opinions in the delivered judgement.

(g) Analogous decisions on similar cases should be given.

(h) As practised in France,[76] a conciliatory session should precede the judgement session in the labour courts.

(3) Court members:

(a) As under Swedish model[77] by doing away with the present panel system of their part-time employment, the court members should be appointed on a full-time basis.

(b) Underqualified persons should not be appointed as labour court members. Certain minimum criteria should be fulfilled before they could be appointed as members.

(c) The members should be provided with certain minimum facilities (e.g. space for sitting, separate files of the cases, typing facilities etc.).

(4) Other measures:

(a) Regarding the location of the labour courts either of the two arrangements might be considered in substitution of the present arrangement - if the courts are kept Dhaka city based, all the courts should have the same venue; or alternatively, industrial zone-wise labour courts should be constituted.

(b) Violation of the labour court decisions should be made a more serious offence by amending the present penalty limits.

(c) Physical conditions of the labour courts should be gradually improved.

In addition to the above curative measures, recommended above, certain preventive measures may also be suggested so that lesser number of cases are filed in future than presently being filed.

Machineries prior to labour courts (bipartite and tripartite negotiations) should be more effective. Most cases originate from the unreasonable actions of the parties and as such much depends on the parties themselves to change their attitudes. The strengthening and activising of the present factory inspection machinery[78] may also indirectly help in preventing the origination of some cases by ensuring good working conditions within the plants. The elimination of the alleged black law, Section 19 of the Employment of Labour (Standing Orders) Act, 1965, under which any worker may be terminated from service at any time at the discretion of management, may satisfy a long felt demand of the workers and prevent some cases from originating.

8.3 Labour Appellate Tribunal

There is only one Labour Appellate Tribunal for the whole of Bangladesh, located at Dhaka.[79] As provided in the law, the tribunal consisted of only one member who was found to be a retired High Court Judge, aged 64, appointed on a one year contract. As were the labour court chairmen, so also the tribunal member was deprived of many usual service facilities which he enjoyed throughout his previous service life as a High Court Judge. For example, there was no stenographer attached to his office. He had no office car. The authority did not provide him with any house. The physical conditions of the tribunal were no better than those of the labour courts. The tribunal has no administrative control over the labour courts.

Cases coming to the tribunal are usually of two types - (a) appeals over labour court awards on charter of demands placed by the CBAs [80] and (b) appeals over interpretation of any provision of any award or settlement.[81] As observed by Bhattacharjee, the number of cases filed in the tribunal was insignificant, compared to those filed in the labour courts. He also observed an upward trend of cases being disposed by the tribunal, which might be due to a lesser number of cases being filed.[82] The tribunal member himself reported that the tribunal was significantly underloaded.

The tribunal cases mainly related to the private sector industries. As already indicated in Chapter IV, a few awards were appealed from the sample public sector industries immediately after independence when the industrial relations climate was largely unsettled. From 1974 onwards not even a single appeal case was ever referred to the tribunal from any of th sample industries. When asked to report how frequently they approached the tribunal for resolving disputes, the respondents (plant level managements and CBAs and corporation managements) were almost equally divided between "rarely" and "never" to have gone to tribunal.[83] A majority of the respondents reported the statutory time limit provided for deciding cases by the tribunal to be reasonably adequate.[84] A maximum number of respondents also thought that the tribunal was efectively performing its functions.[85]

It seems that, under the present legal framework, there is very little scope for public sector industrial disputes to be referred to the tribunal.In real cases, however, if any case is ever referred to it, the tribunal handles such a case with reasonable satisfaction of the parties concerned.

NOTES

1. Appendix E.1.
2. Bhattacharjee et al. also have found no instance of reference of an industrial dispute to an arbitrator either from any private or public sector industry. See Bhattacharjee, D. at al. Dispute Settlement and Promotion of Industrial Peace, op. cit. p.93.
3. Appendix E.2.
4. Appendix E.4.
5. Appendix D.1.
6. cf. Bhattacharjee et al., Dispute Settlement and Promotion of Industrial Peace, op cit. p.93.
7. Section 36 of the Industrial Relations Rules, 1977 provides for the methods of selecting labour court members.
8. As per law, an individual dispute is also treated as a collective dispute if it is taken up by the CBA of the concerned enterprise. See section 25(b) of the Employment of Labour (Standing Orders) Act, 1965.
9. Based on a cross-tabulation of the cases by the types of and the reasons for the cases.
10. Appendix D.7.
11. Appendix D.17.
12. Appendix E.1.
14. Appendix D.6.
15. For example, complaints on personal issues like lay-off, imposition of fines, suspension, termination, discharge, dismissal etc. must be raised to the labour courts within 30 days of receiving a decision or otherwise in this regard from the concerned management [Sec. 25(b) of the Employment of Labour (Standing Orders) Act, 1965]. In the case of a collective dispute, the aggrieved party must refer it to a labour court within 21 days of failing conciliation efforts on it [Section 9 (3) of the Industrial Relations (Regulation) Ordinance, 1975].
16. Appendix D.16.
17. Appendix D.9.
18. Appendix D.18.
19. Appendix D.19.

20. The comparative labour law studies conducted in five West European countries, for example, have examined the operation of the labour courts in those countries more in a subjective way than in relation to any specific criteria against which to measure their operational effectiveness. See B. Aaron (ed.), Labour Courts and Grievance Settlement in Western Europe (Berkeley: University of California Press, 1971); and K.W. Wedderburn and P.L. Davies, Employment Grievances and Disputes Procedures in Britain.
21. Section 32 (4) of the IRO, 1969.
22. Section 35 (7), Ibid.
23. Rule 32(3) of the Industrial Disputes Rules, 1960.
24. Section 36(1) of the IRO, 1969.
25. Section 59, Ibid.
26. Appendix D.20.
27. Ibid.
28. Section 35 (2) of the IRO, 1969.
29. Appendix D.14, statement (e); cf Sadullah, S.M. "Making Labour Courts more Effective in the Country", The Bangladesh Times, Dhaka, October 5, 1983.
30. Appendix D.21.
31. Rule 37 (d) of the Industrial Relations Rules, 1977.
32. Appendix D.21.
33. Appendix D.14, statement (g).
34. Appendix D.19.
35. Appendix D.14, statement (h).
36. It might be that the second party, usually management, was probably more aware of the legal implications of absence from hearing without intimation and usually kept the labour court intimated of such absences.
37. Appendix D.21.
38. Ibid.
39. Appendix D.14, statement (j).
40. Appendix D.21.
41. Ibid.
42. Appendix D.14., statement (f).
43. Appendix D.10.
44. Appendix E.9.
45. Based on a four-way cross-tabulation of the cases by reasons, court, industry, and outcome of the cases.

46. Appendix E.3.
47. Based on a cross-tabulation of the court members by their age and designation.
48. cf. Reza, A., Industrial Relations System of Pakistan, (Karachi: Bureau of Labour Publications, 1963), pp. 54-56.
49. Sadullah, S.M. op. cit.
50. Appendix D.4.
51. Based on a cross-distribution of the labour court members by their educational level and the parties they represented.
52. Based on a cross tabulation of the labour court level respondents by "whom represented" and "past and present jobs".
53. Ahmad, K., Labour Movement in Bangladesh, op. cit. chs. IV, V, and VIII.
54. See note 52.
55. Mahmood, K.A.F., "Labour Court: Composition and Functions", The Bangladesh Observer, January 12, 1984.
56. Bhattacharjee, D., "The Industrial Dispute Settlement System and Its Operational Effectiveness in Bangladesh", Dhaka University Studies, Part c, Vol. 3 No. 2, 1982.
57. Various issues (vols. 3 to 8) of the Bangladesh Labour Journal, Department of Labour, Government of Bangladesh.
58. Ibid.
59. Bhattacharjee, D., et al. Dispute Settlement and Promotion of Industrial Peace, op. cit. pp. 113-14.
60. Tables 8.2 and 8.3.
61. Appendix D.14, statement (b).
62. Ibid, statement (c).
63.

Normal working days per year	300
Sudden holidays	- 30
	270
Assumed disposal per day	x 2
Annual standard disposal	540

64. Appendix D.11.
65. Appendix D.14, statement (d).
66. Appendix D.12.
67. cf. Sadullah, S.M., op. cit.
68. Appendix D.21.
69. Appendix D.13.

70. Time length for a decided case meant the time actually taken to decide it, while for a pending case this was the time during which it was remaining pending from the date of its filing to the date of this investigation.

71. Mean time length	100.0%
Less mean time taken in serving notice on the second party	- 4.5%
Meantime length to be explained by other factors	95.5%

72. cf. Bhattarcharjee, D., et al. Dispute Settlement and Promotion of Industrial Peace, op. cit. p.115.
73. Ibid.
74. Sections 54 and 55 of the IRO, 1969.
75. Section 51, Ibid.
76. Blanc-Jouvan, X, "The Settlement of Labour Disputes in France", in Aaron, B., (ed.) Labour Courts and Grievance Settlement in Western Europe, op. cit.
77. Schmidt, F. "The Settlement of Employment Grievances in Sweden", Ibid.
78. As provided in Ch. II of the Factories Act, 1965.
79. Unless otherwise specified, this section is based on the information obtained through the author's personal interview with the only single member of the tribunal.
80. These are filed under Section 37 (3) of the IRO, 1969.
81. These are filed under Section 50, Ibid.
82. Bhattacharjee, D., "The Industrial Dispute Settlement System and Its Operational Effectiveness in Bangladesh", op. cit. pp. 89-90.
83. Appendix E.1.
84. Appendix E.2.
85. Appendix E.3.

CHAPTER IX

TOWARDS A CONTINGENCY MODEL OF EFFECTIVE DISPUTE RESOLUTION FOR THE BANGLADESH PUBLIC SECTOR INDUSTRIES

Conflict, latent or manifest, is an inevitable component of any industrial relations system, regardless of whether it is a socialist or capitalist system, or whether it applies to private or public sector industries. But the parties to the dispute are tied together on a long term basis and cannot generally break their relationship over the disputed issues.[1] Given the symbiotic nature of the industrial relationship every conflict is followed by its resolution.[2] Industrial disputes cannot be understood at all without a frame of reference that also includes resolution of such disputes. This is because an industrial dispute is not an end in itself but a means to an end. It is argued that disputes have both functional and dysfunctional aspects.[3] Having recognised the functional aspects of the disputes, the concerns of the actors of the industrial relations system are now to avoid the dysfunctional aspects through their proper rationalisation and institutionalisation and bringing them under reasonable rules and procedures.[4]

The previous chapters have described the various methods of resolution of the public sector industrial disputes in Bangladesh. The issues generally negotiated at each level and the variables affecting the effectiveness of operations of each level of the resulution process have been examined. The purpose of the present Chapter is to attempt to build a contingency model of effective dispute resolution for the Bangladesh public sector industries in the light of their peculiar administrative hierarchies, existing relationship patterns between the parties, nature of the issues for settlement, current problems of the dispute resolution machineries and possible future lines of improvement.

No specific model of dispute settlement is available for ready reference in the current literature. A large number of models on industrial relations systems[5] and collective bargaining process are, however, available. Thomson's and Murray's model on grievance

procedures,[6] Kahn-Freund's static and dynamic models on the nature of collective bargaining,[7] Walton's and McKersie's behavioural theory of negotiations,[8] Parker's and Scott's path model of workplace industrial relations[9] are all more or less relevant in the various phases of the dispute resolution process in the Bangladesh public sector.

The Chapter proceeds as follows. In section one, are summarised the major problems of the three levels of the whole dispute resolution process in the Bangladesh public sector basically in terms of the time perspective of their possible solutions. The issues[10] in dispute for settlement at different levels are summarised in section two in terms of the administrative hierarchies under which the public sector industries are managed and also in terms of their institutional settlement. In the light of the summarisations in sections one and two, section three examines the extent of applicability of certain industrial relations and collective bargaining models, developed by the western writers, referred to above, in improving the industrial relations and in enhancing the effectivness of dispute resolution in the Bangladesh public sector industries. Certain typical path models of dispute resolution at the plant, corporation and conciliation levels, developed from ideas largely borrowed from Parker and Scott, are presented in section four. Section five concludes the Chapter by making a general comment on a few pre-conditions to be present at the macro level before any structural changes in industrial relations vis-a-vis effective dispute resolution could occur.

9.1 Problems of Dispute Resolution Machineries and Their Tentative Solutions over Time

9.1.1. Problems of direct negotiation

A large number of problems relating to direct negotiation can be identified by summarising Chapter VI. Although many of these problems are reasonably interrelated, they may be broadly classified into six categories:

(a) Background of the parties: Managers of the public sector industries, in general, lack professionalism and experience. Those at the lower level, in particular, are not well-conversant about many provisions of the relevant labour laws. The educational level of the workers and plant level trade union leaders are very poor and hence they are not well-aware of many legal provisions and corporation policies applicable to their workplace and working relationship. Both unions and management generally lack mutual trust and confidence to each other. Each alleges the other to be unfair in approaches and dishonest in practices. Management recognises unions under legal obligations only but is not ready to accept any interference in their managerial prerogatives and as such does not appreciate the way the union leaders behave. Due to some objective conditions present in the union and bargaining structures, the union leaders also maintain an antagonistic relationship with the management.

(b) Plant level union structure: Multiple unions exist at the plant level under legal shelter. All unions are politically motivated. Each union is affiliated with a national or industrial federation of trade unions. The national/industrial federations, in fact, act more as labour fronts of the opposing political parties than for ideological and economic improvement of the workers. Unions generally do not observe democratic norms and values. Obscene language, critisisms, sarcasm, provocation, physical violence and even murders and killings are not uncommon. Inter-union rivalries have created a deadlock situation over the determination of the exclusive CBA in many cases. Under conditions of acute rivalries none of the unions can develop and maintain a co-operative relationship with management due to a fear of the opponent's allegation of being sold to management.

(c) Corporation level union structure: As at the plant level, multiple federations/central unions also work in most of the corporations. A very keen competition and extreme rivalry are characteristic features of these federations. As already noted, all have political orientations. Leaders of the federations are all non-workers and actively engaged in national politics. None of the

federations has affiliated unions in the majority of the plants. There is no corporation level CBA in any case and as a result, direct negotiations in some cases are totally deadlocked, and in others such negotiations have to be conducted with more than one federation. Problems also arise sometimes over the ratification (by plant level CBAs) of agreements negotiated at the corporation level with federations of the opponent block.

(d) Management structure and policies: Public sector industries are administered through a three tier management hierarchy - the Ministerial tier, the corporation level tier and the plant level tier. Authorities and responsibilities at each tier of administation have not been clearly defined. The policy of centralised administration is generally followed. Delegation of authority to plant level management is very much restricted. Little written policies have been given for the guidance of the plant level management. All these factors enable plant management to pass the buck to higher level tiers whenever any complication arises at the local level. Many trivial issues that can be reasonably solved at the plant level are referred to corporations. Bureaucratic formalities followed at the corporation level delay solution to problems in most cases. Neither the ministry nor the corporation has clear-cut policiesto be uniformly applied to specific problem situations. Whenever a problem arises, a fire-fighting measure is taken to solve it on an ad-hoc basis.

(e) Bargaining structure: Basic financial terms and conditions of service of the workers are centrally fixed by the Government and can not be increased through collective bargaining. Thus financial benefits are to remain fixed irrespective of continual sharp increases in the cost of living. No constitutional and peaceful method of increasing the size of the wage packet has been prescribed by the Government. Industry-wide strikes from time to time compel Government intervention, tripartite negotiation and some modifications in wage scales. Negotiation levels as to other issues (e.g. labour welfare, local problems, rights and obligations etc.) have not been clearly delineated. Plant management, therefore, is not willing to take any risk of negotiations with the plant level CBAs/unions and of any unpleasant decisions affecting their workers.

The scope of bargaining on basic financial issues being unavailable, plant level CBAs sometimes place demands on major labour welfare programmes of heavy financial implications which seem to be beyond the financial ability of the plant. Under the above limits of management and bargaining structures for the public sector industries, the 21 days time limit for concluding direct negotiation at the plant level has proven impractical.

(f) Negotiating behaviours: The parties, with their current background, operating under the above union, management and bargaining structures, frequently exhibit certain negotiating behaviours which are incompatible with democratic values and a co-operative approach to dispute resolution. Each party takes an obstinate attitude against the other. Unions place demands which management deems to be unreasonable and illegal. Unions bring allegations which managements turn down as being false. Unions take resort to irrational and coercive behaviours. Most of the collective agreements in the Bangladesh public sector industries were indeed signed under duress by following the "Gherao" model [11] of Maulana Bhasani.

9.1.2. Tentative solutions to direct negotiation problems

The above problems of direct negotiation might now be considered in terms of their possible solutions. Since most of the problems are interrelated, solution of one problem is likely to have a positive effect on the others. For example, an effective bargaining environment, in avoidance of unreasonable, coercive and destructive negotiating behaviours lies in the maturity of the parties and a reorganisation of the structural arrangements of unions, management hierarchies and collective bargaining.

(a) Maturity of the parties: Maturity of the parties is a function mainly of education, training and experience. These factors can not be changed overnight. These will have to be considered in relation to the national level literacy and industrial experience. A phased comprehensive training programme for trade union leaders and middle and lower level managers will probably do a lot in bringing maturity among the direct parties to negotiation over a medium term in time. The maturity of the workers, however, can not be expected to come about until after a long time.

It is apparent from the US experience that the mature, strong, stable and secure labour unions think and act differently then they did in their initial years of organisation.[12] Once the parties become mature and well established, they can structure the attitudes of one another in a positive direction towards mutual dependence, respect, trust, legitimacy of needs and objectives and friendliness. Mature parties can help one another to be co-operatively orientated in their interactions by applying the principles of certain psychological theories of attitude change.[13] Experience in Sweden seems to indicate that an organised labour movement can largely overcome the stagnating tendencies in the process of matturing, by such means as institutional arrangements for frequent meetings, extensive educational programmes, widespread participation in collective bargaining, reliance on democratic procedures and good internal communications, and a progressive spirit among the leadership and membership.[14]

(b) Reorganising authority structures: Much of the confusion is likely to be avoided by clearly specifying the inter-tier authorities and responsibilities, with more operational authority being given to plant management, and keeping the parties well-informed in these respects. This could possibly be done internally and over a short time.

(c) Reorganising union structures: The task of reorganising the union structures may be a very difficult one since it is very much interrelated with the national political system and the international conventions of "right to organise" and "freedom of association", ratified by Bangladesh. The alluvial soil of Bangladesh is not only fertile for the growth of various kinds of agricultural products, but seems to be a good ground for producing an abundance of parties and politics. Informed sources say that there are about 50 to 70 political parties in the country. Any foreigner may be amused to learn the fact that there are as many as 27 communist parties now in Bangladesh.[15] This political party grouping has its reflection on union organisation. On the face of current molecular divisions and rivalry among the trade unions two approaches - one short term and the other long term - may be

suggested. Over a short term, the Directorate of Labour should be more active in enforcing the law prohibiting the membership of workers to more than one union and in removing the negotiation deadlock through formal declaration of CBAs both at the plant and corporation levels according to the existing industrial relations rules of the country. Over a long term, the policy should be such as to discourage the multiplicity of unions both at the plant and corporation levels. There should not be any bar on the workers to organise, but they should be organised under one or two unions (at the plant level) or federations of unions (at the corporation level), executives to which should be periodically elected on the basis of personal qualifications and capabilities of the contesting candidates. The union or the federation having the maximum membership should be allowed to work as the single bargaining agent in the plant or the corporation concerned, as under the US model. [16]

(d) Inflation proofing and reorganisation of bargaining levels: On the face of a sharply increasing cost of living, which rises by about 40% every year, the statutorily fixed wage components without any constitutional provisions for their revision bear no justification. Either a permanent body, consisting of representatives of workers, corporation managements and Government, should be appointed to review and reconcile wage scales with changing cost of living, as is the practice in the Japanese public sector,[17] or provisions should be made for the tripartite negotiations between leaders of the federations of unions, corporation managements and Ministerial representatives at specific intervals of time, say after one or two years. Under either of these arrangements, plant level unions may be expected not to submit any illegal demands on basic financial terms and conditions of service to plant management. As to other financial issues and matters of rights and obligations, the inter-tier bargaining scopes should be clearly spelt out and effectively communicated so that the unions and federations can place demands to the appropriate levels. With authorities and responsibilities at each level concomitantly fixed, this measure might reduce the chances of buck passing and increase the possibility of effective negotiation at all levels.

Arrangements at national level inflation-proofing and a reorganisation of the bargaining structure may be done over a short period, if the authorities concerned so intend.

9.1.3. Problems of conciliation and their tentative solutions:

The role of conciliation in the resolution of public sector industrial disputes is very limited due to the peculiar bargaining structure of the industries in this sector. Few cases from the public sector are referred to conciliation and still fewer of those referred ultimately turn successful. A summarisation of Chapter VII reveals that conciliation being merely an extended collective bargaining, the usual problems of conciliation, as a separate dispute resolution machinery do not vary much from those of direct negotiation.

(a) Reasons for failing conciliation: Conciliation fails due to submission of illegal (unbargainable) demands by the CBA and financial constraints (problems related to bargaining structure); lack of authority on the part of management (problem related to management structure); inter-union rivalry, legal invalidity of the CBA and political orientation of the unions (problems related to union structure); CBA's weakness to justify demands, antagonistic relationship between the parties and non-co-operation of management in responding to letters or attending to conciliation meetings (problems related to background of the parties); adament attitude of the parties and false allegations (problems related to negotiating behaviours). Mention was made in the previous sub-section about these problems and their tentative solutions. If union, management and bargaining structures are reorganised in the lines suggested, it is very likely that only conciliable issues will be referred to the conciliators by the valid CBAs.

In addition to the above problems of negotiation, the effectiveness of conciliation is also affected by certain other objective and subjective conditions of conciliation.

(b) Objective conditions: Due to the centralised structure of the conciliation service itself, the regional and branch level conciliators can not work independently of the divisional conciliators. Physical conditions of the conciliation offices are poor. Office supplies, transport facilities and budgeting allocations are very scant.

In view of the better educated people now being employed at the lower level of the service, the Directorate may consider granting some degree of operational freedom on a long term basis. Alternatively, full operational flexibility may be granted in the hands of the expert conciliators, as suggested below in connection with the subjective conditions. Resource limitations of the Government may not allow drastic improvement of the physical conditions of the conciliation offices and of other office facilities, but a gradual improvement over a long term basis is highly recommended.

(c) Subjective conditions: The status of the conciliators from the top to the bottoem levels is regretably inadequate. Their pay and service conditions are poor. Due to poor service conditions, both in terms of pay and status, public sector managers, who usually happen to earn much more than the regional and branch level conciliators, feel a superiority complex and do not care much to co-operate with the conciliators. Poor pay scales compel some conciliators to get corrupted, particularly by private sector managers. The educational level of the existing conciliators in general is not high enough. Expert persons of wisdom and sagacity do not feel attracted to the Service due to poor service conditions.

Keeping in view the fact of a very light workload of the conciliators in Bangladesh, it may be argued that instead of increasing the number of conciliators, more attention should be given to their quality and competence even by offering attractive pay and service conditions. This may be done merely by reorganising the Conciliation Service without much additional cost implications. The less capable officers of the Service may be diverted to the

other departments of the Government suffering from staff shortages. Better service conditions being offered to those really committed to the Service and to a few expert new recruits, if needed, may be expected to do the task of conciliation more effectively than done by the existing conciliators. This reorganisation can be done gradually over a long period or radically over a short period depending on the intentions of the authorities concerned.

9.1.4. Problems of labour courts and their tentative solutions:

Excessive delay in decisions is the main problem with the labour courts in Bangladesh. In deciding the public sector cases, labour courts take more than thirteen times the statutorily allowed period. Several factors contribute to this total delay. Parties to the cases are themselves responsible for 50% of the delays, court members, including the chairman for 20% and court procedures and other miscellaneous factors for the rest. In an indirect sense, however, it is the Chairman who alone is responsible for almost the whole of the delays. It is because if the Chairman strictly follows the legal spirit and procedures, the effect of all others factors contributing to delays may be significantly reduced.

(a) Deviations from procedures: The major points of deviation from normative and legal procedures are the following:

(1) The court does not follow any basis for selecting the cases to be heard first. FIFO basis of hearing may be prescribed.

(2) Although the spirit of law is to discourage the representation of parties by lawyers during the course of hearing, this spirit is never realised by the court. The chairman should disallow the lawyers to represent the parties.

(3) The law requires the court to give an ex-parte decision in the event of the absence of the second party on the hearing date. But ex-parte decisions are seldom given.

(4) The law provides that cases may be heard and decided in the event of the absence of either of the court members. In practice, however, the court does not constitute or sit in the absence of any of the members.

(5) The law treats a labour court as a special court and requires it to decide the cases summarily without following the detailed procedures of an ordinary civil court. But summary decisions are rarely given. Enquiries, examinations and cross-examinations - all are done. Time is allowed very liberally whenever prayed by either of the parties.

(6) The court sits only for a short time (for 1.5 to 2.0 hours per day). Longer sessions may considerably increase the disposal rate of cases.

The rejection of the above procedural deviations largely depends upon the chairman of the courts who can set them right without much difficulty within a short time. In addition to the above procedural digressions, certain objective conditions of the courts and subjective characteristics of the court members and the chairmen also affect the effectiveness of operations of the labour courts.

(b) Objective conditions: Staff of the labour courts are short in number, inefficient in quality and skill, and corrupted in morality. The courts do not have adequate space for clients, visitors and court members. Furnitures and fixtures are inadequate. Physical conditions are very poor. Environment is very dirty. Office supplies are irregular and scarce.

Problems relating to staff are not peculiar to labour courts only but are very much common national problems of Bangladesh and no short cut solution can be suggested in these respects. Problems of physical conditions and space within the courts may be amenable to medium term solutions, while that of the office supplies to short-term solutions.

(c) Subjective conditions: Chairmen of the labour courts are appointed from the judicial service on the verge of their retirement. They frequently absent from courts due to sickness and retirement preparations. They do not have any industrial orientation and as such do not take so much interest in labour matters. They generally have an authoritarian attitude and as such do not bother so much to consult with the written opinion of the members while giving decisions. The status of the chairman of the courts has been degraded from what their status had been as District and/or Session Judges. The educational levels of the members representing the workers are poor on the average.

Turning to solutions of the problems relating to subjective conditions, appointment of young chairmen with adequate status being given to them may solve many of the problems. The chairmen and members of the labour courts should undergo a training course on industrial relations and objectives behind the constitution of the labour courts. All these may be done over a relatively short-run. The poor educational level of court members representing the workers, however, may not be radically changed in view of the general low level of educational standard of the workers and trade union leaders in Bangladesh. The legal prescription of certain minimum qualifications to be possessed by a person before he could be appointed as a labour court member and strict adherence to such pre-determined standards might be a positive short run step in this context.

9.2 Issues for Disputes and Their Suggested Channelisation

The specific issues for the public sector industrial disputes actually handled by the three dispute resolution machineries are summarised in this Section with a view to ascertaining their distributive and integrative potentials and then to suggesting the appropriate levels at which they could be best amenable to resolution.

9.2.1. Actual issues for disputes:

Through a review of the Chapters VI to VIII is prepared Table 9.1, column (1) of which shows a summary list of the various issues and columns (2) to (4) show the involvement of such issues at the specified dispute resolution machineries ("yes" indicating involvement and "blank" indicating non-involvement).

TABLE 9.1

Issues actually handled by the three dispute resolution machineries

Issues dealt (1)	Direct Negotiation (2)	Conciliation (3)	Labour Court (4)
1. Enhancement of wage scales	yes	yes	
2. Wage anomalies	yes	yes	yes
3. Bonuses	yes	yes	yes (anomalies)
4. Fringe benefits	yes	yes	yes (anomalies)
5. Holidays, leaves and hours of work	yes	yes	yes
6. Physical working conditions	yes	yes	
7. Disciplinary matters (discharges, dismissals, suspensions, fines etc.	yes	yes	yes
8. Other personal matters	yes		yes
9. Work organisation, administration and allocation	yes	yes	
10. Labour welfare	yes	yes	
11. Supply of materials and spares	yes		
12. Various special allowances	yes	yes	yes (anomalies)
13. Implementation of orders and circulars of the Government/corporation	yes	yes	
14. Administration and distribution of common funds	yes	yes	
15. Post service benefits	yes	yes	yes
16. Miscellaneous arrears		yes	
17. Ad-hoc relief and minor payments		yes	
18. Misconduct on the part of workers (negligence, theft, pilferage, misbehaviour, indiscipline etc.)	yes		
19. Misbehaviour and malpractices on the part of management	yes[1]	yes	
20. Workers' representation in various committees	yes	yes	
21. Trade union activities	yes	yes	
22. Illegal strike/lockout or threat to illegal strike/lockout		yes	
23. Cancellation of registration of trade union			yes

A considerable degree of commonness between issues at the direct negotiation and the conciliation machineries is evident. This is quite expected because concilition is merely an extension of direct negotiation. What is important to note is that in the absence of any well-defined bargaining and authority structures, many issues move through inappropriate channels. It is useless to carry on direct negotiation and tripartite negotiation (conciliation) over issues which are illegal for bargaining or over which plant management has no authority to negotiate. Much of the confusions, complexities and delays could be avoided through an adequate definition of the inter-tier authority structures in terms of the issues that should be placed at specific levels.

Labour court cases of individual nature are concerned with the enforcement of legal rights mostly over allegations of unfair dismissals and other disciplinary matters, and in some cases over wage scale anomalies and other personnel matters. Collective labour cases relate mainly to the cancellation of registration of the trade unions. A very few of the collective cases concern with interest issues.

9.2.2. Suggested channelisation of the issues:

Considering the outcome of the above issues and the present administrative and control system of the public sector industries, tentative lists of issues lending best to effective resolution at specific levels of the dispute resolution process are attempted.

(a) Issues for plant level:

(1) Supply of materials and spares;
(2) Misconduct (negligence, theft, pilferage, indiscipline);
(3) Disciplinary matters;
(4) Work organisation, administration and allocation;
(5) Ad-hoc reliefs and minor payments;
(6) Minor changes in physical conditions;
(7) Leaves and holidays (adjustment and administration);
(8) Trade union matters;
(9) Workers representation in various committees;
(10) Labour welfare issues

(b) Issues for corporation level:

(1) Wage scale anomalies (wages and fringe benefits);
(2) Incentive and production bonuses;
(3) Physical working conditions (major changes);
(4) Leaves and holidays;
(5) Various special allowances;
(6) Anomalies in the implementation of orders and circulars;
(7) Adjustment of Ministerial guidelines over basic terms and conditions of service.

(c) Issues concurrently for plant and corporation levels:

(1) Personnel matters (policies to corporation and implementation to plant);
(2) Administration and distribution of common funds;
(3) Misbehaviour and malpractices by management;
(4) Post service benefits (policies to corporation and implementation to plant);
(5) Miscellaneous arrears;
(6) Labour welfare (minor to plant and major to corporation).

(d) Issues for Ministerial level (as broad guidelines):

(1) Wages;
(2) Medical allowances;
(3) House allowances;
(4) Conveyance allowances;
(5) Post service benefits.

No separate list for conciliation is prepared. It is expected that if the three administrative and control levels function in co-ordination to each other, the scope for concilition in public sector industrial disputes will highly diminish. If any deadlock still arises only conciliable issues may be reasonably expected to be referred to conciliation. With gradual decentralisation in future some issues from the Corporation and concurrent lists may be expected to move to the plant level list. Since the scope of labour

courts for intervening in collective public sector interest disputes has been restricted in full, only rights disputes are being referred to labour courts and there is no possibility of any change in this trend in future.

It is to be noted that most of the issues listed for plant and corporation levels are of problem types (rights, obligations, plant administration etc.) having integrative potential. All issues for the Ministerial level are pure issues best amenable to distributive bargaining or some sort of periodical adjustments through either of the inflation proofing mechanisms already suggested in the previous section. These characteristics of the issues will be helpful in examining, in the next section, the applicability of certain models in the dispute handling process of the public sector industries in Bangladesh.

9.3 Applicability of Certain Western Models in the Industrial Relations vis-a-vis the Dispute handling Systems

On the basis of the nature of the dispute resolution problems and the types of issues for resolution through the various dispute resolution machineries, an attempt is made in this section to examine the extent to which certain existing models, developed by the western specialists, apply to the public sector industrial relations and dispute handling systems in Bangladesh.

9.3.1. Relationship patterns and bargaining models

Parties in dispute always work in some sort of a relationship pattern. What is the union management relationship pattern in the Bangladesh public sector industries? The major components of their relationship pattern have been mentioned in Section one. Now an attempt is made to blanket them under a specific pattern. Walton and McMcKersie[18] have developed a five point spectrum of the relationship patterns between union and management, starting from conflict at the left end, passing through containment aggression, accommodation, co-operation and ending to collusion at the right. They have identified four components of attitude peculiar to each of the five relationship patterns - (a) motivational orientation

and action tendencies, (b) beliefs and legitimacy of other, (c) level of trust and (d) degree of friendliness. Peterson and Tracy [19] have added "level of respect" as another dimension to the above four. The conceptual relationship patterns can thus be summarised through a 5 x 5 matrix, as shown in Figure 9.1.

Relationship Patterns / Additudinal Components	Conflict	Containment Aggression	Accommodation	Co-operation	Collusion
Motivational orientation and action tendancies	Extreme competitive tendency	Moderate competitive tendency	Individualistic, a hands-off policy	Co-operative tendency	Mutual coalition for blackmail
Beliefs about legitimacy of other	Denial of legitimacy	Grudging acceptance	Acceptance of status quo	Complete acceptance of legitimacy	Question of legitimacy does not arise
Level of trust	Extreme low trust	Relatively low trust	Limited trust	High trust	Trust based on blackmail
Degree of friendliness	Hate	Antagonism	Individualism	Moderate friendliness	Intimacy for blackmail
Degree of respect	Extreme disrespect	Disrespect	Limited respect	High respect	Respect based on the risk of exposure

(Based on Walton and McKersie, and Peterson and Tracy)

Fig. 9.1 ATTITUDINAL COMPONENTS OF THE CONCEPTUAL RELATIONSHIP PATTERNS

The present background of the parties and the structural arrangements of unions, management and collective bargaining have contributed to develop a general pattern which may aptly be designated as "Conflict-cum-Containment-Aggression" pattern in terms of the above conceptual models. The bargaining tactics used are largely distributive, [20] although the scope for distributive bargaining at the corporation level is limited, and at the plant level, it is still more limited. Under the rationalisation of the issues to be settled at the specific levels, as suggested above, three distinct sets of industrial relations are likely to emerge one at the plant level one at the corporation level, and the other at the national level. Plant level issues, consisting mainly

of rights and obligations, will have greater integrative potential and thus an accomodative and/or co-operative relationship pattern and an integrative bargaining[21] (problem solving) environment is more likely to evolve at the plant level. At the corporation level the bargaining relationship will probably vary depending on the nature of the issues for resolution. Over financial issues the relationship is more likely to be conflictful, the parties adopting distributive bargaining tactics. Over non-financial and rights and obligations issues, on the otherhand, the relationship pattern is likely to be more accomodative and co-operative, the bargaining tactics of the parties being largely integrative. The national level negotiations are likely to be largely conflictful at least until some norms are established.

9.3.2. Administrative, Equity and Power Models:

Thomson and Murray[22] have suggested three models of the grievance process basically from the viewpoint of management. These are: (a) administrative model, (b) equity model and (c) power model. Under the administrative model, the grievance process is essentially looked upon as an extension of the administrative process and applicable in situations where changes in status quo are not normally involved. The goal under this model is to get the best answer within the shortest possible time irrespective of whether procedural formalities are followed or not. Delegation of authority at the lower level of management facilitates effective operation of this model. Instead of viewing workers and management as adversaries of each other, this model views them as integral parts of the same administrative system. The essence of the model is the informal social relations.

The Equity model may be usefully applied in those situations where more or less formal rules exist in the form of law, collective agreement, stated management policies, customs and practices etc. As grievances arise, they are resolved as per pre-determined rules or customs applied equitably. Formality is the essence of this model, although some degree of informality has to be inevitably recognised.

The Power model applies to those situations which involve workers' challenges to the status quo. Formal procedures do not cover such challenges and hence lower level management are unable to resolve them. Irrespective of formal procedures claims type demands are resolved at the top level.

Although Thomson and Murray suggested these models in relation to grievance procedures, they also have applicability in the resolution of disputes more than grievances. Considering the relative immaturity of the parties in the Bangladesh public sector industries and their greater orientation to laws, rules and policies, a combination of administrative and equity models is more likely to work well in the conceptual plant level industrial relations. At the corporation and national levels, however, equity and power models should prove more effective.

9.3.3. Static and dynamic models

Kahn-Freund's[23] static and dynamic models of bargaining also have some relevance to the suggested model of dispute resolution for Bangladesh public sector industries. Static model is one in which parties sit periodically to negotiate and sign agreements. Agreements are made for a fixed period (say one or two years). Agreements are collective contracts. After the expiry of the contract period, the parties sit for a fresh agreement. Under the dynamic model of bargaining, on the other hand, parties create permanent joint institutions charged with the formulation of standards and adopting them to changed circumstances and demands. It is mainly a norm-creating process and may better be called "collective administration". Dynamic model characterises the British system, while the static, the American and other West European countries.

Although the static model applies in Bangladesh also, the scope for making plant level periodical agreements in the public sector industries is very limited. Under the model suggested for the national level, either of the Kahn-Freund's models may be alternatively applicable, depending on how wage revisions are

intended. If wage revisions are contemplated to be made through a permanent commission, which is not the tradition in Bangladesh though, it may take a dynamic model. Alternatively, wage revisions through tripartite collective agreements between the workers' federations, the corporation management and the Ministry, may be made as under the static model. Periodical agreements are likely at the corporation level. The plant level union and management being concerned mainly with the administration of the agreements made at the corporation level, some degree of dynamism within the limits of the corporation level agreements is likely to occur in the workplace relationship between the parties.

Thus in the context of Bangladesh public sector industries, under the structural rearrangements, as suggested, three sets of industrial relations vis-a-vis dispute resolution processes may be conceptualised. At the plant level, a cordial relationship (Walton's and McKersie's accomodative and co-operative patterns making most use of both the informal social relations and formal procedures (Thomson's and Murray's administrative and equity models) with some degree of dynamism (Kahn-Freund's dynamic model) within the broader terms of agreements made at the corporation level is conceived of. At the corporation level, on the other hand, a relatively conflictful relationship (Walton's and McKersie's conflict and containment aggression patterns) making most use of the organisational and political strengths (Thomson's and Murray's power model) and finally agreeing to periodical collective agreements (Kahn-Freund's static model) is contemplated. At the national level, a pattern somewhat similar to that at the corporation level is likely.

9.4 Contingency Path Models of Dispute Resolution for Bangladesh Public Sector Industries

In this section are depicted some path models[24] of dispute resolution, contingent upon the presence or absence of certain conditions in the industrial relations climate. These path models are expected to serve two purposes. First, they should help to look at the existing problems of the dispute resolution machineries, and second, they are likely to help making specific predictions of

outcome on the presence or otherwise of certain critical variables in the present structural arrangements or future re-arrangements (in the lines suggested) of the industrial relations components relating to the public sector industries.

Three path models are presented - one for the plant level, one for the corporation level and the other for the conciliation level. Only the disputes initiated by a CBA or federation of unions are exemplified. If disputes are initiated by management, however, the typical sets of paths, as depicted in the flow charts will have to be modified in certain respects. Since only the rights issues go to labour courts and the decisions of the courts are binding on the parties, the outcome of a labour court case seems to be over-simplified and not affected by so many complications as in other resolution machineries. No path model for the labour court level, is therefore, attempted.

In the depicted flow charts (Figures 9.2 to 9.4), the block capital type represents a change in the state of the system (outcome) and the small type represents decision points.

9.4.1. Path model for plant level

Figure 9.2 depicts a path model for plant level negotiations. A CBA raises a dispute. The first question to ask is whether it has been properly communicated to an appropriate person of the management. A positive answer to this question will follow the next question as to the adequacy of the negotiation procedure, which may include the bargainability of the issues, adequacy of authority, validity of the CBA, willingness of the parties to solve problems through negotiation etc., while a negative answer may follow the next question as to whether the existing industrial relationship pattern is good or bad. Even if the dispute is not properly communicated, negotiation may still happen provided the industrial relations climate is good. If negotiation procedures are adequate, it is very likely that the resolution will take the upper route.

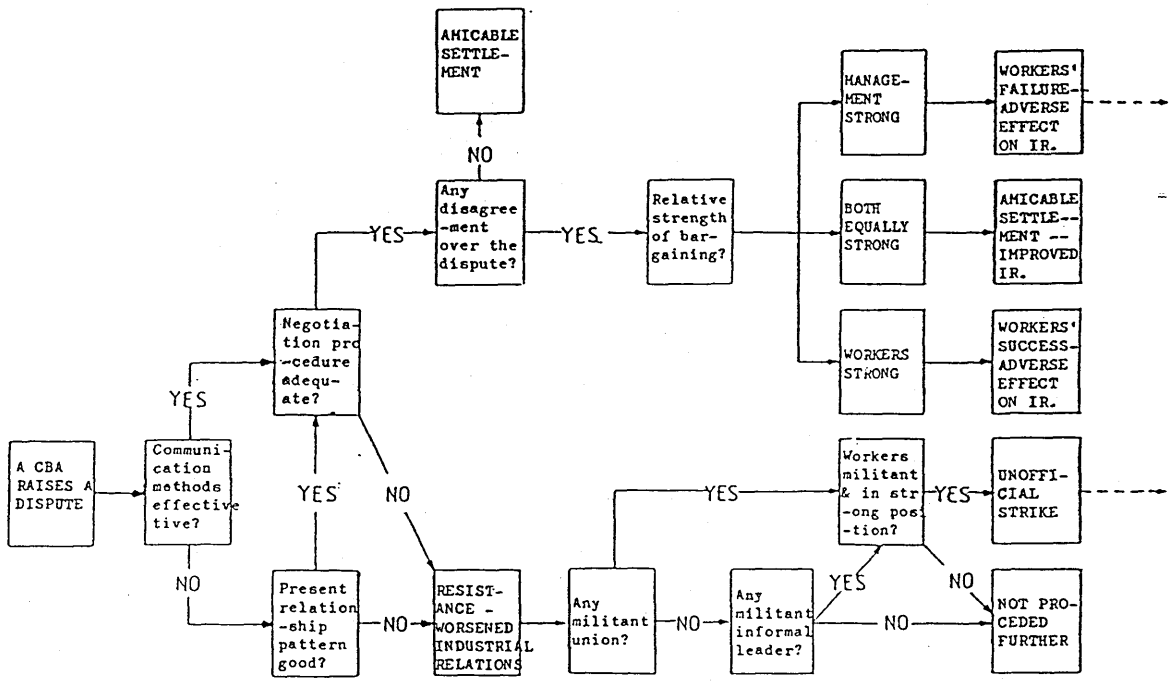


Fig. 9.2 A PATH MODEL FOR PLANT LEVEL SETTLEMENT OF PUBLIC SECTOR INDUSTRIAL DISPUTES (APPLICABLE FOR LOCAL ISSUES)

The first question in the upper route is: is there any disagreement between the parties over the issues in dispute? An amicable settlement is likely to be made if there is no/little disagreement. In the case of disagreements, however, the ultimate resolution pattern will depend on the relative strength of the parties, of which there are three possibilities - (a) workers may be stronger relative to management, or (b) both sides may be equally strong or (c) management's side may be stronger relative to workers'. When both sides are equally strong, an amicable settlement with its consequent positive effect on industrial relations is likely to occur.[25] But when one party is stronger relative to the other, the settlement is very likely to be in favour of the stronger party with a resultant adverse effect on industrial relations.

Now turning to the lower route, the absence of effective communication methods, inadequate negotiation procedures and an unfavourable industrial relations climate are likely to further worsen the relation between the parties with a concomitant resistence of one against the other. At this point the route may divide in either of the two possible directions: first, the formal CBA being in a deadlocked position, if there is any other militant union or an informal leader,and if workers are also militant and strong in their position, an unofficial strike is very likely to occur. Second, if none of the unions is so strong or if there is no militant informal leader, and the workers are divided and weak in their positions, the dispute will not probably proceed any further. The broken paths indicate that there are more stories to be told. An unofficial strike may end in a variety of alternative ways. Workers' failure to achieve success may follow subsequent stages of resolution, including official strikes and their aftermaths.

At present, in the absence of proper negotiating arrangements most of the disputes cannot take the upper route of the Figure. Unions and workers being divided and weak, many disputes are not followed up. Unofficial strikes sometimes occur, particularly in the manufacturing industries, whenever workers and one or more of the unions are militant. Under the suggested structural rearrangements, it is expected that most disputes will go through the upper route and with gradual maturity of the parties, most of the disputes will be settled amicably with its consequent favourable effect on industrial relations.

9.4.2. Path model for corporation level

Figure 9.3 depicts a path model for the corporation level resolution. A federation submits a charter of demands to corporation management. The first question to ask is whether the federation is a registered one. If it is not, it is legally disqualified to work as a federation and hence to enter into negotiations. If it is registered, the next question that may arise is: has the federation the support of the majority of the plant

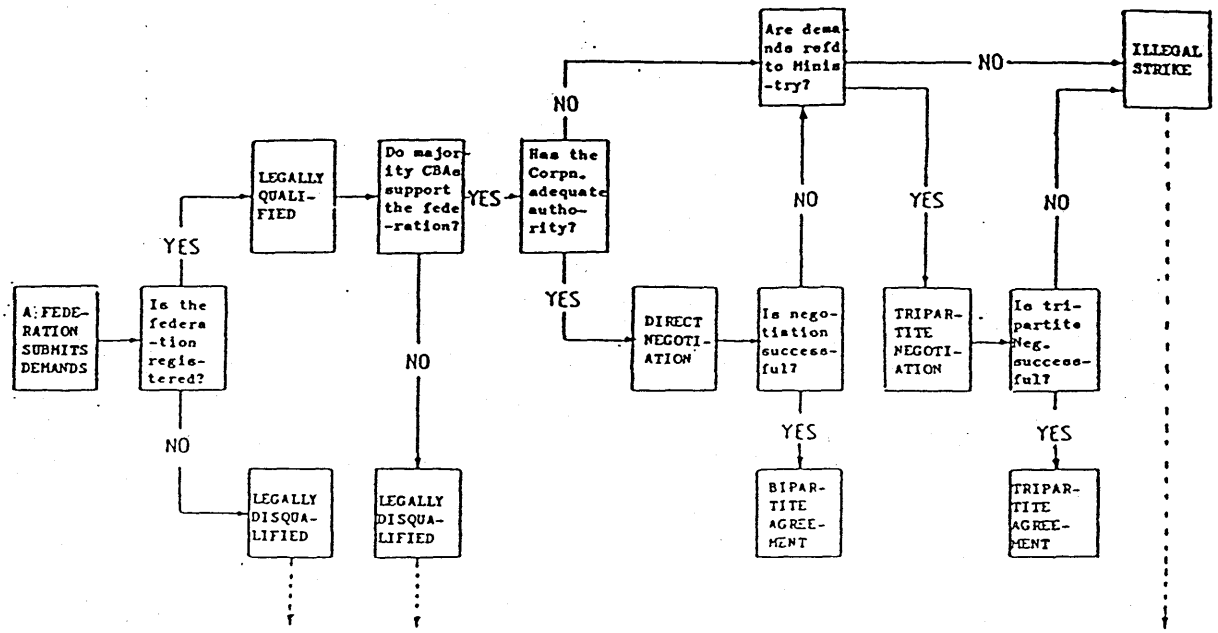


Fig. 9.3 A PATH MODEL OF CORPORATION LEVEL DISPUTE RESOLUTION

level CBAs? If it does not, it should still be legally disqualified to enter into negotiations with the corporation management. If the federation submitting demands has the support of majority CBAs, the third question to ask is: has the corporation adequate authority to negotiate on the demands? If it does, direct negotiation will start and if negotiation is successful, a bipartite agreement is likely to be signed. If the corporation does not have adequate authority to negotiate or if direct negotiation fails, demands are likely to be referred to the Ministry. If these are so referred, a tripartite negotiation will probably occur and this may result in the formulation of a tripartite agreement provided the negotiation is successful. When tripartite negotiators turn unsuccessful or when demands are not referred to the Ministry, illegal strike may occur.

Broken lines indicate that stories have not ended. Though legally disqualified, federations without registration still work in the Bangladesh public sector usually under the shelter of the political party in power. Federations without the support of the majority CBAs, still carry negotiations with corporation management. Illegal strikes occur and are resolved in some way or other. Under the

suggested structural rearrangements, it is expected that the demands will be raised by the authoritative federations and will move through appropriate routes resulting in effective bipartite and tripartite agreements with less chance of illegal and unofficial strikes.

9.4.3. Path model for resolution through conciliation

Figure 9.4 describes a path model for dispute resolution through the concilition machinery. A CBA applies to a conciliator to conciliate in a particular industrial dispute. A consecutive series of questions are likely to be confronted, positive answers to which should lead to an effective concilition:

(1) Is CBA valid? If, on scrutiny, it is found that the CBA suffers from legal invalidity, the question of any negotiation with it does not arise. Many of the conciliatory attempts can not be successful due to a lack of locus-standi of the CBA. The second question arises only when the CBA is valid.

(2) Is management co-operative? Co-operativeness here refers to the tendency of management to respond to letters from the conciliator and to attend to conciliation meetings called by him. It has been observed that very many conciliation attempts failed due to non-co-operation of management with the conciliator. The third question arises only when management is co-operative.

(3) Are issues bargainable? It is of no use to sit in conciliation meetings over issues which are not bargainable under law. If issues are bargainable, then a fourth question arises.

(4) Does management have authority? Although the issues are bargainable, under the centralised system of administration, the plant management may not have adequate authority to negotiate any agreement over the issues in question. In that case, the concilition is bound to fail. If the plant management does have adequate authority, the success of conciliation is likely to depend on the positive answers to the following and some other questions.

(5) Is the relationship pattern between the parties co-operative? Is the conciliator adequately skillful? Does the plant have adequate financial authority?

If these and some other related questions are answered in the affirmative, there is a strong likelihood of successful conciliation. Negative answers to all or most of these questions are very likely to develop a deadlocked situation resulting in the ultimate failure of the concilition.

The failure of conciliation does not end the story. Broken lines suggest something more to happen after the failure (e.g. reference to corporation or Ministry, official or unofficial strikes etc.).

Under the structural rearrangements suggested only the valid CBAs are likely to refer only the conciliable issues (bargainable under law and management having authority) to the conciliator with greater chances of success.

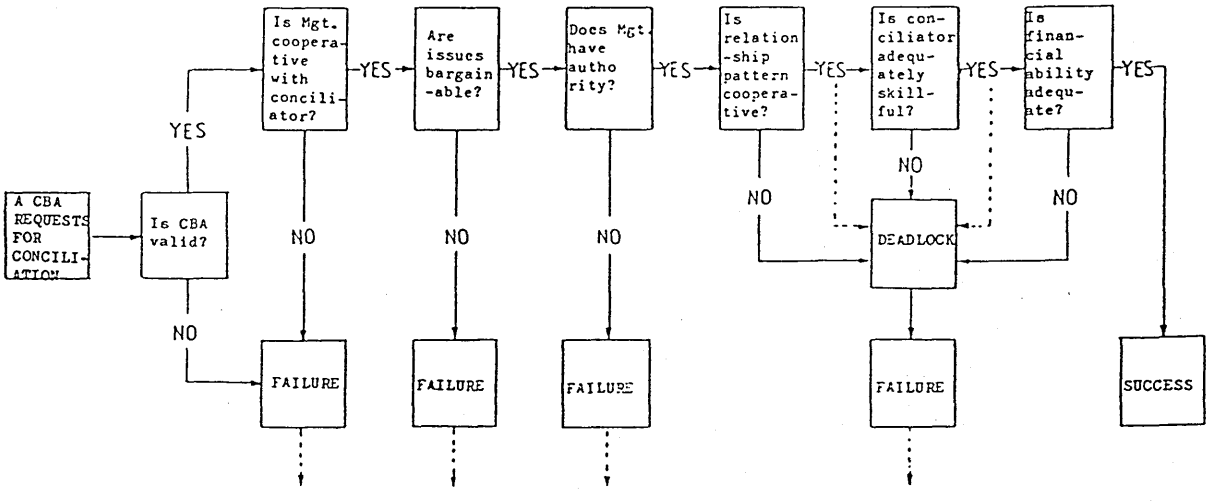


Fig. 9.4 A PATH MODEL OF CONCILIATION IN PUBLIC SECTOR INDUSTRIAL DISPUTES

9.5 Concluding Remarks

Central to the understanding of and suggesting any measure for improvement in the industrial relations and dispute resolution system of a country are its socio-political and economic contexts. Each country develops a system in relation to its own historical, political, social and economic contexts.[26] Although a country may have something to benefit from the experiences of the other countries, transplantation of foreign model may not operate well in the country of its importation having contexts different from those under which it was originally developed.[27]

No country finds managing public sector industrial relations an easy task.[28] This seems to be more difficult in the Bangladesh context. This is because public sector industries in Bangladesh cover a wide range of activities and are governed by a mix of market and bureaucratic rules. The objectives which the public sector managers are to achieve are very much fluid, which generates a lot of confusions and problems concerning all functional aspects, including the management of industrial relations. The structural re-arrangements suggested in this Chapter as preconditions to effective dispute resolution pre-supposes a clear and stable assignment of the specific objectives the public sector industries and their managers are to achieve. A long term perspective with regard to the public sector industries and a political commitment to that end are the essential pre-conditions before any structural change could be made. Under a situation of frequent political changes, with each new elite coming to power having a different way of thinking about the future of the public sector industries, the present practices of ad-hoc and fire-fighting arrangements can not be expected to be substituted by any stable structural re-arrangements in the right direction.

NOTES

1. Barbash, J., "Collective Bargaining and the Theory of Conflict", British Journal of Industrial Relations, Vol. 18, 1980, p. 87.
2. Ibid. pp. 86-87.
3. Kornhauser, A. et. al. Industrial Conflict, op. cit.; Coser, L.A., The Functions of Social Conflict, op. cit.
4. Stagner and Rosen, Psychology of Union Management Relations, op. cit. p. 117.
5. (a) Dunlop, J.T. Industrial Relations Systems, Holt, New York 1958. (b) Hyman, R. Industrial Relations - a Marxist Introduction, Macmillan Press, London, 1975. (c) Blain, A.N.J., and Genard, J., "Industrial Relations Theory - A Critical Review", British Journal of Industrial Relations, Vol. VIII, No. 3, November, 1970. (d) Reeves, T.K., "Constrained and Facilitated Behaviour - a Typology of Behaviour in Economic Organisations", British Journal of Industrial Relations, Vol. V, No. 2, July, 1967.
6. Thomson and Murray, Grievance Procedures, op. cit.
7. Freund D.K., "The Resolution of Social Conflict" British Journal of Sociology, Vol. 5, 1954, pp. 193-227.
8. Walton and McKersie, A Behavioural Theory of Labour Negotiations op. cit.
9. Parker, S.R. and Scott, M.H., "Developing Models of Workplace Industrial Relations", British Journal of Industrial Relations, Vol. IX, No.2, July 1971.
10. Walton and McKersie have classified the agenda items for negotiation into (a) issues, (b) problems and (c) mixed items. They have made this classification in terms of two dimensions of the underlying structure of pay-offs: the total value available to both parties and the shares of the total available to each party. An issue describes a situation in which parties have to bargain over a fixed total value and when one party's gain is a loss to the other. A problem, on the other hand, is a matter of common concern. In a problem situation, the parties increase the value of the total joint gain without respect to the division of the pay-offs. In a mixed situation, the parties simultaneously engage in increasing the joint gain on the one hand and the individual shares on the other. Walton and

McKersie, op. cit. The term issue is used throughout the Chapter in a broader sense to include all agenda items, unless otherwise specified.

11. The word "Gherao" means to surround. Maulana Bhasani used the "gherao" model in 1968 as a political weapon by which the offices of the bureaucrats and ministers were surrounded to realise certain political goals. The same practice spread to mills and factors also. Under this practice, the workers "gherao" the office of the management, wrongfully confine them and force and intimidate them to sign illegal agreements, which under law become binding on management. See Ahmad, K., Labour Movement in Bangladesh, Inside Library, Dhaka, 1978.
12. Lester, R.A., As Unions Mature, (Princeton: Princeton University Press, 1958).
13. One effective theory to directly change the attitude is the "Cognitive Balance Theory" which states that a person feels a psychological strain in holding imbalanced cognitions in mind, and hence there is always an urge for balance. By introducing a new and discrepant cognition into the cognitive field of the opponent a party can influence his opponent's attitude towards him. Heider, F., The Psychology of Interpersonal Relations, John Wiley and Sons Inc., New York, 1958. Another important theory for changing behaviour directly and attitude indirectly is the "Reinforcement Theory", the essence of which is: a behaviour which is rewarded is repeated and vice-versa. Skinner, B.F., Science and Human Behaviour, The Macmillan Co., New York, 1953 and Homans, G.I.C., Social Behaviour: Its elementary Forms, Harcourt, Bruce and World Inc., New York, 1961. A detaileds description of how these theories can be practically used in the field of labour management negotiations is available in Walton and McKersie, op. cit. ch. VII. Also see Warr, P., Psychology and Collective Bargaining (London: Hutchinson & Co., 1973).
14. Lester, op. cit. pp. 79-88; Schmidt, F. "The Settlement of Employment Grievances in Sweden", in Aaron, B. (ed.), Labour Courts and Grievance Settlement in Western Europe, op. cit. pp.
15. Gupta, B.D. "Politics" in Bangladesh Year Book (Dhaka: Progoti Prokashani, 1983), pp. 19-23.

16. Rehmus, C.A., "Labour Relations in the Public Sector in the United States", in Rehmus, C.M. (ed.) Public Employment Labour Relations: An overview of Eleven Nations, Ann Arbor, Institute of Labour and Industrial Relations, University of Michigan, 1975, pp. 19-41.
17. Koshiro, K., "Wage Determination in the National Public Service in Japan: Changes and Prospects", in Rehmus, C.M. (ed.), Public Employment Labour Relations. Ibid. pp. 43-61.
18. Walton and McKersie, op. cit. pp. 185-90.
19. Peterson, R.B., and Tracy, L.N., "A Behavioural Model of Problem Solving in Labour Negotiations", British Journal of Industrial Relations, Vol. XIV, No. 2, 1976, pp
20. The joint decision making process for resolving conflicts of interest is distributive bargaining. It refers to the activity of dividing the limited resources. It describes a situation in which there is some fixed value available to the parties but in which they may influence shares which go to each. Walton and McKersie op. cit. pp. 11-13.
21. Integrative bargaining is the process by which the parties attempt to increase the size of the joint gain without respect to the division of the pay-offs. Walton and McKersie, op. cit. p. 13.
22. Thomson and Murray, op. cit. pp. 117-20.
23. Kahn-Freund, op. cit.
24. Path Models attempt to describe the sequences of events and their dependence on conditions existing at various times. The idea of path models has been borrowed from Parker and Scott, op. cit.
25. A mutual acceptance of certain norms and values for achieving co-operative solution to problems in question is a precondition of this assumption, however. If either of the parties behaves irrationally, this assumption may not hold good.
26. Dunlop, Industrial Relations System, op. cit.
27. Aaron (ed.), Labour Courts and Grievance Settlement in Western Europe, op. cit.

28. This is evident from the comparative studies in public employment labour relations conducted under the direction of Professor Rehmus, C.M. and Smith, R.A. of the University of Michigan and some other studies. McPherson, W.H., Public Employee Relations in West Germany, Institute of Labour and Industrial Relations (ILIR), University of Michigan, 1971; Rehmus C.M. (ed.), Public Employment Labour Relations: An overview of Eleven Countries", op. cit.; Moskow, M.H. et al., Collective Bargaining in Public Employment (New York: Random House, 1970); Wehmhoerner, A. (ed.), Labour Management Relations in Public Enterprises in Asia, op. cit.; ILO, Labour Management Relations in Public Enterprise in Africa (Geneva: ILO, 1983).

CHAPTER X

SUMMARY OF FINDINGS AND IMPLICATIONS FOR POLICY

The objectives which the study aimed at, as set out in the introductory Chapter, are expected by now to have, in some manner, been achieved. The purpose of this last Chapter is to draw some conclusions based on the major observations made in the earlier Chapters, which the policy makers may consider in ensuring industrial peace in the public sector industries through effective settlement of disputes between management and labour and thereby enhancing productivity in such industries.

(1) As in many other developing countries,[1] so also in Bangladesh public sector industries play a very significant role in her economy. Industrial peace, as a precondition to increased productivity, in such industries should be emphasised by all.

(2) Contrary to general expectations, post-liberation Bangladesh, characterised by massive nationalisation of industries seems to have experienced more intense industrial conflict than in the pre-liberation period, characterised mainly by privatisation policy of industrialisation.

(3) The linear trend lines fitted to the strike data relating to certain selected public sector industries indicate an increasing trend in terms of all the measures of conflict, except for the dispute coverage ratio. Disputes not involving stoppage of work (i.e. those successfully settled at the conciliation level) also indicate an increasing trend.

(4) Contrary to the general belief, there exists a positive correlation between real wages and man days lost in disputes, which is indicative of two causative situations - (a) due to political suppression of union activities, strikes can not increase during periods of falling real wages, and (b) compared to workers' needs and expectations, too meagre increases in real wages can not divert the increasing trend of disputes in the public sector industries.

(5) Financial issues and wage scale anomalies, involving about 80% of all strikes in the public sector industries, 82% of workers involved and 87% of man days lost in such strikes during the decade 1972-82, seem to be the major issues for industrial disputes in Bangladesh public sector industries.

(6) The economic and political-organisational Theories[2] of industrial conflict best describe the strike behaviour in Bangladesh public sector industries - disputes emerging out of economic issues and their manifestation depending on the workers' political and organisational strength. The union membership strength as a single independent factor explains 22% of the variation in the number of disputes, 32% of that of the workers involved in such disputes and 43% of that of the man-days lost due to such strikes in certain selected public sector industries.

(7) Other factors remaining the same, bipartite negotiation, whatever may be its form - informal discussion or grievance procedure or participation committee or collective bargaining - and tripartite negotiation (conciliation) presuppose a congenial working relationship between the parties concerned, which is very much lacking in the Bangladesh public sector industries. The workers and managers of these industries come from completely different social background and hold quite opposing views against each other. Before any direct or assisted negotiation could be effective, the parties must agree, in the language of Stagner and Rosen,[3] to some sort of a "psychological contract" over certain desirable norms and codes of behaviour on the part of both sides. A phased comprehensive training programme has a significant role to play in this context.

(8) The multiplicity of unions at the plant level and federations of unions at the corporation level, and consequent rivalry between them acts as a serious bottleneck in the way of sensible negotiations both at bipartite and tripartite levels. Under a situation of frequent political changes, different unions/ federations become influential under the patronage of the party controlling the Government. Due to workers' allegiance to different unions, they are sometimes not willing to abide by the agreements

which were already made by some other opponent unions/federations. Deadlocks arise over the determination of CBA and management finds it difficult as to whom to consult and negotiate. An immediate step is due tobe taken to determine the CBA for each plant and corporation through direct election. A union or federation securing the maximum number of votes should be declared as the CBA. On a long term basis, however, policies should be so taken as to organise the workers in each plant or corporation under as minimum a number of unions or federations as possible.

(9) At the plant level, disputes of individual nature are usually settled through informal discussion and administative decisions. None of the public sector industries has any multi-stage formal grievance procedure, as practised in the developed countries. The legal grievance procedure generally used in all plants over such punitive matters as dismissals, discharges, termination etc. has been found to be very imprecise and undefined. Although all industrial relations laws of the country emphasise the formation and operation of the participation committee to resolve differences at the unit level, neither of the parties has realised this spirit of laws.

(10) Under the present system of management of the public sector industries, all policy making powers rest with the Ministry concerned and major administrative and controlling powers with the respective corporations. The plants as operational units have very limited authority. Inter-hierarchical authorities and responsibilities have not been clearly spelt-out. Under such a situation, plant managements do not take any risk and responsibility and frequently refer problems, even trivial ones, to higher authorities who usually follow bureaucratic rules and thereby make unusual delays in finally disposing of the cases so referred, causing serious frustration among the workers affected.

(11) The issues to be negotiated or bargained at each level of the administrative hierarchies of the public sector industries, or to be settled by the institutional dispute resolution machineries are fuzzy and ambiguous. Plant level unions, therefore, raise many issues at inappropriate levels, negotiations over which naturally

fail. Under such a situation, fixing of authority and accountability at various levels and a demarcation of the issues to be negotiated or settled at each level might do a lot in the institutionalisation and effective resolution of public sector industrial disputes.

(12) An average conciliator has been found to be underqualified, but fairly aged and experienced, lacking relevant eductional and job backgrounds and devoid of adequate status and prestige. His neutrality is not out of question. His workload is very light, particularly at the branch and regional levels. His office suffers from certain acute physical conditions and administrative problems. Compared to direct negotiation and labour courts, the conciliators could reasonably adhere to statutorily provided time in disposing of the disputes referred to them. But their success in signed agreements show a decreasing trend.

Of the three major institutional machineries - direct negotiation, conciliation and labour courts - conciliation has been found as being the least used method of dispute resolution in the public sector. A very few of the disputes from public sector industries are referred to conciliation, and still fewer of them ultimately turn out as successful. Conciliation being defined as an assisted collective bargaining, the reasons for failing conciliation have been found to be similar to those for failing direct negotiation, in addition to most managements being non-co-operative and unobliged with the conciliators. For commanding respect, confidence and co-operation from the parties and effective settlement of disputes, expert, well-qualified and experienced conciliators should be engaged into the Service by providing good service conditions and pay. This might be done, without any significant cost implications, merely by reorganising the Service itself. Under the present contexts of centralised, uniform and standardised service conditions of public sector workers, conciliation, however, has a very limited role to play in the dispute settlement process.

(13) On failing conciliation, although the law emphasises resolution of disputes through arbitration, a considerable reluctance on the part of all concerned towards this machinery has been observed. As for conciliation and labour courts, so also for arbitration, the scope for settlement of public sector collective disputes seems to be very limited in the peculiar contexts under which such industries are to operate.

(14) Public sector disputes dealt by the labour courts are generally of an individual nature. The courts do not follow any formal procedure in selecting the cases for hearing. Whims of the peshkars and persuasion of the parties (even by offering bribes) are the usual bases of hearing cases. Although the law emphasises ensuring industrial justice through quick settlement of the cases referred to them, the labour courts have been found to be very negligent in making procedural summarisations in hearing and deciding the cases. Lack of seriousness on the part of the courts' chairmen who are usually retired or about-to-retire senior members of the judicial service, necessarily spending their whole life in the traditional civil and session courts, and having very little orientation with industrial way of life, seems to be the main reason for the court's negligence in pursuing summary procedures.

Due to non-adherence to summary procedures and short sittings per working day, cases pile up as pending and the courts are artificially shown to be very loaded. As against a statutorily allowed period of 2 months for giving decision on a case by a labour court, the average time taken for deciding public sector cases is found to be 17 months for the first and 31 months for the second labour courts. Regarding the specific reasons for delay, it is found that the parties themselves are responsible for half of the total delays - the first party (usually workers) for 20% and the second party (usually management) for 30%. They either pray for time or absent from the hearing on the scheduled dates. Court procedures and pressure of work explain more than 22% of the total delays. The members and chairmen of the courts directly account for 14% and 5% of the delays respectively. Although there are inter-court differences as to the reasons for delay in absolute terms, the patterns of influence of the delaying factors are relatively similar in between the courts.

(15) The present legal framework of dispute settlement, provided by the IRO, 1969, which was origianlly framed in the pre-liberation context, characterised with privatisation policy, seems incompatible for public sector industries in the following respects:

(a) 21 day direct negotiation period allowed to the plant management, without granting any authority to it to negotiate on the disputes raised, seems meaningless.

(b) The IRO, 1969 does not consider the peculiarity of the administrative structure of the public sector industries. Most issues for disputes are referred to corporations which take unusually long time in disposing of the cases so referred. The IRO should have a provision for a maximum time limit within which a corporation is to dispose of the cases referred to it.

(c) The provisions of the IRO, 1969 and the State-owned Manufacturing Workers (Terms and Conditions of Services) Act, 1974 appear to be contradictory in that the former provides the strike right to workers after the failure of direct negotiation and conciliation over any industrial dispute irrespective of whether it relates to private or public sector industries, but the latter Act prohibits this right over the basic financial terms and conditions of service. In line with the restrictions imposed by the latter Act, the IRO should specifically provide that collective interest disputes over such economic issues should not be raised before any plant management or conciliator or labour court.

(d) Public sector disputes relating only to rights issues are handled by the labour courts and since judgements on rights issues always take the form of "decisions", the chance of such issues going to the labour appellate tribunal is very rare.

(16) Under a situation of acute unemployment and weaknesses in the organisation of workers, they can not bargain at equal terms with managements of public sector industries, who practically represent the Government of the country. Much, therefore, depends on the attitudes and policies of the Government towards public sector industries and workers working therein. It is disappointing to note that over a 36 year period of the industrial relations history of Bangladesh, as many as six labour policies were adopted by the Government, with a view to improving the lot of workers, but none of them were faithfully implemented, and the economic position of the workers in 1982 seems to be no better or even worse than what their position was before adopting the first policy.

(17) Although Government takes care of the financial terms and conditions of service of the workers in the public sector industries by fixing uniform and standardised wages and pay scales and strictly prohibits changing or revising these issues, disputes on such issues still arise at both plant and corporation levels. Uniformity and standardisation of wages and fringe benefits without respect to the cost of living, the amount and quality of work done and the inter-industry and inter-plant diversities seem to work as a deterrent to sound labour-management relations and increased productivity of the public sector industries. While it is essential to have a national wages system for the public sector industries, there should also be room for adjustments to be negotiated at the corporation and plant levels necessitated by local circumstances.

(18) Finally, with respect to a possible model for improving the future public sector industrial relations, it may be worthwhile to keep in mind that although any country may have something to gain from the attractive features of the industrial relations experiences of some other countries, they cannot be imported and incorporated directly into another system. Rejection of such transplants is almost sure to follow, because they cannot flourish in a society

which is bound to be alien in so many ways to the one that gave them life. The dispute settlement machinery in any country should develop out of and be conditioned by a wide variety of factors - historical, economic and social.[4] Keeping the three-tier administrative structure of the Bangladesh public sector industries in view and considering the tentative solutions to present problems of the institutional machineries a model of industrial relations consisting of three levels - national level, corporation level and plant level - may be suggested, as depicted in Figure 10.1.

At the national level, instead of the present practice of unilateral fixation of wages and fringe benefits by the Government, such benefits may be determined according to the principle of tripartism, under which representatives of the various corporation managements, national level leaders of federations of trade unions, and Government may form either a permanent body to make a continuous review, or they may sit periodically to make a periodical review of the overall changes in the economy and reach basic agreement as to the minimum wages and fringe benefits for the public sector workers.

The corporation level industrial relations may be governed by substantive periodical agreements to be made in consideration of the basic agreements made at the national level and to adjust for the peculiarities of the corporation concerned.

At the plant level, managements of individual plants and their respective plant level CBAs may make procedural agreements within the broader scope of the substantive agreements made at the corporation level to suit for the diverse operating efficiency of the plants concerned and workers thereof.

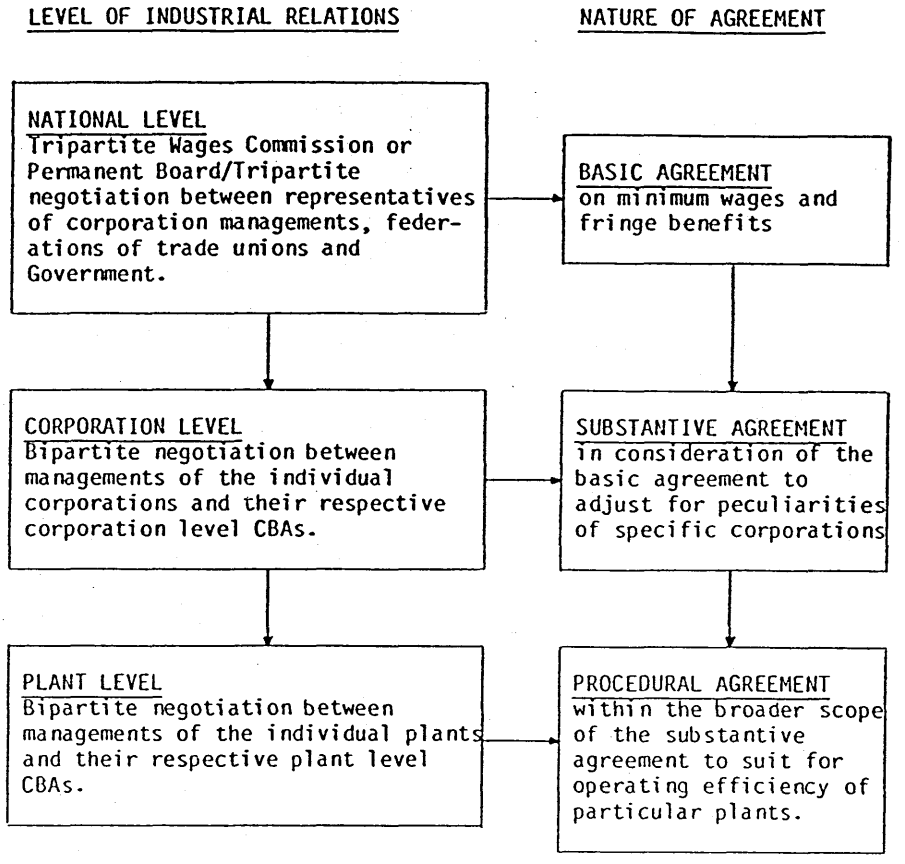


Fig. 10.1 A SUGGESTED MODEL OF PUBLIC SECTOR INDUSTRIAL RELATIONS IN BANGLADESH

Evidently the working of this suggested model pre-supposes the following as major contingent factors:

(a) A long term perspective of the Government towards public sector industries;

(b) Assignment of specific objectives (including industrial relations) such industries are to achieve;

(c) Committment of management to achieve the assigned objectives;

(d) Well structured organisation of workers at all levels - plant, corporation and national; and

(e) Change of attitudes of the direct parties towards a unitary concept of public sector industries.

Under this suggested model, most issues (both interest and rights) arising at the plant and corporation levels are expected to be effectively settled by the concerned parties themselves. The potential for conciliation, arbitration and labour appellate tribunal is likely to either terminate or significantly reduce. Labour courts will continue to deal with only rights issues not resolved through direct negotiation. Proper manning of the labour courts and arrangements for training of the court members, including the chairmen, on the industrial relations laws and policies will hasten quick disposal of the cases to the reasonable satisfaction of the parties concerned.

NOTES

1. ILO, Labour Management Relations in Public Enterprises in Africa , op. cit.; Wehmhoerner, A. (ed.), Labour Management Relations in Public Enterprises in Asia, op. cit.; Sobhan, R., Public Enterprise and the Nature of the State : The Case of South Asia (Dhaka: Centre for Social Studies, 1983).
2. These theories have been explained in some detail in Chapter II.
3. Stagner, R. and Rosen, H., Psychology of Union-Management Relations, op. cit. p. 94.
4. Aaron, B., Labour Courts and Grievance Settlement in Western Europe, op. cit. pp. vii - xx.

APPENDICES

APPENDIX A : GENERAL TABLES BASED ON OFFICIAL STATISTICS

APPENDIX A.1

Number of industrial disputes, workers involved and man-days lost in Bangladesh, 1947-82.

YEAR	NUMBER OF DISPUTES (D)	WORKERS INVOLVED (W)	MAN-DAYS LOST (L)
1947	26	12091	18963
1948	48	28224	112163
1949	54	29839	82839
1950	20	7972	40381
1951	23	11628	35792
1952	55	21174	75624
1953	55	34006	116080
1954	31	19738	90556
1955	25	16221	38940
1956	64	82261	273632
1957	71	115249	693167
1958	51	45903	152351
1959	7	22488	35482
1960	12	6086	17947
1961	10	4464	5486
1962	31	16949	85248
1963	54	102198	938093
1964	72	158614	3787357
1965	55	63707	236805
1966	60	78278	241100
1967	48	66391	605222
1968	30	56309	154840
1969	55	113190	561870
1970	52	77680	366900
1971	9	35324	70333
1972	39	43615	126000
1973	58	35027	285177
1974	32	57387	231736
1975	2	28327	162000
1976	5	14517	25618
1977	22	76675	81715
1978	89	113209	662332
1979	96	114248	647629
1980	104	164032	1160436
1981	80	117031	1198460
1982	55	21788	238658

Source: Data for the years 1947-1960 were obtained from Ahmad K., Labour Movement in Bangladesh, (Dhaka: Inside Library, 1968), and those for 1961-82 from the various issues of the Bangladesh Labour Journal published by the Department of Labour, Government of Bangladesh.

APPENDIX A.2

Duration of dispute (DD), dispute coverage ratio (DCR), and time loss loss ratio (TLR) of industrial disputes involving work stoppages, Bangladesh, 1947-82.

YEAR (1)	DD (2)	DCR (3)	TLR (4)
1947	1.57	465	729
1948	3.97	588	2337
1949	2.78	553	1534
1950	5.06	399	2019
1951	3.08	506	1556
1952	3.57	385	1375
1953	3.41	618	2110
1954	4.59	637	2921
1955	2.40	649	1558
1956	3.33	1285	4275
1957	6.01	1623	9763
1958	3.32	900	2987
1959	1.58	3213	5069
1960	2.94	507	1496
1961	1.23	446	549
1962	5.03	547	2750
1963	9.18	1893	17372
1964	23.88	2203	52602
1965	3.72	1158	4305
1966	3.08	1305	4018
1967	9.12	1383	12609
1968	2.75	1877	5161
1969	4.96	2058	10216
1970	4.72	1494	7056
1971	1.99	3925	7815
1972	2.89	1118	3231
1973	8.14	604	4917
1974	4.04	1793	7242
1975	5.72	14163	81000
1976	1.76	2903	5124
1977	1.07	3485	3714
1978	5.85	1272	7442
1979	5.67	1190	6746
1980	7.07	1577	11158
1981	10.24	1463	14981
1982	10.95	396	4339

Source: Based on Appendix A.1

APPENDIX A.3

Indices of industrial disputes in criterion measures, Bangladesh, 1947-82.

YEAR (1)	DD (2)	DCR (3)	TLR (4)
1947	54	42	23
1948	137	53	72
1949	96	49	47
1950	175	36	62
1951	107	45	48
1952	123	34	43
1953	118	55	65
1954	159	57	90
1955	83	58	48
1956	115	115	132
1957	207	145	302
1958	115	80	92
1959	55	287	157
1960	102	45	46
1961	43	40	17
1962	174	49	85
1963	318	169	538
1964	826	197	1628
1965	129	104	133
1966	107	117	124
1967	316	124	390
1968	95	168	160
1969	172	184	316
1970	163	134	218
1971	69	351	242
1972	100	100	100
1973	282	54	152
1974	140	160	224
1975	198	1267	2507
1976	61	260	159
1977	37	318	115
1978	202	114	230
1979	196	106	209
1980	245	141	345
1981	354	131	464
1982	379	35	134

Source: Based on Appendix A.2

APPENDIX A.4

Data on (a) union membership strength in selected public sector industries and (b) indices of real wages for industrial workers in Bangladesh, 1973-82.

Year	Union Membership	Real wages indices (1969 = 100)
1973	230,142	60.95
1974	234,968	43.67
1975	226,094	56.71
1976	219,978	63.02
1977	297,246	59.94
1978	332,925	69.56
1979	329,519	74.10
1980	360,085	79.61
1981	377,724	78.56
1982	382,864	81.63

Sources: (a) Union membership: relates to selected public sector industries (jute, cotton, chemical, sugar, electricity, oil, gas and petroleum, banks and insurance) and obtained through segregation of the aggregate data available in the various issues of the Bangladesh Labour Journal published by the Department of Labour, Government of Bangladesh.

(b) Real wages indices: Statistical Yearbook of Bangladesh, 1982, BBS, Dhaka, p.510.

APPENDIX A.5

Statement on the Constitution of Participation Committees (By Sector)

Sectors	Number of enterprises to whom letters were issued	Number of enterprises who formed PC in response to letters issued	Number of enterprises to whom reminders were issued	Number of enterprises who formed PC after the reminders	Number of enterprises who could not form PC due to legal incapacity	Number of enterprises who have not yet responded
Jute	68 (100)	02 (2.9)	66 (97.1)	46 (67.6)	04 (5.9)	16 (23.5)
Textile	68 (100)	09 (13.2)	59 (86.8)	45 (66.2)	02 (2.9)	12 (17.6)
Others	137 (100)	13 (9.5)	124 (90.5)	84 (61.3)	10 (7.3)	30 (21.9)
TOTAL	273 (100)	24 (8.8)	249 (91.2)	175 (64.1)	16 (5.9)	58 (21.2)

Source: Written statement given by the Deputy Director of Labour, Labour Directorate, Government of the People's Republic of Bangladesh, Dhaka.

APPENDIX B : TABLES RELATING TO DIRECT NEGOTIATION

APPENDIX B.1

Percentage distribution of plant management classified according to their educational level.

EDUCATIONAL LEVEL	PERCENTAGE	CUMULATIVE PERCENTAGE
1. Matriculate (S.S.C.)	4.2	
2. Intermediate (H.S.C.)	16.7	20.9
3. Intermediate with specialised technical training	8.3	29.2
4. Bachelor (Graduate)	41.7	70.9
5. Bachelor with specialised technical training	4.2	75.1
6. Masters	16.7	91.8
7. Masters with Diploma in Personnel Management	8.3	100.0
TOTAL	100.0	
Total number of respondents	24	

APPENDIX B.2

Percentage responses as to the existence of Participation Committees

	MANAGEMENT	CBA
Yes	62.5	34.6
No	37.5	57.7
Not aware of	-	7.7
TOTAL	100.0	100.0
Total number of respondents	24	26

APPENDIX B.3

Percentage responses as to how Participation Committee was constituted

	MANAGEMENT	CBA
With equal representatives from workers and management	50.0	23.1
With workers' representatives being more	12.5	3.8
With managements' representatives being more	-	7.7
Not applicable	37.5	65.4
TOTAL	100.0	100.0
Total number of respondents	24	26

APPENDIX B.4

Percentage responses* as to matters dealt with by Participation Committees

	MANAGEMENT	CBA
Productivity	17.6	13.3
Improvement of mutual relations	26.5	13.3
Labour welfare facilities	38.2	40.0
Vocational training	2.9	-
Application of Labour Laws	8.8	6.7
Fostering a sense of discipline	5.9	6.7
Disciplinary matters	-	13.3
Leave and holidays	-	6.7
TOTAL	100.0	100.0
Total number of valid cases	15	8
Total number of responses	34	15

* Multiple responses permitted.

APPENDIX B.5

Percentage responses* as to the extent of satisfaction with the performance of the Participation Committees

	MANAGEMENT	CBA
Very satisfied	-	-
Reasonably satisfied	20.0	22.2
Somewhat satisfied	53.3	22.2
Not satisfied/Inactive	26.7	55.6
TOTAL	100.0	100.0
Total number of respondents	15	9

* Based on the responses of those respondents who reported that they had Participation Committees in their plants.

APPENDIX B.6

Percentage responses* as to the necessity for constituting the Participation Committees

	MANAGEMENT	CBA
Yes	44.4	56.2
No	44.4	31.2
Can't say	11.1	12.5
TOTAL	100.0	100.0
Total number of respondents	9	16

* Based on the responses of those respondents who reported that they had no Participation Committees on their plants.

APPENDIX B.7

Frequency distribution of plant level cases classified according to their nature and initiator

Type \ Initiator	CBA	Management	Federation	Individual	A group of workers	Other union	Total
Individual	1	8		15		1	25
Group	19	3			4		26
Collective	121	2	11		2	13	149
Total	141	13	11	15	6	14	200

Chi square = 177.2 with 10 degrees of freedom, significance = 0

Cramers' V = .666

Contingency coefficient = .685

APPENDIX B.8

Distribution of plant management classified according to their views about the bad points of their CBAs.

	Number of responses*	Percent of responses
1. They are highly politicised	16	23.2
2. They do not value the organisational interest, nor even the general interest of the workers	9	13.0
3. Their attitude is very adamant	5	7.2
4. They suffer from serious inter- and intra-union rivalries	12	17.4
5. They don't have any sense of discipline	7	10.1
6. They always blame officers of the management	2	2.9
7. They are unreasonable in their dealings	9	13.0
8. They are unfair and dishonest	7	10.1
9. They usually interfere in the normal work of management	2	2.9
TOTAL	69	100.0
Total number of respondents	24	

* Multiple answers permitted.

APPENDIX B.9

Distribution of CBA leaders classified according to their views about the bad points of management.

	Number of responses*	Percent of responses
1. They are usually adamant in their attitude	1	1.4
2. They are insincere to workers	9	13.0
3. They are corrupt people	16	23.2
4. They are very slow in action and always refer problems to corporation; they do not take any decision	9	13.0
5. They are very strict to workers	9	13.0
6. They wilfully violate the accepted facts	4	5.8
7. They are afraid of head office and always flatter head office officials	3	4.3
8. They do not take care of health and hygiene of workers	3	4.3
9. They are negligent in duties	7	10.1
10. They do not give any time-off for trade union activities	2	2.9
11. They misbehave with workers	2	2.9
12. Others	4	5.8
TOTAL	69	100.0
Total number of valid respondents	24	

* Multiple answers permitted.

APPENDIX B.10

Extent of using the plant level methods of resolving individual disputes as viewed by plant level management (Mgt.) and CBAs.* (Frequencies in percentage)

Extent of use	Methods of Resolution							
	Informal Discussion		Grievance Procedure		Participation Committee		Collective Bargaining	
	Mgt.	CBA	Mgt.	CBA	Mgt.	CBA	Mgt.	CBA
Always	37.5	26.9	16.7	50.0				
Frequently	45.8	34.6	58.3	33.7		11.1	8.3	19.2
Sometimes	16.7	34.6	16.7	16.7	20.0	11.1	41.7	26.9
Rarely		3.8	8.3		13.3	33.3	37.5	50.0
Never					66.7	44.4	12.5	3.8
TOTAL	100	100	100	100	100	100	100	100

* Note: Total number of respondents = Management 24, and CBAs 26

APPENDIX B.11

Extent of using the plant level methods of resolving collective disputes as viewed by plant level management (Mgt.) and CBAs.* (Frequencies in percentage)

Extent of use	Methods of Resolution							
	Informal Discussion		Grievance Procedure		Participation Committee		Collective Bargaining	
	Mgt.	CBA	Mgt.	CBA	Mgt.	CBA	Mgt.	CBA
Always	17.4	15.4	16.7	11.5	6.7		30.4	11.5
Frequently	13.0	7.7	20.8	30.8		11.1	17.4	23.1
Sometimes	21.7	19.2	54.2	50.0	20.0	11.1	47.8	34.6
Rarely	30.4	34.6	8.3	8.8	13.3	33.3	4.3	30.8
Never	17.4	23.1			60.0	44.4	12.5	3.8
TOTAL	100	100	100	100	100	100	100	100

* Note: Total number of respondents = Management 24, and CBAs 26.

APPENDIX B.12

Distribution of plant level management and CBA people according to their views on the issues frequently negotiated at the plant level.

Issues Negotiated	Management		CBA	
	Number of responses*	%	Number of responses*	%
1. Payment for idle hours	4	5.8	3	3.8
2. Fixation of production target	2	2.9	5	6.4
3. Work allocation, organisation and administration	5	7.2	7	9.0
4. Labour welfare issues	20	29.0	21	26.9
5. Pay scale anomalies	9	13.0	6	7.7
6. Disciplinary matters	10	14.5	16	20.6
7. Personnel matters	7	10.1	6	7.7
8. Leave matters	8	11.6	6	7.7
9. Compensation for accidents	4	5.8	1	1.3
10. Arrear wages			2	2.6
11. Incentive bonus and special financial benefits			2	2.6
12. Job security			1	1.3
13. Miscellaneous issues			2	2.6
TOTAL	69	100	78	100
Total number of respondents	24		26	

*Note: Respondents could give more than one response.

APPENDIX B.13

Percentage distribution of the plant level cases classified according to the result of plant level direct negotiation.

1. Successful		18.5
2. Partly successful:		
(a) Not proceeded further	9.0	
(b) Referred to Corporation	18.5	
(c) Referred to Labour Court	3.0	30.5
3. Unsuccessful:		
(a) Not proceeded further	3.5	
(b) Referred to Corporation	40.5	
(c) Referred to Conciliation	6.0	
(d) Referred to Labour Court	1.0	51.0
4. Pending		-
TOTAL		100.0
Total number of cases		200

APPENDIX B.14

Percentage distribution of plant level cases referred to Corporations classified according to whether they were settled at the Corporation level.

Yes	51.7
No	48.3
TOTAL	100.0
Total number of valid cases	118

APPENDIX B.15

Percentage distribution of the plant level cases referred to but failed at the Corporation level classified according to how they were settled after they failed at that level.

1. Referred to the Ministry	24.6
2. Referred to the Conciliator	10.6
3. Referred to the Labour Court	29.8
4. Strike occurred	5.3
5. Not proceeded further	29.8
TOTAL	100.0
Total number of valid cases	57

APPENDIX B.16

Percentage distribution of the plant level cases referred to Conciliators (either directly or via Corporations) classified according to whether they could be settled there.

Yes	27.8
No	72.2
TOTAL	100.0
Total number of valid cases	18

APPENDIX B.17

Percentage distribution of the plant level cases referred to but failed at the Conciliationlevel classified according to how they were settled after they failed at that level.

1. Referred to the Labour Court	38.5
2. Referred (back) to Corporations	23.1
3. Referred to Special Committee consisting of workers' representatives, Corporation officials and officials of the Ministry	7.7
4. Still unsettled (pending)	23.1
5. Not proceeded further	7.7
TOTAL	100.0
Total number of valid cases	13

APPENDIX B.18

Distribution of plant level management and CBA according to their views on the reasons for failing direct negotiation between them.

	Reasons for Failure	Management		CBA	
		Number of responses*	%	Number of responses*	%
1.	Lack of authority to plant management	19	27.9	15	21.1
2.	Heavy financial involvement	10	14.7	10	14.1
3.	Unreasonable and illegal demands i.e. demands beyond the jurisdiction of bargaining	16	23.5	5	7.0
4.	Uncompromising attitude of the unions	8	11.8	2	2.8
5.	Unions fail to understand the organisational interest	4	5.9		
6.	Irrational behaviour around the negotiation table (e.g. disorder, chaos, disruptive activities, violation of prescribed rules etc.)	6	8.8	2	2.8
7.	Inter-and-intra-union rivalry	3	4.4	2	2.8
8.	Communication gap between the parties	2	2.9	1	1.4
9.	Adamant attitude and lack of sincerity on the part of management			20	28.2
10.	Management lacks technical knowledge of the work			2	2.8
11.	Refusal by management to negotiate on the plea of legal provisions which favour management			7	9.9
12.	Absence of elected CBA			2	2.8
13.	Management is not assertive; they cannot present problems before the authorities concerned			3	4.2
	TOTAL	68	100	71	100
	Total number of valid respondents	23		25	

* NOTE: Respondents could make more than one response.

APPENDIX B.19

Distribution of plant level management and CBA according to their views on how to improve the effectiveness of collective bargaining between them.

	Suggested Measures	Management		CBA	
		Number of responses*	%	Number of responses*	%
1.	The law should ensure only one registered trade union in each plant; election should be held on the basis of leaders' qualifications	3	7.7	6	10.3
2.	Demands placed should be reasonable, based on facts and within the jurisdiction of bargaining	8	20.5		
3.	Regular periodical meetings and annual review meetings should be ensured	5	12.8	11	19.0
4.	Both parties should be fair, honest and reasonable in dealings	5	12.8	13	22.4
5.	Unions should be free from external influences and outside politics	2	5.1		
6.	Bureaucratic tendency should be reduced; more authority should be given to the plant management	5	12.8	12	20.7
7.	Both parties should be aware of legal provisions; both need training	6	15.4	5	8.6
8.	CBA should be properly determined	5	12.8	8	13.8
9.	Unions and workers should be kept well-informed about the plant and corporation policies			3	5.2
	TOTAL	39	100	58	100
	Total number of valid respondents	13		22	

* NOTE: Respondents could make more than one response.

APPENDIX B.20

Distribution of plant level cases classified according to reasons* for dispute

	Responses	Number of responses*	%
1.	Anomalies in pay fixation, increment, arrear wages etc.	56	9.5
2.	Bonuses (incentive bonus, efficiency bonus, attendance bonus etc.)	26	4.4
3.	Fringe benefits (housing allowances, gratuity payments, provident fund contributions etc.)	66	11.1
4.	Physical working conditions (problems with moisture, ventilation, humidity, dust etc.)	16	2.7
5.	Holidays, leave, hours of work and other timing issues	55	9.3
6.	Disciplinary matters (fines, charge-sheets, suspensions, discharges, terminations, reinstatements, etc.)	56	9.5
7.	Work allocation/organisation (ambiguity in organisational set-up, work procedures, administrative rigidities, complexities and disuniformities, etc.)	35	5.9
8.	Labour welfare and amenities (reliefs, facilities to union offices, physical facilities in the colonies, rationing facilities, transport facilities, canteen subsidies, liverages etc.	55	9.3
9.	Other personnel matters (recruitments, transfers, promotions, retirements, lay-offs, retrenchments, etc.)	61	10.3
10.	Issues relating to trade union activities (right to association, CBA determination, unfair labour practices, etc.)	32	5.4
11.	Supply of materials and spare parts	3	0.5
12.	Misconduct on the part of workers (negligence, theft, misbehaviour, pilferages, factory indiscipline, etc.)	25	4.2
13.	Various special allowances (technical, shift, power-house, saline, overtime, washing, essential service, recreation, etc.)	30	5.1
14.	Implementation of agreements, government's and corporation's orders, and circulars and legal rights	14	2.4
15.	Administration of common funds (profit-participation fund, group insurance, etc.)	24	4.1
16.	Misbehaviour and malpractices on the part of management	22	3.7
17.	Workers' representation on various committees	16	2.7
	TOTAL	592	100
	Total number of cases	200	

* More than one reason was involved in many of the disputes.

APPENDIX B.21

Percentage distribution of plant level cases classified according to time required to conclude negotiations on them.

Time Taken	Percentage	Cumulative Percentage
0 - 10 days	12.5	12.5
11 - 14 "	10.5	23.0
15 - 21 "	10.0	33.0
22 - 50 "	24.5	57.5
51 - 70 "	10.5	68.0
71 - 100 "	8.0	76.0
101 - 150 "	12.5	88.5
151 - 200 "	5.0	93.5
201 - 250 "	2.0	95.5
251 - 300 "	2.0	97.5
301 - 350 "	0.5	98.0
350 - 400 "	1.0	99.0
401 and Above	1.0	100.0
Total	100.0	
Total number of cases	200	

APPENDIX C : TABLES RELATING TO CONCILIATION

APPENDIX C.1

Percentage distribution of the conciliators classified according to their age.

Age (in years)	Absolute Percentage	Cumulative Percentage
Up to 30	15.4	15.4
31 - 35	7.7	23.1
36 - 40	23.1	46.2
41 - 45	15.4	61.5
46 - 50	15.4	76.9
51 - 55	23.1	100.0
TOTAL	100.0	
Total no. of respondents	13	

APPENDIX C.2

Percentage distribution of the conciliators classified according to their educational level.

Educational Level	Absolute Percentage	Cumulative Percentage
1. Matriculate/S.S.C.	7.7	7.7
2. Intermediate/H.S.C.	7.7	15.4
3. B.A./B.Sc.	46.2	61.5
4. M.A.(General),M.Sc.	23.1	84.6
5. M.A. with LL.B.	15.4	100.0
TOTAL	100.0	
Total no. of respondents	13	

APPENDIX C.3

Percentage distribution of the conciliators classified according to their previous jobs.

Previous Job	Absolute Percentage	Cumulative Percentage
1. Officer in the Directorate/Ministry	15.4	15.4
2. Upper Division Assistant (clerk) in the Directorate	23.1	38.5
3. Malaria Eradication Administrative Officer	7.7	46.2
4. Lecturer in a College	7.7	53.9
5. Labour Officer in a Jute Mill	7.7	61.6
6. Research Assistant	7.7	69.3
7. Trade Unionist	7.7	77.0
8. Not applicable (had no experience)	23.1	100.0
TOTAL	100.0	
Total number of respondents	13	

APPENDIX C.4

Percentage distribution of the conciliators classified according to their experience in the conciliation service.

Experience (in years)	Absolute Percentage	Cumulative Percentage
Up to 5	23.1	23.1
6 - 10	15.4	38.5
11 - 15	30.8	69.2
16 - 20	7.7	76.9
21 - 25	15.4	92.3
Above 25	7.7	100.0
TOTAL	100.0	
Total no. of respondents	13	

APPENDIX C.5

Percentage distribution of the conciliators classified according to their reported rate of success in the conciliation proceedings in the public sector industries.

Success Rate (in percentage)	Absolute Percentage	Cumulative Percentage
Up to 20%	7.7	7.7
21% - 40%	15.4	23.1
41% - 60%	46.2	69.2
61% - 80%	23.1	92.3
Above 80%	7.7	100.0
TOTAL	100.0	
Total no. of respondents	13	

APPENDIX C.6

Percentage distribution of the conciliators classified according to whether they thought their powers under the law to be adequate.

If Powers Were Adequate	Percentage
Yes	38.5
No	61.5
TOTAL	100.0
Total no. of respondents	13

APPENDIX C.7

Distribution of the conciliators
who thought their present powers to be inadequate
classified according to extension of powers wished by them.

Extension of Powers Wished	Number of Responses*	Percent of Responses
1. Some judicial/arbitrary powers should be given to the conciliators to bind the parties	4	21.1
2. The law should ensure a free and unhindered entrance of the conciliators into the premises of the factories in question	2	10.5
3. Power should be given to the conciliators for direct prosecution of the disobedient party	5	26.3
4. Penalty system should be more simplified	2	10.5
5. Conciliators at the regional offices should be allowed to take independent decision in the cases within their jurisdiction	2	10.5
6. The labour courts should consider the conciliator's suggestions	1	5.3
7. The status of the conciliators should be increased so that management feels obligation to take notice of them	3	15.8
TOTAL	19	100.0
Total number of valid respondents	8	

* Multiple answers permitted.

APPENDIX C.8

Percentage distribution of the conciliators classified according to their report on how frequently they had to use their legal powers

Extent of Use	Absolute Percentage	Cumulative Percentage
Always	15.4	15.4
Frequently	23.1	38.5
Sometimes	38.5	76.9
Rarely	23.1	100.0
Never	-	
TOTAL	100.0	
Total no. of respondents	13	

APPENDIX C.9

Percentage distribution of the conciliators classified according to their view as to how frequently the parties would have cooperated with them in the absence of their (conciliator's) legal powers.

Extent of Cooperation	Absolute Percentage	Cumulative Percentage
Always	7.7	7.7
Frequently	7.7	15.4
Sometimes	15.4	30.8
Rarely	-	30.8
Never	69.2	100.0
TOTAL	100.0	
Total no. of respondents	13	

APPENDIX C.10

Distribution of the conciliators classified according to why they did not wish the statutory conciliation period to be extended.

	Number of Responses*	Percentage of Responses
1. The present statutory period is quite sufficient	9	47.4
2. Extension of the present time will frustrate the workers	5	26.3
3. The present time limit may be extended, whenever needed, with the consent of the parties	4	21.1
4. The adamant party will always be adamant; extension of time will not solve the problem	1	5.3
TOTAL	19	100.0
Total no. of valid respondents	12	

* Multiple answers permitted

APPENDIX C.11

Percentage distribution of the conciliators classified according to their report as to how financial issues in the public sector industries are conciliated.

Method of Conciliation	Percentage
Do not intervene in financial issues	23.1
As per Government guidelines	61.5
Four party meetings (corporation officials, officials from the Ministry concerned, workers' representatives and conciliators)	15.4
	100.0
Total number of valid respondents	13

APPENDIX C.12

Distribution of the conciliators classified according to the major administrative problems, as reported by them.

Reported Administrative Problems	Number of Responses*	Percentage of Responses
1. The administrative structure is very much centralised	7	13.4
2. Shortage of trained conciliators/ staff at the lower level (in all offices of the Directorate)	13	25.0
3. Frustration among officers and staff of the service due to low pay, poor status and lack of opportunity for promotion	4	7.6
4. Conciliation offices are badly furnished	5	9.6
5. Shortage of transport for official purposes	6	11.5
6. Shortage of office supplies	5	9.6
7. Poor budgetary allocation (no allowance for entertainment during the conciliation proceedings)	6	11.5
8. Lack of coordination on administrative problems between officers	2	3.8
9. Shortage of space in the conciliator's office	1	1.9
10. Dirty physical conditions of the conciliator's offices	1	1.9
11. Little time for normal office work due to frequent meetings with the Ministry and the Martial Law Authority	1	1.9
12. Outside interference in the normal office work	1	1.9
TOTAL	52	100.0
Total number of respondents	13	

* Multiple answers permitted

APPENDIX C.13

Distribution of the conciliators classified according to the reported problems faced while conducting conciliation proceedings.

Problems Faced	Number of Responses*	Percentage of Responses
1. Undue interference in the normal work by the union/federation leaders	4	7.8
2. Lack of faith and confidence between the parties due to an antagonistic relationship	3	5.9
3. Adamant attitude of the CBA	3	5.9
4. Adamant attitude of the management	5	9.8
5. Ignorance of the union leaders about legal provisions and corporation policies and their inexperience in justifying their points	8	15.7
6. Non-cooperation of the management (absenting habit, non-response to letters, concealing facts etc.)	7	13.8
7. Superiority complex of the management (management's dislike of the conciliator's intervention)	6	11.8
8. Representation of management by veteran advocates and of unions by federation leaders	5	9.8
9. Political motivation of the unions	3	5.9
10. Lack of authority on the part of management	2	3.9
11. By-passing habit of the union leaders (union leaders take the help of the Minister or the MPA in the course of the conciliation proceedings)	2	3.9
12. Inter-union rivalry	1	2.0
13. Ambiguous orders/instructions from the corporations	1	2.0
14. Shortage of office supplies	1	2.0
TOTAL	51	100.0
Total number of respondents	13	

* Multiple answers permitted.

APPENDIX C.14

Distribution of the conciliators classified according to their reported reasons for failing conciliation in the public sector industries.

Reasons for Failure	Number of Responses*	Percentage of Responses
1. Adamant attitude of the management	11	22.4
2. Adamant attitude of the union/ federation	8	16.3
3. Illegal demands of the workers i.e. unbargainable demands	8	16.3
4. Unreasonable (considering financial implications) demands of the workers	8	16.3
5. Lack of locus-standi of the CBA	3	6.1
6. Non-cooperation of the management (failure to attend meetings, non-response to letters etc.)	4	8.2
7. Antagonistic relationship between the parties and lack of understanding between them	3	6.1
8. Weak leadership of the union representatives. They fail to justify their demands	2	4.1
9. Management tries to maintain uniformity with similar industries	1	2.0
10. Inexperience and inability of the conciliators	1	2.0
TOTAL	49	100.0
Total number of respondents	13	

* Multiple answers permitted.

APPENDIX C.15

Distribution of the conciliators classified according to their reports as to whether they attempted to refer the unsuccessful cases to arbitration, and if so, how frequently such attempts came out successful.

If reference to arbitration attempted / Extent of success in reference	Yes	No	Total
Rarely	3 (42.9)		3 (23.1)
Never	4 (57.1)		4 (30.7)
Not applicable		6 (100.0)	6 (46.1)
Total	7 (53.8)	6 (46.2)	13 (100)

Note: Figures in brackets indicate percentages. Inner percentages are column percentages and outer percentages indicate percentages of total.

APPENDIX C.16

Distribution of the plant management and CBA leaders classified according to the measures* they suggested to improve the effectiveness of conciliation.

Measures Suggested	Plant Management		CBA Leaders	
	Number of Responses*	%	Number of Responses*	%
1. Conciliators should be given more power to oblige the adamant party	4	8.5	19	29.2
2. Conciliators should be fair and impartial	16	34.1	15	23.1
3. The conciliation system should be popularised	1	2.1		-
4. Efficient people should be attracted into the service	11	23.4	6	9.2
5. Conciliators have no role to play in financial issues	4	8.5		-
6. Their status should be increased	5	10.6	8	12.3
7. They should be more active	6	12.8	3	4.6
8. Physical conditions of the conciliation offices should be improved		-	7	10.8
9. Conciliators need training		-	4	6.2
10. Conciliators should have power to modify wage commission recommendations		-	3	4.6
TOTAL	47	100.0	65	100.0
Total no. of valid respondents	19		24	

* Multiple answers permitted.

APPENDIX C.17

Distribution of the conciliators classified according to the measures they suggested to make the conciliation machinery more effective.

Measures Suggested	Number of Responses*	Percentage of Responses
1. Efficient and distinguished personalities of wisdom and sagacity should be attracted to the service	4	10.3
2. Good remuneration and facilities should be given to the conciliators	5	12.8
3. Status of the conciliators should be increased	5	12.8
4. Both the management and the unions should be given training in industrial relations and labour laws	4	10.3
5. Conciliators need training on the theory and practices of labour laws and conciliation techniques	5	12.8
6. Physical facilities within the conciliation office should be increased and improved	2	5.1
7. Some binding power should be given to the conciliators	4	10.3
8. Promotion policy of the Directorate should be relaxed and quick promotion should be given to the conciliators	1	2.6
9. Ban on trade union activities should be withdrawn and the CBAs should be properly determined	2	5.1
10. The conciliators should be given the right to inspect the books and relevant documents during the course of the proceedings	1	2.6
11. The trade union leaders should be more practical in their approach	1	2.6
12. Assistant Directors (conciliators of the regional offices) should be given power to take spot decisions within their jurisdiction	1	2.6
13. The conciliators should be made free from the external constraints and pressures	1	2.6
14. Attendance of the parties in the conciliation meetings should be made compulsory	1	2.6
15. Both management and unions should have mutual trust and faith	1	2.6
16. Multiple unions should be stopped	1	2.6
TOTAL	39	100.0
Total number of respondents	13	

* Multiple answers permitted

APPENDIX C.18

Percentage distribution of the plant management, CBA leaders and corporation management classified according to the extent of their agreement with the statement that "the conciliators are not neutral".

Extent of Agreement	Plant Management	CBA	Corporation Management	All
Agree strongly	37.5	34.6	25.0	34.5
Agree slightly	41.7	50.0	25.0	43.1
Neutral	12.5	7.7	37.5	13.8
Disagree slightly	-	7.7	12.5	5.2
Disagree strongly	8.3	-	-	3.4
TOTAL	100.0	100.0	100.0	100.0
Total number of respondents	24	26	8	58

APPENDIX C.19

Percentage distribution of the conciliators* classified according to the extent of their agreement with certain statements

	Agree Strongly	Agree Slightly	Neutral	Disagree Slightly	Disagree Strongly	Total
We are overloaded	23.1	15.4	7.7	7.7	46.2	100.0
We cannot work neutrally due to certain external pressures	23.1	23.1	-	23.1	30.8	100.0
Lack of expert conciliators is one of the reasons for failing conciliation	38.5	38.5	-	-	23.1	100.0

* NOTE: Total number of respondents = 13.

APPENDIX C.20

Percentage distribution of the CBA leaders and conciliators classified according to the extent of their agreement with the statement that, "management is usually reluctant to attend conciliation meetings".

Extent of Agreement	CBA	Conciliators	All
Agree strongly	69.2	23.1	53.8
Agree slightly	23.1	69.2	38.5
Neutral	-	-	-
Disagree slightly	7.7	7.7	7.7
Disagree strongly	-	-	-
TOTAL	100.0	100.0	100.0
Total number of respondents	26	13	39

APPENDIX C.21

Percentage distribution of the plant management, corporation management, and conciliators classified according to the extent of their agreement with the statement that "the CBAs are usually reluctant to attend conciliation meetings".

Extent of Agreement	Plant Management	Corporation Management	Conciliators	All
Agree strongly	-	-	-	-
Agree slightly	8.3	25.0	-	8.9
Neutral	29.2	37.5	-	22.2
Disagree slightly	12.5	12.5	15.4	13.3
Disagree strongly	50.0	25.0	84.6	55.5
TOTAL	100.0	100.0	100.0	100.0
Total number of respondents	24	8	13	45

APPENDIX C.22

Percentage distribution of the plant management, corporation management, CBA leaders and conciliators classified according to the extent of their agreement with the statement that "the compulsory conciliation has significantly reduced the number of strikes in the country".

Extent of Agreement	Plant Mgt.	Corp'n. Mgt.	CBA	Concil-iators	All
Agree strongly	20.8	25.0	23.1	76.9	32.4
Agree slightly	37.5	12.5	50.0	23.1	36.6
Neutral	4.2	25.0	3.8	-	5.6
Disagree slightly	12.5	25.0	19.2	-	14.1
Disagree strongly	25.0	12.5	3.8	-	11.3
TOTAL	100.0	100.00	100.0	100.0	100.0
Total number of respondents	24	8	26	13	71

APPENDIX C.23

Percentage distribution of the conciliation cases classified according to industry.

Industry	Absolute Percentage	Cumulative Percentage
1. Jute	73.2	73.2
2. Road Transport	13.2	86.3
3. Water Transport	7.4	93.7
4. Electricity	6.3	100.0
TOTAL	100.0	
Total number of cases	190	

APPENDIX C.24

Percentage distribution of the conciliation cases classified according to the number of days within which conciliation started.

Conciliation Started Within	Absolute Percentage	Cumulative Percentage
0 - 2 days	13.2	13.2
3 - 5 "	43.2	56.3
6 - 8 "	23.2	79.5
9 - 11 "	10.5	90.0
12 - 14 "	5.8	95.8
15 - 17 "	2.6	98.4
18 - 20 "	1.1	99.5
21 - 23 "	0.5	100.0
TOTAL	100.0	
Total number of cases	190	

APPENDIX C.25

Percentage distribution of the conciliation cases classified according to number of notices served on the second party to attend the conciliation meetings.

Times Notices Served	Absolute Percentage	Cumulative Percentage
0	0.5	0.5
1	27.4	27.9
2	37.4	65.3
3	22.6	87.9
4	10.5	98.4
5	0.5	98.9
6	1.1	100.0
TOTAL	100.0	
Total number of cases	190	

APPENDIX C.26

Percentage distribution of the conciliation cases classified according to number of meetings held.

No. of Meetings Held	Absolute Percentage	Cumulative Percentage
0	24.7	24.7
1	25.8	50.5
2	24.2	74.7
3	14.2	88.9
4	7.4	96.3
5	2.6	98.9
6	0.5	99.5
7	0.5	100.0
Total	100.0	
Total number of cases	190	

APPENDIX C.27

Percentage distribution of the conciliation cases classified according to the outcome of conciliation.

Outcome	Absolute Percentage	Cumulative Percentage
1. Successful	17.4	17.4
2. Partly Successful	18.4	35.8
3. Unsuccessful	54.2	90.0
4. No Proceeded With	10.0	100.0
Total	100.0	
Total number of cases	190	

APPENDIX C.28

Distribution of the partly successful and unsuccessful conciliation cases classified according to the reasons for failing conciliation*

Reasons for failing conciliation	Number of Responses*	Percent of Responses
1. Lack of evidence in support of the allegations	64	15.9
2. The second party (usually management) was either absent in the final meeting or did not come at all on repeated calls	41	10.2
3. Antagonistic relationship between the parties over a long period of time	8	2.0
4. Financial inability of the management	43	10.7
5. Lack of authority on the part of the management	67	16.7
6. Management wrote that the initiator had no competence and validity to raise disputes	23	5.7
7. Adament (and lingering) attitude of the management	43	10.7
8. Adament attitude of the union	20	5.0
9. Contravention of laws (regarding dismissal, registration of trade union, pre-conditions for application to conciliation etc.).	17	4.2
10. Illegal and unreasonable demands, i.e. demands beyond the scope of bargaining	76	18.9
TOTAL	402	100.0
Total number of valid cases	138	

* Multiple answers permitted

APPENDIX C.29

Percentage distribution of the conciliation cases classified according to the number of days taken to conclude the conciliation.

Conciliation Concluded Within	Absolute Percentage	Cumulative Percentage
30 days	64.2	64.2
31 - 40 "	14.2	78.4
41 - 50 "	4.7	83.2
51 - 100 "	12.6	95.8
101 - 150 "	3.2	98.9
151 - 200 "	0.5	99.5
201 - 250 "	0.5	100.0
TOTAL	100.0	
Total number of cases	190	

APPENDIX D : TABLES RELATING TO ADJUDICATION

APPENDIX D.1

Distribution of the conciliators classified according to their report as to why people are very reluctant to refer cases to arbitration

Reasons for reluctance	Number of Responses*	Percentage of Responses
1. People have no confidence in arbitration	9	28.1
2. People are not used to the system	3	9.4
3. The arbitrator's decision being final and binding on the parties	7	21.9
4. Lack of distinguished personalities	3	9.4
5. No forum is there in vogue	6	18.7
6. Lack of agreement between the parties in selecting the arbitrator	3	9.4
7. The use of the machinery being optional	1	3.1
TOTAL	32	100.0
Total number of respondents	13	

* Multiple answers permitted.

APPENDIX D.2

Percentage distribution of the Labour Court members by their designation

Designation	Percentage
Members	87.5
Chairmen	12.5
TOTAL	100.0
Total number of respondents	24

APPENDIX D.3

Percentage distribution of the Labour Court Members by the parties they represented

	Absolute Percentage	Adjusted Percentage
Workers	41.7	47.6
Employers/Management	45.8	52.4
Not applicable (Chairmen of the Courts)	12.5	-
TOTAL	100.0	100.0
Total number of respondents	24	

APPENDIX D.4

Percentage distribution of the Labour Court members by their level of education

	Absolute Percentage	Cumulative Percentage
Class VI	4.2	4.2
Class VIII	4.2	8.3
Matriculate	4.2	12.5
Intermediate	4.2	16.7
General Graduate	8.3	25.0
Graduate with specialisation	41.7	66.7
General Masters	4.2	70.8
Masters with specialisation	29.2	100.0
TOTAL	100.0	
Total number of respondents	24	

APPENDIX D.5

Distribution of the Labour Court members by their present and previous job experiences

Job Experiences	Number of Responses*	Percentage of Responses
1. Professional trade unionist	7	20.0
2. Technician	1	2.9
3. Conciliation officer	2	5.7
4. Accounts clerk	4	11.4
5. Advocate	1	2.9
6. Personnel officer	9	25.7
7. Administrative Officer	6	17.1
8. Army Officer (Lt. Col.)	2	5.7
9. Munsif and District Judge	3	8.6
TOTAL	35	100.0
Total number of respondents	24	

* Multiple answers permitted.

APPENDIX D.6

Distribution of the Labour Court members by their report as to how the entertainability of cases was determined

Criteria for Maintainability	Number of responses*	Percentage of Responses
The case must not be time barred	11	27.5
The case must be within the territorial jurisdiction of the Court	12	30.0
The case must be covered by the law	17	42.5
TOTAL	40	100.0
Total number of respondents	18	

* Multiple answers permitted.

APPENDIX D.7

Percentage distribution of the labour court members* classified according to their reports as to how frequently the various parties apply/refer to courts for adjudication.

Applied/Referred by	Always	Frequently	Sometimes	Rarely	Never	Don't Know	Total
Individual Workers	50.0	50.0	-	-	-	-	100.0
Collective Bargaining Agent	-	16.7	58.3	25.0	-	-	100.0
Other Unions	-	-	12.5	70.8	12.5	4.2	100.0
Management	-	-	29.2	54.2	12.5	4.2	100.0
Government	-	-	8.3	62.5	25.0	4.2	100.0

* NOTE: Total number of respondents = 24

APPENDIX D.8

Percentage distribution of the labour court members* classified by their reports as to how the courts select the cases to be heard first.

Basis of Selection	Usually	Sometimes	Rarely	Never	No Hard and Fast Rule	Can't Say	Total
First come first served	62.5	8.3	8.3	8.3	8.3	4.2	100.0
Collective disputes get preference to individual ones	8.3	25.0	20.8	16.7	25.0	4.2	100.0
Urgency of the cases (essential services, Govt. refd.)	4.2	79.2	4.2	8.3	-	4.2	100.0
Determined by Peshker (bench-clerk) - Tadbir/bribery involved	70.8	25.0	-	-	-	4.2	100.0
Urgency of the parties (persuasion, bribery involved)	41.7	45.8	-	4.2	4.2	4.2	100.0
Ex-parte cases are heard first	-	16.7	-	4.2	54.2	25.0	100.0
Criminal and misc. cases are heard first	-	20.8	4.2	4.2	41.7	29.2	100.0
Suitability of the court (case position)	16.7	58.3	4.2	-	8.3	12.5	100.0

* NOTE: Total number of respondents = 24

APPENDIX D.9

Distribution of the Labour Court members according to their report as to the issues frequently adjudicated in the public sector industries

Issues frequently adjudicated	Number of Responses*	Percentage of Responses
1. Disciplinary cases (discharges, dismissals etc.)	24	33.8
2. Termination for trade union activities	15	21.1
3. Arrear dues	4	5.6
4. Post service benefits	3	4.2
5. Criminal cases - implementation of Labour Court decisions, agreements etc.	8	11.3
6. Cancellation of registration of trade unions	4	5.6
7. Compensation for accidents	3	4.2
8. Wage anomalies	1	1.4
9. Charter of demands	9	12.7
TOTAL	71	100.0
Total number of respondents	24	

* Multiple answers permitted.

APPENDIX D.10

Percentage distribution of the labour court members classified according to how financial issues in the public sector industries are adjudicated

Method of Adjudication	Percentage
As per guidelines of the Government	78.3
Do not come to the court	21.7
	100.0
Total number of respondents	24

APPENDIX D.11

Court-wise percentage distribution of the labour court members classified according to the problems they reported to have faced while conducting adjudication

Reported Problems	First Labour Court*	Second Labour Court*	Third Labour Court*	Total*
1. Created by parties:	39.2	38.6	25.0	36.5
(a) Parties can not produce documents, evidences and witnesses in support of their claims	17.5	19.3	8.3	16.8
(b) Parties are ignorant about legal provisions	-	6.4	8.3	4.6
(c) Parties take resort to false statements	8.8	3.2	8.3	6.0
(d) Parties frequently pray for time	8.8	3.2	-	4.6
(e) Parties frequently absent from the court	4.2	3.2	-	3.1
(f) Management frequently tends to be uncooperative	-	3.2	-	1.4
2. Created by lawyers:	30.5	32.1	50.0	35.1
(a) Lawyers do not come well prepared	21.7	12.9	16.7	16.8
(b) Lawyers try to prolong the cases	8.8	12.9	25.0	13.7
(c) Lawyers make the cases distorted	-	6.4	-	3.1
(d) Lawyers frequently absent	-	-	8.3	1.4
3. Created by Chairmen:	8.8	19.6	8.3	13.7
Chairmen are authoritarian. Members' feelings do not count; chairmen do not go through the written opinion of members nor do they mention members opinion in the final judgement	8.8	19.6	8.3	13.7
4. Created by law:	13.0	-	8.3	6.0
(a) The High Court's award against the spirit of IRO, 1969 that the labour court can not give its decision in the absence of either of the parties	4.2	-	-	1.4
(b) Definition if worker in law is not clear and on that account Management in some cases tries to get rid of the cases initially	8.8	-	8.3	4.6
5. Created by other objective factors:	8.4	9.6	8.3	8.8
(a) Outside interference (From the Government, for example)	-	3.2	-	1.4
(b) Lack of any facility for spot verification of the peculiar circumstances with which the members of the court are not familiar	4.2	-	-	1.4
(c) Lengthy process of the ajudication system	4.2	6.4	8.3	6.0
TOTAL	100.0	100.0	100.0	100.0
Total number of responses	23	34	12	69
Total number of respondents	8	12	4	24

* Multiple answers permitted. Percentages based on total number of responses.

APPENDIX D.12

Court-wise percentage distribution of the labour court members classified according to their reported administrative problems of their courts

Reported Administrative Problems	First Labour Court	Second Labour Court	Third Labour Court	Total*
1. Staff Problems:	12.4	19.6	18.3	16.8
(a) Staff shortage of the courts	6.3	13.1	18.3	11.1
(b) Court's staff are inefficient	3.0	4.4	-	3.3
(c) Corruption and bribery practices taken resort to by the staff	3.0	2.1	-	2.3
2. Physical conditions problems:	40.7	52.4	45.6	47.3
(a) Shortage of space in the court for the clients, witnesses, and other visitors	3.0	11.0	-	6.7
(b) No separate room/arrangement is there for members to discuss, read and see files and write w/o	18.9	17.5	18.3	18.1
(c) The court is not well-furnished or well-equipped	9.3	8.6	9.0	9.0
(d) Dirty and unhygienic working environment within the court	9.3	15.2	18.3	13.4
3. Problems of office facilities:	43.9	19.4	36.1	30.2
(a) Office supplies are inadequate	9.3	6.5	9.0	7.7
(b) Separate files for members are not provided	6.3	2.1	9.0	4.4
(c) Inadequate budgeting allocation to meet minor contingency expenses	3.0	2.1	-	2.3
(d) No transport facility is there for official use	12.6	6.5	9.0	9.0
(e) No office facilities are there for members	12.6	2.1	9.0	6.7
4. Other problems:	3.0	8.6	-	5.7
(a) Poor honorarium is given to the members	-	2.1	-	1.0
(b) There is no fixed venue for the court	-	4.4	-	2.3
(c) Chairman's post sometimes remain vacant	3.0	2.1	-	2.3
TOTAL	100.0	100.0	100.0	100.0
Total number of responses	32	46	11	89
Total number of respondents	8	12	3	23

* Multiple answers permitted. Percentages based on total number of responses.

APPENDIX D.13

Court-wise percentage distribution of the labour court members classified acording to their reported reasons for for delay in disposing of the cases

Reported Reasons for Delay	First Labour Court*	Second Labour Court*	Third Labour Court*	Total*
1. Due to parties	15.7	29.8	12.5	22.1
(a) Frequent time petition by the parties	12.6	21.2	12.5	17.0
(b) Frequent absence of the parties from the court	3.0	4.3	-	3.0
(c) Workers lose interest and do not follow up	-	4.3	-	2.0
2. Due to members of the court:	18.7	14.8	12.5	15.8
(a) Frequent absence of the members	15.7	14.8	12.5	14.8
(b) Delay in submitting the written opinion by the members	3.0	-	-	1.0
3. Due to Chairmen of the court:	6.3	8.7	18.7	9.7
(a) Absence of the chairmen from the court	-	4.3	12.5	4.3
(b) Apathy of the chairmen due to old age	6.3	4.3	6.2	5.3
4. Due to lawyers:	15.7	8.4	25.0	13.7
(a) Lawyers do not arrive on time	6.3	-	12.5	4.3
(b) Prolonging attitude of the lawyers	9.3	8.4	12.5	9.4
5. Due to court:	12.4	19.1	25.0	17.8
(a) Detailed procedures followed by the courts	-	4.3	6.2	3.0
(b) Negligence of the court	3.0	6.4	12.5	6.4
(c) Time allowed very liberally whenever prayed (in terms of frequency)	6.3	6.4	6.2	6.4
(d) Very long time allowed before the next hearing	3.0	2.0	-	2.0
6. Due to other objective conditions:	31.3	19.1	6.2	20.9
(a) Huge number of cases are being filed well over the usual capacity of the courts to handle	18.9	12.7	6.2	13.7
(b) Shortage of staff in the courts	6.3	2.0	-	3.0
(c) Cases are filed on trifling issues	3.0	4.3	-	3.0
(d) Because of the latitude given by the law, workers of the same plant and having the same complaint file cases individually, and thus increasing the number of cases	3.0	-	-	1.0
TOTAL	100.0	100.0	100.0	100.0
Total number of responses	31	47	16	94
Total number of respondents	8	12	4	24

* Multiple answers permitted. Percentages based on the total number of responses.

APPENDIX D.14

Percentage distribution of the labour court members* classified according to the extent of their agreement with certain statements about the operation of the labour courts.

Statements	Agree Strongly	Agree Slightly	Neutral	Disagree Slightly	Disagree Strongly	Total
(a) We cannot be neutral due to certain external influences	16.7	25.0	4.2	8.3	45.8	100.0
(b) Labour courts are over-loaded with cases	58.3	12.5	4.2	4.2	20.8	100.0
(c) Number of labour courts should be increased to ensure speedy disposals	20.8	16.7	4.2	4.2	54.2	100.0
(d) In most cases, laws are clear, but the parties are not well aware of them	70.8	20.8	-	4.2	4.2	100.0
(e) Members are not assiduous in attending the courts	12.5	58.3	-	12.5	16.7	100.0
(f) Lawyers rarely represent the parties in the hearing of their cases	-	-	-	8.3	91.7	100.0
(g) Dismissal of cases in default of the first party is very common in the labour courts	26.6	41.6	-	12.5	12.5	100.0
(h) Cases of ex-parte decision in the absence of the second party is very common in our labour courts	-	25.0	8.3	45.8	20.8	100.0
(i) Labour courts do not constitute or sit in sessions in the absence of either of the members	83.3	12.5	4.2	-	-	100.0
(j) Our labour courts usually follow summary procedures in deciding the cases referred to them	16.7	29.2	8.3	33.3	12.5	100.0
(k) Workers' in our country, being illiterate and untrained, do not usually know what proof is needed in support of their cases	70.8	20.8	-	4.2	4.2	100.0

* NOTE: Total number of respondents = 24

APPENDIX D.15

Distribution of the Labour Court cases by court and industry

Industry	First Labour Court		Second Labour Court		Total	
	Count	%	Count	%	Count	%
Jute	15	16	81	84	96	100
Road Transport	54	73	20	27	74	100
Water Transport	14	78	4	22	18	100
Electricity	11	55	9	45	20	100
TOTAL	94	45	114	55	208	100

APPENDIX D.16

Distribution of the Labour Court cases by nature of the cases and court

Nature of the Cases	First Labour Court		Second Labour Court		Total	
	Count	%	Count	%	Count	%
Establishment of Legal rights (IRO, Sec. 34)	24	41	35	59	59	28.4
Collective cases on failure of conciliation (IRO, Sec. 32 and IRRO, Sec. 6)	1	100	-	-	1	0.5
Complaint cases (Sec. 25, SO Act)	52	43	70	57	122	58.7
Criminal cases/violation cases (Sec. 54-56, IRO)	11	73	4	27	15	7.2
Cancellation of registration of trade unions (Sec. 10-11, IRO)	6	55	5	45	11	5.3
TOTAL	94	45	114	55	208	100

APPENDIX D.17

Percentage distribution of the labour court cases* by initiator and type of the cases

Type / Initiator	Individual	Group	Collective	Total
Individual worker	85.6	-	-	85.6
A group of workers	-	5.8	-	5.8
CBA	-	1.4	3.8	5.3
Worker's wife	2.4	-	-	2.4
Other union	-	1.0	-	1.0
TOTAL	88.0	8.2	3.8	100.0

* NOTE: Total number of cases = 208

APPENDIX D.18

Distribution of the labour court cases by reasons for disputes and courts

Reasons for Disputes	First Labour Court		Second Labour Court		Total	
	Count	%	Count	%	Count	%
Pay anomalies, increment etc.	4	25	12	75	16	7.7
Incentive bonus	3	60	2	40	5	2.4
Fringe benefits	1	50	1	50	2	1.0
Holidays, leaves, hours of work and other timing issues	1	25	3	75	4	1.9
Dismissal/discharge as a disciplinary measure	26	41	38	59	64	30.8
Other disciplinary measures (suspension, prevention order on joining, demolition etc.)	28	57	21	43	49	23.6
Other personnel matters recruitment, promotion, continuity of service, permanency of job	6	22	21	78	27	13.0
Cancellation of registration of trade unions	6	55	5	45	11	5.3
Post service benefits (gratuity, CPF, termination benefit)	9	69	4	31	13	6.2
Illegal deduction from wages	2	22	7	78	9	4.3
Various special allowances	7	100	-	-	7	3.4
Charter of demands	1	100	-	-	1	0.5
TOTAL	94	45	114	55	208	100

APPENDIX D.19

Distribution of the decided labour court cases by courts and outcome to the applicant

Outcome to the Applicant	First Labour Court		Second Labour Court		Total	
	Court	%	Court	%	Court	%
Successful	1	3.3	12	17.1	13	13
Withdrawn	9	30.0	19	27.1	28	28
Not proceeded with	4	13.3	1	1.4	5	5
Unsuccessful - dismissed on default	12	40.0	29	41.4	41	41
Unsuccessful on contest	4	13.3	9	12.9	13	13
TOTAL	30	100.0	70	100.0	100	100

APPENDIX D.20

Percentage distribution of the labour court cases by length of time* and courts.

Time Interval	Decided Cases		Pending Cases	
	1st Labour Court	2nd Labour Court	1st Labour Court	2nd Labour Court
Within 2 months	10.0	-	6.2	2.3
Within 3 to 4 months	3.3	1.4	7.8	2.3
" 5 to 6 "	6.7	8.6	4.7	9.1
" 0.5 to 1.0 year	16.7	2.8	31.2	9.1
" 1.0 to 1.5 years	40.0	11.4	18.7	18.2
" 1.5 to 2.0 "	-	10.0	9.4	13.6
" 2.0 to 2.5 "	3.3	15.7	9.4	11.4
" 2.5 to 3.0 "	-	1.4	6.2	4.5
" 3.0 to 3.5 "	6.7	22.8	3.1	18.2
" 3.5 to 4.0 "	10.0	14.3	1.5	4.5
" 4.0 to 4.5 "	3.3	4.3	1.5	4.5
" 4.5 to 5.0 "	-	2.8	-	2.3
" 5.0 to 5.5 "	-	2.8	-	-
" 5.5 to 6.0 "	-	1.4	-	-
TOTAL	100.0	100.0	100.0	100.0
Total number of cases	30	70	64	44

* Decided cases: Total time from the date of filing a case to the date of its final decision.
Pending cases: Total time for which such a case remains pending from the date of filing to the date of investigation.

APPENDIX D.21

Factors explaining the reasons for delay in the sample labour court cases*

Factors	Number of times	Cases involved %	Mean
1. First party prayed for time	1-19	78	4.10
2. Second party prayed for time	1-23	96	8.30
3. Both parties prayed for time	1- 8	23	.41
4. First party absented	1- 8	74	2.09
5. Second party absented	1- 8	44	1.27
6. Both parties absented	1- 7	17	.29
7. Members of the court absented	1-17	73	3.94
8. Court was busy in hearing other cases	1-19	74	3.32
9. Chairman was absent	1- 7	72	1.84
10. Sudden Government holidays occurred	1- 3	26	.32
11. Enquiries, examination and cross-examination of cases	1- 8	32	.66
12. Written opinion of members delayed	1- 6	31	.85
13. Revival of cases on ex-parte decisions	1	9	.09
14. Legal complexities	1- 2	14	.15
15. Court shifted	1	12	.13
16. Mistakes done by clerks (hearing date misinformed	1	7	.07
17. No time today; hearing adjourned	1- 8	68	2.07
18. Hearing date shifted for unknown reasons	1- 7	71	2.20

* NOTE: Total number of cases = 208

APPENDIX E : TABLES RELATING TO ALL MACHINERIES OF DISPUTE RESOLUTION

APPENDIX E.1

Percentage distribution of the plant management, plant level CBA and corporation management according to their views as to the extent of the use of the dispute resolution machineries

Extent of Use	Collective Bargaining				Conciliation				Arbitration				Labour Court				Labour Appellate Tribunal			
	* PM	** CM	*** CBA	Total	PM	CM	CBA	Total	PM	CM	CBA	Total	PM	CM	CBA	Total	PM	CM	CBA	
Always	66.7	50.0	76.9	64.5			3.8	1.3												
Frequently	20.8	37.5	23.1	27.1									4.2	25.0	15.4	14.9				
Sometimes	8.3	12.5		7.0	17.4	12.5	19.2	16.4					33.3	37.5	46.2	39.0				
Rarely	4.2			1.4	60.9	50.0	53.8	54.9	9.5	12.5	7.7	9.9	58.3	37.5	34.6	43.5	41.7	50.0	52.0	47.9
Never					21.7	37.5	23.1	27.4	90.5	87.5	92.3	90.1	4.2		3.8	2.7	58.3	50.0	48.0	52.1
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

* PM = Plant Management
** CM = Corporation Management
*** CBA = Plant level CBA

NOTE: Total number of respondents (N) = PM,24; CM,8; CBA,26; and All,58 .

APPENDIX E.2

Percentage distribution of the plant management, corporation management and plant level CBAs according to their views on the adequacy of the statutory time limits provided for the dispute resolution machinery.

Extent of Adequacy	Collective Bargaining				Conciliation				Arbitration				Labour Court				Labour Appellate Tribunal			
	PM	CM	CBA	Total	PM	CM	CBA	Total	PM	CM	CBA	Total	PM	CM	CBA	Total	PM	CM	CBA	Total
More than adequate			15.4	5.1	12.5	12.5	30.8	18.6	4.2		15.4	6.5	8.3		19.2	9.2	12.5		19.2	10.6
Reasonably adequate	79.2	62.5	61.5	67.7	62.5	62.5	46.2	51.1	45.8	37.5	23.1	35.5	66.7	62.5	38.5	55.9	70.8	87.5	42.3	66.9
Less than adequate	20.8	37.5	19.2	25.8	20.8	25.0	19.2	21.7	4.2		3.8	2.7	20.8	37.5	38.5	32.3	8.3	12.5	34.6	18.5
Don't know			3.8	1.3	4.2		3.8	2.7	45.8	62.5	57.7	55.3	4.2		3.8	2.7	8.3		3.8	4.0
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

NOTES: (a) PM = Plant Management; CM = Corporation Management; CBA = Plant Level CBA.
(b) Total number of respondents (N) = PM,24; CM,8; CBA,26; and All,58.

APPENDIX E.3

Percentage distribution of the plant management, corporation management and plant level CBA according to their views as to the effectiveness of the dispute resolution machineries.

Extent of Effectiveness	Collective Bargaining				Conciliation				Arbitration				Labour Court				Labour Appellate Tribunal			
	* PM	** CM	*** CBA	Total	PM	CM	CBA	Total	PM	CM	CBA	Total	PM	CM	CBA	Total	PM	CM	CBA	Total
Very effective	33.3	50.0	11.5	25.9										12.5		1.7				
Reasonably Effective	12.5	12.5	23.1	17.2	16.7	25.0	7.7	13.8	4.2			1.7	20.8	50.0	30.8	29.3	37.5	25.0	50.0	41.4
Somewhat Effective	54.2	25.0	50.0	48.3	66.7	50.0	69.2	65.5	8.3		3.8	5.2	75.0	37.5	53.8	60.3	29.2	37.5	26.9	29.3
Not effective		12.5	11.5	6.9	8.3		15.4	10.3	20.8	12.5	19.2	19.0			11.5	5.2			7.7	3.4
Don't know			3.8	1.7	8.3	25.0	7.7	10.3	66.7	87.5	77.0	74.1	4.2		3.8	3.4	33.3	37.5	15.4	25.9
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

* PM = Plant Management; ** CM = Corporation Management; *** CBA = Plant Level CBA.

NOTE: Total number of respondents (N) = PM,24; CM,8; CBA,26; and All,58.

APPENDIX E.4

Extent of agreement of the plant management, corporation management, CBAs and conciliators with the statement that unions/workers had no determination to abide by the agreements that had already been made.

(Frequencies in percentage)

Extent of Agreement	Plant Mgt.	Corp'n. Mgt.	CBA	Concil-iators	All
Agree strongly	4.2		19.2	7.7	9.9
Agree slightly	25.0	50.0	30.8	23.1	29.6
Neutral				7.7	1.4
Disagree slightly	41.7	25.0	15.4	23.1	26.8
Disagree strongly	29.2	25.0	34.6	38.5	32.4
TOTAL	100.0	100.0	100.0	100.0	100.0
Total number of respondents	24	8	26	13	71

APPENDIX E.5

Extent to which plant management, corporation management, CBAs and conciliators agreed with the statement that inter-union rivalry stood as a bottleneck in the way of a sensible negotiation.

(Frequencies in percentage)

Extent of Agreement	Plant Mgt.	Corp'n. Mgt.	CBA	Concil-iators	All
Agree strongly	62.5	87.5	84.6	38.5	69.0
Agree slightly	29.2	12.5	11.5	30.8	21.1
Neutral	4.2		3.8	7.7	4.2
Disagree slightly	4.2			7.7	2.8
Disagree strongly				15.4	2.8
TOTAL	100.0	100.0	100.0	100.0	100.0
Total number of respondents	24	8	26	13	71

APPENDIX E.6

Percentage distribution of plant management, corporation management, CBAs and conciliators classified according to the extent to which they agreed with the statement that plant management had a very limited power to settle collective industrial disputes.

Extent of Agreement	Plant Mgt.	Corp'n. Mgt.	CBA	Concil-iators	All
Agree strongly	100.0	100.0	92.3	84.6	95.8
Agree slightly			7.7	15.4	4.2
TOTAL	100.0	100.0	100.0	100.0	100.0
Total number of respondents	24	8	26	13	71

APPENDIX E.7

Percentage distribution of dispute cases which failed at the plant level negotiation classified according to reasons for failure

	Plant Level Cases*	Conciliation Level Cases*	Total*
1. Financial inability	8.1	11.9	10.7
2. Lack of authority on the part of plant managed	33.2	17.1	22.7
3. Illegal and unreasonable demands, i.e. demands beyond the bargaining jurisdiction	21.0	18.6	19.6
4. Adamant attitude of management	7.1	16.5	13.5
5. Adamant attitude of the union	10.5	6.5	7.9
6. Lack of locus-standi of the CBA	2.4	3.1	2.9
7. Need to maintain uniformity with other plants	5.7	2.4	3.6
8. Antagonistic relationship between the parties and their conflicting views about each other, communication gap	11.9	8.3	9.6
9. No negotiation meeting arranged or held	-	15.5	9.6
TOTAL	100.0	100.0	100.0
Total number of responses	295	573	868
Total number of valid cases	163	190	353

* Multiple reasons were involved in most of the cases. Percentages based on total number of responses (reasons).

APPENDIX E.8

Percentage distribution of the conciliators and labour court members classified according to the extent of their agreement with the statement that the parties in dispute are not well aware of the laws of the country.

Extent of Agreement	Conciliators	Labour Court Members	All
Agree strongly	76.9	70.8	73.0
Agree slightly	23.1	20.8	21.6
Neutral	-	-	-
Disagree slightly	-	4.2	2.7
Disagree strongly	-	4.2	2.7
TOTAL	100.0	100.0	100.0
Total number of respondents	13	24	37

APPENDIX E.9

Percentage distribution of the plant management and CBA leaders classified according to the extent of their agreement with the statement that "the conciliators and labour courts should adhere to government guidelines and policies.

Extent of Agreement	Management	CBA	All
Agree strongly	50.0	11.5	30.0
Agree slightly	29.2	34.6	32.0
Neutral	4.2	3.8	4.0
Disagree slightly	16.7	30.8	24.0
Disagree strongly	-	19.2	10.0
Total	100.0	100.0	100.0
Total number of respondents	24	26	50

APPENDIX F.1

INTERVIEW SCHEDULE FOR PLANT MANAGEMENT

Sample Number ☐

01. Name of the plant:

02. Name of the respondent:

03. Designation:

04. Age (in years): ☐

05. Academic qualifications:

06. Work experience (in years): ☐

07.a. Total number of workers in the plant: ☐

b. What percentage of your workforce are union members ? ☐

c. How many unions are present in the plant ? ☐

08.a. Does your plant have any written grievance procedure ?

Yes ☐ No ☐

b. If yes, did you consult with the union while establishing it ?

Yes ☐ No ☐

c. If the plant does not have any written grievance procedure,

(1) Do you think that such a procedure should be established ?

Yes ☐ No ☐

(2) (i) Have you any informal grievance procedure ?

Yes ☐ No ☐

(ii) If yes, how does it work ?

09.a. Is there any Works Council or Participation Committee in your plant ?

Yes ☐ No ☐

b. If yes,

(1) How has this committee been constituted ?

	Number
Workers' representatives	
Management's representatives	
Total number of members in the committee	

(2) What matters does this committee deal with ?

(i)

(ii)

(iii)

(3) Are you satisfied with the working of this committee ?

Very satisfied ☐ Reasonably satisfied ☐

Somewhat satisfied ☐ Not satisfied ☐

10.a. Who usually initiate collective negotiation ?

CBA ☐ Management ☐ Others(specify)

b. Who participate in bipartite negotiation ?

Union's side	Management's side
(i)	(i)
(ii)	(ii)
(iii)	(iii)
(iv)	(iv)

c. Please mention three issues (in order of rank) you frequently have to negotiate with your CBA.

(i)

(ii)

(iii)

d. Do you put any agreement reached in written form ?

Always ☐ Frequently ☐ Sometimes ☐

Rarely ☐ Never ☐

e. Please mention three good and three bad points of the CBA of your plant.

Good points	Bad points
(i)	(i)
(ii)	(ii)
(iii)	(iii)

11.a. When a collective issue (A) or an individual grievance (B) arises, how is it resolved ? Please mark the appropriate boxes with any of the following letter(s):

A, indicating a collective issue

B, indicating an individual issue

AB, indicating both types of issues

	Always	Frequently	Sometimes	Rarely	Never
(1) By informal discussion					
(2) By grievance procedure					
(3) By works council					
(4) By formal negotiation with CBA					

b. What are the issues which you find difficult to settle by the above means ?

(i)

(ii)

(iii)

12. How many strikes took place in the last year in your plant ? Please state them chronologocally with duration.

13.a. Do you think the existing legal provisions for plant level negotiation to be adequate ?

Yes ☐ No ☐

b. If not, what modifications do you suggest ?

(i)

(ii)

(iii)

14.a. Approximately what percentage of the dispute cases negotiated between you and your CBA ultimately come out successful ?

☐ Percent

b. In unsuccessful cases, what are the usual causes responsible for the failure of such negotiations ?

(i)

(ii)

(iii)

15. Have you any suggestions to make the plant level bipartite negotiation more effective ?

(i)

(ii)

(iii)

16. With which of the following statements regarding the public report of the conciliation proceedings would you agree ?

(i) A conciliator should be empowered to make public report at his own initiative. ☐

(ii) He should be empowered to do it at the request of both the parties. ☐

(iii) He should be empowered to do it at the request of one of the parties. ☐

(iv) He should be empowered to do it in important cases. ☐

(v) He should not be empowered to do it. ☐

17. Why do the individual workers directly apply to labour courts without going through the unions ?

(i)

(ii)

(iii)

18. How frequently do you approach each of the following machineries for the settlement of industrial disputes ?

	Always	Frequently	Sometimes	Rarely	Never
(a) Collective Bargaining					
(b) Conciliation					
(c) Arbitration					
(d) Labour Court					
(e) Labour Appellate Tribunal					

19.a. What is your view on the statutory time limits provided for each of the following machineries of dispute settlement ?

	More than adequate	Reasonably adequate	Less than adequate
(a) Collective Bargaining			
(b) Conciliation			
(c) Arbitration			
(d) Labour Court			
(e) Lab. Appellate Tribunal			

b. If less than adequate, by how long (in days) do you wish (an) extension(s) ?

(a) Collective Bargaining	
(b) Conciliation	
(c) Arbitration	
(d) Labour Court	
(e) Labour Appellate Tribunal	

20.a. How would you evaluate the effectiveness of each of the following dispute settlement machineries ?

	Very effective	Reasonably effective	Somewhat effective	Not effective
(1) Collective Bargaining				
(2) Conciliation				
(3) Arbitration				
(4) Labour Court				
(5) Labour Appellate Tribunal				

b. If somewhat or not effective, what might be done to improve its (their) effectiveness ?

(1) Collective Bargaining:

(i)

(ii)

(iii)

(2) Conciliation:

(i)

(ii)

(iii)

(3) Arbitration:

(i)

(ii)

(iii)

(4) Labour Court:

(i)

(ii)

(iii)

(5) Labour Appellate Tribunal:

(i)

(ii)

(iii)

21. Below xxxxxxxxxxxxxxxxxx are 14 statements with which you may or may not agree. Please look at each statement and decide how much you agree with it, based on the following scale:

Agree strongly	Agree slightly	Neutral	Disagree slightly	Disagree strongly
1	2	3	4	5

Mark the appropriate box on the right of each statement with any of the above scores with which you best agree.

(1) Trade unions are usually unreasonable, they have no constructive approach.	
(2) Management seldom appreciates unions because they do not understand realities and practical problems.	
(3) Management always meets all reasonable requests of the CBA for information which are relevant to negotiations.	
(4) Unions and workers have no determination to abide by the agreements which have already been made.	
(5) Inter-union rivalry stands as a bottleneck in the way of sensible plant level negotiation.	
(6) Conciliators are overloaded with cases.	
(7) Conciliators do not always play a neutral role; often they are pro-union.	
(8) The CBA is usually reluctant to attend conciliation meetings.	
(9) The compulsory conciliation service has significantly reduced the number of strikes in our industries.	
(10) The union usually views plant level negotiation and conciliation as steps that it must pass through before any strike can be declared and settlements at these stages are irrelevant to it.	
(11) Labour court decisions are neutral.	
(12) Labour courts are overloaded. For speedy decisions, the number of courts should be increased.	

(13) The chairmen of the labour courts are either retired persons or about to retire. They do not take so much interest in labour matters.

(14) Conciliators and labour courts should adhere to government policies and guidelines.

Name of the investigator _____ Date _____

APPENDIX F.2

INTERVIEW SCHEDULE FOR COLLECTIVE BURGAINING AGENT

Sample Number _____

1. Name of the plant:

2. Name of the respondent:

3. Designation: (a) In the union: (b) In the plant:

4. Age (in years):

5. Work experience (in years):

6. Academic qualifications:

7. For how long a period of time are you with the trade union?
   _____ years

8. (a) How many trade unions are there in this plant including your one ?

   (b) With which national trade union is your union affiliated?

   (c) What is the membership strength of your union in this plant?

9. (a) Does this plant have any formal grievance procedure?

   Yes _____ No _____

   (b) If yes,

   (1) How was it established?
   Established by management on its own ____
   Established by management in consultation with the union ____

   (2) Have you approved of this procedure?
   Yes _____ No _____

   (c) If not,

   (1) Do you think that such a procedure should be established?
   Yes _____ No _____

   (2) Have you any informal grievance procedure?

   Yes _____ No _____

   (3) If yes, how does it work?

10. (a) Is there any Works Council/Participation Committee in this plant? Yes _____ No _____

(b) If yes,

(1) How has this committee been constituted ?

	Number
Worker's representative	_____
Management's representative	_____
Total number of members in the commette	_____

(2) What matters does this commeettee deal with?

(i)
(ii)
(iii)

(3) Are you satisfied with the working of this committee?
Very satisfied __ Reasonably satisfied _____
somewhat satisfied___ Not satisfied ____

(c) If not,

(1) Do you think that such a committee should be constituted?
Yes _____ No _____

(2) Have you requested the management to constitute one? Yes _____ No _____

11. (a) Who usually initiate collective negotiation?

CBA _____ Management _____

(b) Who participates in bipartite negotiations?

Union's side	Managements's side
(i)	(i)
(ii)	(ii)
(iii)	(iii)

(c) Please mention three issues (in order of rank) which you would frequently have to negotiate with the management.

(i)
(ii)
(iii)

(d) Do you put any agreement reached in written form?

Always _____ Frequently _____ Sometimes _____
Rarely _____ Never _____

(e) Please mention three good and three bad points of the management of this point.

Good points	Bad points
(i)	(i)
(ii)	(ii)
(iii)	(iii)

12.(a) When a collective issue (A) or an individual grievance (B) arises, how is it resolved? Please mark the appropriate boxes with any of the following letter(s):

A, indicating a collective issue
B, indicting an individual issue
AB, indicating both types of issues

	Always	Frequently	Sometimes	Rarely	Never
(1) By informal discussion					
(2) By grievance procedure					
(3) By works council					
(4) By formal negotiation with CBA					

(b) What are the issues which you find difficult to settle by the above means?

(i)
(ii)
(iii)

13. (a) When did your union organise the last strike?

(b) What was (were) the reasons for that strike?

(i)
(ii)
(iii)

(c) How long did it continue?

(d) How was it settled?

(e) What was its outcome?

14. (a) Do you have any current problem on which your union wishes negotiation with the management?

Yes _____ No _____

(b) If yes, would you please mention it?

(c) Are there some issues which management refuses to negotiate?

Yes _____ No _____

(d) If yes, would you please mention these?

(i)
(ii)
(iii)

15. (a) Do you think the existing legal provisions for dispute settlements to be adequate?

Yes _____ No _____

(b) If not, what modification do you suggest?

(i)
(ii)
(iii)

16. (a) Approximately what percentage of the dispute cases negotiated between you and management ultimately come out successful?

_____ Percent

(b) In unsuccessful cases, what are the usual causes responsible for the failure of such negotiations?

(i)
(ii)
(iii)

17. With which of the following statements regarding the pubilic reporting of the conciliation proceedings would you agree ?

(i) A conciliator should be empowered to make public report at his own initiative.
(ii) He should be empowered to do it at the request of both the parties.
(iii He should be empowered to do it at the request of one of the parties.
(iv) He should be empowered to do it in important cases.
(v) he should not be empowered to do it.

18. Why do the individual workers directly apply to labour courts without going through the union ?

(i)
(ii)
(iii)

19. how frequently do you approach each of the following machineries for the settlement of industrial disputes?

	Always	Frequently	Sometimes	Rarely	Never
(1) Collective bargaining					
(2) Conciliation					
(3) Arbitration					
(4) Labour court					
(5) Labour Appe-llate Tribunal					

20.(a) What is your view on the statutary time limits provided for each of the following machineries of dispute selllement ?

	More than adequate	Reasonably adequate	Less than adequate
(1) Collective bargaining			
(2) Conciliation			
(3) Arbitration			
(4) Labour Court			
(5) Labour Appelate Tribunal			

(b) If less than adequate, by how long (in days) do you wish (an) extention(s) ?

(1) Collective bargaining
(2) Conciliation
(3) Arbitration
(4) Labour Court
(5) Labour Appellate Tribunal

21. (a) How would you evaluate the effectiveness of each of the following dispute settlement machineries ?

	Very effective	Reasonably effective	Somewahat effective	Not effective
(1) Collective Bargaining				
(2) Conciliation				
(3) Arbitration				
(4) Labour Court				
(5) Labour Appelate Tribunal				

(b) If somewhat or not effective, what might be done to improve its (their) effectiveness ?

(1) Collective Bargaining:
(i)
(ii)
(iii)
(2) Conciliation:
(i)
(ii)
(iii)
(3) Arbitration:
(i)
(ii)
(iii)
(4) Labour Court:
(i)
(ii)
(iii)
(5) Labour Appellate Tribunal:
(i)
(ii)
(iii)

22. (a) Do you agree with the allegation that some of our laws are not democratic ? Yes _____ No _____

(b) If yes, would you please mention some of these undemocratic provisions ?

(i)
(ii)
(iii)

23. (a) What are the major administrative problems of your union today ?

(i)
(ii)
(iii)

(b) How are you going to tackle these problems ?
(i)
(ii)
(iii)

24. Bellow are 14 statements with which you may or may not agree.Please look at each statement and decide how much you agree with it, based on the following scale:

Agree strongly	Agree slightly	Neutral	Disagree slightly	disagree strongly
1	2	3	4	5

Mark the appropriate box on the right of each statement with any of the above scores with which you best agree.

(1) Management recognises and appreciate the CBA.	
(2) Management usually tries to solve any problem through negotiation with the CBA.	
(3) In most bipartite negotiations management behaves unreasonably.	
(4) Management is usually reluctant to meet reasonable requests of the CBA for information which are relevant to negotiations.	
(5) Inter-union rivalry stands as a bottleneck in the way of making sensible plant level negotiations.	
(6) Workers have no determination to abide by the agreements which have already been made.	
(7) The compulsory conciliation service has significantly reduced the number of strikes in our industries.	
(8) Conciliators are overloaded with cases.	
(9) Conciliators do not always play a neutral role; often they are pro-management.	

(10) Management is usually reluctant to attend conciliation meetings.
(11) Labour court decisions are neutral.
(12) Labour courts are overloaded. For speedy decisions, the number of courts should
(13) The chairman of the labour courts are either retired persons or about to retire. They do not take so much interest in labour matters.
(14) Conciliators and labour courts should adhere to government policies and guidelines.

Date _____ Name of the investigator _____

APPENDIX F.3

INTERVIEW SCHEDULE FOR CORPORATION MANAGEMENT

Sample Number

1. Name of the office:

2. Name of the respondent:

3. Designation:

4. Age (in year):

5. Academic qualification(s):

6. Work exprience (in years):

7. (a) Total number of workers in the industry

   (b) Approximately what percentage of this work force are union members ?

8. (a) Do you have any written grievance procedure ? Yes/No

   (b) If not, do you think taht such a procedure should be established ? Yes ___ No ____

9. Can the plant level CBAS raise any industrial dispute to the Head Office Management ? Yes _____ No _____

10. (a) How many trade union federations are there in your industry ? _____

    (b) Would you please mention the names of these federations ?

        (i)
        (ii)
        (iii)
        (iv)

    (c) As per law, only a CBA can raise an industrial dispute. But how does a federarion, not being a CBA, raise dispute to you ?

    (d) Are all federations allowed to submit demands to the Head Office Management ? Yes _____ No _____

    (e) If not, how do you determine the competence of a federation for submitting demands ?

    (f) How do you settle collective disputes initiated by the federations ?

    (g) What happens after the failure of negotiation with the federations ?

11.(a) Who participate in Board/Corporation level bipartite negotiation ?

Federation's side	Board's/Corporation's sode
(i)	(i)
(ii)	(ii)
(iii)	(iii)
(iv)	(iv)
(v)	(v)

(b) Please mention three issues (in order of rank) you frequently have to negotiate with the federation .

(i)
(ii)
(iii)

(c) Do you put any agreement reached in written form ?
Always ____ Frequently ____ Sometimes ____
Rarely ____ Never ___

12.(a) Please mention three issues which are relatively harder to negotiate and settle with the federations .

(i)
(ii)
(iii)

(b) Why are the above issues harder to settle ?

13.(a) Approximately what percentage of the dispute cases negotiated between you and the federations ultimately come out successful ?

(b) In successful cases, what are the usual causes responsible for the failure of such negotiations ?

(i)
(ii)
(iii)

14. What type of industrial dispute cases are referred by the plants to the Board/Corporation Management and how do you settle them ?

Nature of cases	Method of settlement
(i)	
(ii)	
(iii)	

15. Have yo any suggestions to make the plant level dispute settlement more effective ?

(i)
(ii)
(iii)

16. How frequently do you approach each of the following machineries for the settlement of industrial dispute ?

	Always	Frequently	Sometimes	Never
(a) Collective Bargaining				
(b) Conciliation				
(c) Arbitration				
(d) Labour Court				
(e) Labour Appellate Tribunal				

17.(a) What is your view on the statutory time limits provided for each of the following machineries of dispute settlement ?

	More than adequate	Reasonably adequate	Less than adequate
(a) Collective Bargaining			
(b) Conciliation			
(c) Arbitration			
(d) Labour Court			
(e) Labour Appellate Tribunal			

(b) If less than adequate, by how long (in days) do you wish (an) extension(s) ?

(a) Collective Bargaining _____
(b) Conciliation _____
(c) Arbitration _____
(d) Labour Court _____
(e) Labour Appellate Tribunal _____

18.(a) How would you evaluate the effectiveness of each of the following dispute settlement machineries ?

	Very effective	Reasonably effective	Somewhat effective	Not effective
(1) Collective Bargaining				
(2) Conciliation				
(3) Arbitration				
(4) Labour Court				
(5) Labour Appellate Tribunal				

(b) If somewhat or not effective, what might be done to improve its (their) effectiveness ?

19. With which of the following statements regarding the public report of the conciliation procedings would you agree ?

(i) A conciliator should be empowered to make public report at his own initiative .
(ii) He should be empowered to do it at at the request of both the parties.
(iii) He should be empowered to do it at the request of one of the parties.
(iv) He should be empowered to do it in important cases.
(v) He should not be empowered to do it.

20.(a) It has been observed that a very small number of cases have gone to conciliation from your industry. what are the reasons behind this ?

(i)
(ii)
(iii)

(b) Why are the parties reluctant to refer disputes to arbitration ?

(i)
(ii)
(iii)

21. On the next page there are 15 statements with which you may or may not agree. Please look at each statement and decide how much you agree with it, based on the folowing scale:

Agree strongly	Agree slightly	Neutral	Disagree slightly	Disagree stongly
1	2	3	4	5

Mark the appropriate box on the right of each statement with any of the above scores with which you best agree.

(1) Trade unions/federations are usually unreasonable, they have no constructive approach. ____

(2) Management seldom appriciates unions/federations because they do not understand realities and practical problems. ____

(3) Management always meets all reasonable requests of the CBA/federation for information which are relevant to negotiations. ____

(4) Unions/Federations and workers have no determination to abide by the agreements which have already been made. _____

(5) Inter-union/Federation rivalry stands as a bottleneck in the way of sensible plant level negotiation. ____

(6) Conciliators are overloaded with cases. ____

(7) Conciliators do not always play a neutral role; often they are pro-union. ____

(8) The CBA/Federation is usually reluctant to attend conciliation meetings. ____

(9) The compulsory conciliation service has significantly reduced the number of strikes in our industries. _____

(10) The union-federation usually views plant level negotiation and conciliation as steps that it must pass through before any strike can be declared and settlements at these stages are irrelevant to it. _____

(11) Labour court decisions are neutral. _____

(12) Labour courts are over-loaded. For speedy decisions, the number of courts should be increased. ____

(13) The chairman of the labour courts are either retired persons or about to retire. They do not take so much interest in labour matters. _____

(14) Conciliators and labour courts should adhere to government policies and guidelines. _____

(15) Plant level management has a very limited power to settle collective disputes. _____

Date:_____ Name of the investigator _____

APPENDIX F.4

INTERVIEW SCHEDULE FOR CONCILIATORS

Sample Number ☐

01. Name of the office: _____

02. Name of the respondent: _____

03. Designation in the Labour Department: _____

04. Age (in years): _____

05. Academic qualifications: _____

06. Date of joining as the conciliator: _____

07. Previous job experience (if any): _____

08. Jurisdiction of functions:
    (a) Territorial limits:

    (b) Number of plants: _____

09. When do you start conciliation within the dispute procedures ?

10. Who usually apply to you for conciliation of disputes ? Tick the appropriate box(es):

    (a) Individual workers ☐
    (b) Collective Bargaining Agent ☐
    (c) Management ☐
    (d) Both the CBA & Management ☐

11. Please mention three issues (in order of rank) you frequently have to conciliate in the public sector industries.

    (a)

    (b)

    (c)

12.a. Approximately what percentage of the dispute cases conciliated by you come out successful ? _____

b. In unsuccessful cases, what are the usual causes responsible for such failures ?

    (1)

    (2)

    (3)

13.a. Do you find some essues harder to conciliate than others ?

Yes ☐ No ☐

b. If yes, please state which of the following issues are relatively harder and which are relatively easier to conciliate ?

	Harder to conciliate	Easier to conciliate
(1) General wages issues		
(2) Fringe benefits		
(3) Bonus		
(4) Factory administration		
(5) Work procedures		
(6) Leave & hours of work		
(7) Physical working conditions		
(8) Personnel matters (transfers, promotions, dismissals etc.)		

14.a. Do you consider your power under the law to be adequate ?

Yes ☐ NO ☐

b. If not, what extension of power do you wish ?

c. How freq ently you have to use legal power in getting information from or compelling the attendence of the parties in conciliation proceedings ?

Alaways ☐ Frequently ☐ Sometimes ☐

Rarely ☐ Never ☐

d. Do you think that in the absence of your legal power parties would have cooperated with you ?

15.a. Do you wish an extension of the statutory conciliation period ?

Yes ☐ No ☐

b. If yes, how long (in days) ? ☐

c. If not, why not ?

16.a. Do you think that your suggestions and recommendations for settlement should be made public even if the parties do not agree ?

Yes ☐ No ☐

b. If yes, do you think that if you were empowered to issue public reports on conciliation proceedings, public opinion would act as a lever with which to hasten agreement ?

Yes ☐ No ☐

c. If not, why do you think so ?

(1)

(2)

(3)

17. How do you settle financial issues in the public sector industries ?

(a) Do not intervene ☐

(b) Seek settlement as per the guidelines of the I.W.W.P.C. ☐

(c) Seek settlement regardless of the Government guidelines ☐

18.a. When conciliation turns unsuccessful, do you try to encourage the parties to agree to refer the dispute to arbitration ?

Yes ☐ NO ☐

b. If yes, how frequently do you become successful in such a reference ?

Alaways ☐ Frequently ☐ Sometimes ☐

Rarely ☐ Never ☐

c. If rarely or never successful, why are the parties so reluctant to refer to arbitration ?

(1)

(2)

(3)

19. In unsuccessful cases, what happens after the failure of conciliation ? Do you follow them up ?

20.a. Have you ever experienced any wildcat strikes in the public industries ?

Yes ☐ No ☐

b. If yes, how do you conciliate in such strikes ?

21. Do you informally entertain any individual disputes for conciliation ?

22. what problems do you usually face while conducting conciliation ?

(1)

(2)

(3)

(4)

23. Have you any suggesions to make the conciliation machinery more effective ?

(1)

(2)

(3)

24. What are the major administrative problems of your office today ?

(1)

(2)

(3)

(4)

25. What are your views on the following statements ? Please give your views based on the following scale:

Agree strongly	Agree slightly	Neutral	Disagree Slightly	Disagree Strongly
1	2	3	4	5

Mark the appropriate box on the right of each statement with any of the above scores with which you best agree.

a. Management does not try to solve problems through negotiation with the unions at the plant level. ☐

b. Unions do not try to solve problems through negotiation with the management at the plant level. ☐

c. Interunion rivalry stands as a bottleneck in the way of a sensible conciliation. ☐

d. Sometimes we can not play a neutral role due to some external constraints. ☐

e. I am not able to do my job as effectively as I could possibly because I am overloaded. ☐

f. Existing legal provisions for conciliation are adequate for the purpose. ☐

g. Management is usually reluctant to attend the conciliation meetings. ☐

h. Union is usually reluctant to attend the conciliation meetings. ☐

i. Because the law does not give any specific guidelines regarding the process or content of settlement, we act on our personal views. ☐

j. On some points the law is quite clear, but the parties are not well-aware of them. ☐

k. The very presence of the conciliator helps to promote a settlement. ☐

m. Strikes would have increased significantly without compulsory conciliation. ☐

n. Parties view conciliation as a step that they must compulsorily pass through before any strike (lockout) can be declared and to them settlement is irrelevant. ☐

o. In some cases, lack of specialised & experienced conciliators is one reason for the failure of conciliation. ☐

p. Both union and management need much better training. ☐

q. Compulsory conciliation has more advantages than disadvantages. ☐

Name of the investigator _____ **Date** _____

APPENDIX F.5

INTERVIEW SCHEDULE FOR LABOUR COURT MEMBERS

Sample No. _____ Serial No. _____

1. Name of the court:

2. Name of the respondent:

3. Designation:
   (1) Member _____ (2) Chairman _____

4. Age (in years):

5. Academic qualifications:

6. Date of joining the labour court:

7. Previous job experience:

8. Whom do you represent?

9. (a) Does the court decide all the cases referred to it?
   (1) Workers _____(2) Employers _____(3) Not negotiable _____

   (b) If not, how does the court decide which cases to hear?

   (c) What happens to cases not decided?

   (d) How does the court select cases to be heard first?
   (1) First come first served basis:
   (2) Collective disputes get preference to the individual ones:
   (3) Considering the urgency of the cases:
   (4) Considering other factors (please specify):

10. Who apply/refer to the court for adjudication?

	Always	Frequently	Sometimes	Rarely	Never
(1) Individual worker					
(2) C.B.A.					
(3) Other unions					
(4) Management					
(5) Government					

11. Please mention three issues (in order of rank) which you frequently have to adjudicate in the public sector industries?

(a)
(b)
(c)

12. (a) Do you find some issues harder to adjudicate than others?

Yes _____ No _____

(b) If yes, please mention some issues which are relatively harder and which are relatively easier to adjudicate

	Harder to adjudicate	Easier to adjudicate.
(1)		(1)
(2)		(2)
(3)		(3)
(4)		(4)

13. (a) Do you consider the powers of the court under the law to be adequate?

Yes _____ No _____

(b) If yes, what extension of power do you think necessary?

14. (a) Do you wish an extension of statutory adjudication period?

Yes _____ No _____

(b) If yes, how long (in days)? _____

(c) If not, why not?

15. (a) How do you in adjudicate financial financial issues in the public sector industries?
(a) Seek settlement as per the guidelines of the I.W.W.P.C.
(b) Seek settlement regardless of the Government guidelines.
(c) Other ways (please specify):

16. What problems do you usually face while conducting adjudication?

17. (a) Why are so many cases pending with the labour court?
(a)
(b)
(c)

(b) What would you suggest to reduce such a large number of cases either from the viewpoint of their initiation or from the viewpoint of their quick disposal?
(a)
(b)
(c)

18. Have you any other specific suggestions to make the adjudication machinery of the country to settle industrial disputes more effective?
(a)
(b)
(c)

19. How were you selected and appointed to be a chairman/member of this court?

20. What are the major administrative problems of your court at present?
(a)
(b)
(c)

21. What are your views on the following statements? Please give your views based on the following scale:

Agree strongly	Agree slightly	Neutral	Disagree strongly	Disagree slightly
1	2	3	4	5

Mark the appropriate box on the right of each statement with any of the above scores with which you best agree.

a. Management does not try to solve problems through negotiation with the union at the plant level. ____

b. Workers (unions) do not try to solve problems through negotiation with the management at the plant level. ____

c. More could be done to resolve cases at the stage of compulsory conciliation. ____

d. Sometimes we cannot play a neutral role due to some external constraints. ____

e. The court is flooded with cases. We are overloaded. More courts should be constituted. ____

f. Because the law does not give any specific guidelines regarding the process of adjudication, we act on our personal views. ____

g. On some points the law is quite clear, but the parties are not well-aware of them. ____

h. In comparison with those of many other countries, our labour laws are fair; but they are not properly implemented. ____

i. Labour court is different from ordinary courts. It has some conciliatory obligations also. ____

j. Workers and unions are usually untrained. They do not know what proofs are required to substantiate the case. They often fail to produce evidence(s). ____

k. Parties are indifferent in attending hearings. ____

l. Dilatory attitude of the rival parties delays court's decision. ____

m. Members of the court are not always assiduous in attending meetings of the court. ____

n. "Justice delayed is justice denied". Cases pending for a great length of time creates frustration. ____

o. There is a lack of uniform body of decisions, principles and precedents for the guidance of the labour court. ____

p. Labour courts do not have well-equipped libraries. ____

q. Members of the court very often support their parties' case and deprive the Chairman of objective advice. ____

r. It requires more than law to solve and adjudicate labour disputes. It involves complex problems of production analysis, financial analysis and such other matters. ____

Name of the investigator:
Date:

APPENDIX F.6

CONTENT ANALYSIS SHEET FOR PLANT LEVEL CASES

For data processing purpose only.	
Col. Nos.	Code Nos.

01. Name of the plant:

02. Serial number of the case examined: ☐

03. Type of the case:

Individual ☐
Group ☐
Collective ☐

04. Who initiated the negotiation ?

Collective Bargaining Agent ☐
Management ☐
Others (specify) ☐

For data processing purpose only.	
Col. Nos.	Code Nos.

05. What was(were) the reason(s) for the dispute ?

- Pay
- Bonus
- Fringe benefits
- Physical working conditions
- Holidays, leaves, hours of work and other timing issues
- Disciplinary matters (e.g. suspension, dismissal etc.)
- Work allocation / organisation
- Labour welfare
- Others (specify)

06. What was the result of negotiation?

- Successful
- Partly successful
- Unsuccessful:
  - Not proceeded further
  - Referred to corporation
  - Referred to conciliator
  - Referred to labour court

07. If the negotiation was successful or partly successful, main contents of the collective agreement:

(1)
(2)
(3)
(4)
(5)

08. Binding period for the agreed terms:

09. If the negotiation turned unsuccessful, what were the causes responsible for the failure of the negotiation ?

(1)
(2)
(3)

10. How long did it take to conclude the negotiation ?

☐ days

11. (a) If the case was referred to the corporation, was it settled at the corporation level ?

Yes ☐
No ☐

(b) If not, how was it settled ?

For data processing purpose only.	
Col. Nos.	Code Nos.

12.(a) If referred to the conciliator, was the case settled through conciliation ?

Yes ☐
No ☐

(b) If not, how was it settled ?

13. If referred to the labour court, what was the outcome ?

Successful for the worker(union) ☐
Successful for management ☐

Name of the investugator

Date _____

APPENDIX F.7

CONTENT ANALYSIS SHEET FOR CONCILIATION LEVEL CASES

Serial No. ☐

01. Name of the conciliation office:

(1) Dhaka ☐ (2) Tongi ☐
(3) Narayangonj ☐ (4) Others(specify)

02. The industry involved:

(1) Jute ☐ (2) B.R.T.C. ☐
(3) B.I.W.T.C. ☐ (4) B.I.W.T.A. ☐
(5) Electricity ☐

03. Who applied for the conciliation ?

(1) Union ☐ (2) Management ☐
(3) Both ☐

04. What was(were) the reason(s) for the dispute ?

(1) Pay

(2) Bonus

(3) Fringe benefits

(4) Physical working conditions

(5) Holidays, leaves, hours of work etc.

(6) Disciplinary matters (e.g. suspension, dismissal etc.)

(7) Other personnel matters (e.g. recruitment, promotion, transfer etc.)

(8) Work allocation/organisation

(9) LabOur welfare

(10) Others(specify)

05. Why did the direct negotiation (at the plant level) fail ?

(1)

(2)

(3)

06. (a) Time taken in the direct negotiation:

[ ] days

(b) Time (from the date of application) within which conciliation proceedings started:

[ ] days

(c) Extended period of conciliation (if so agreed by the parties):

[ ] days

(d) Time taken to conclude the conciliation:

[ ] days

07. Whether power(s) had to be invoked to get information from or compel the attendence of the parties:

(1) Yes [ ] (2) No [ ]

(3) Not available [ ]

08. Outcome of the conciliation proceedings:

(1) Successful [ ]

(2) Partially successful [ ]

(3) Unsuccessful [ ]

(4) Not proceeded with [ ]

09. Binding period, if the case is successful or partially successful:

(1) One year

(2)

10. If the case is partially successful, what is(are) the point(s) on which agreement could not be made ?

(1)

(2)

(3)

11. If the case is unsuccessful or partially unsuccessful, what was(were) the reason(s) for the failure of the conciliation ?

(1)

(2)

(3)

12. What happened after the failure of the conciliation ?

(1) Referred to arbitration

(2) Referred to labour court

(3) Referred back to parties

(4) Not available

Name of the investigator

Date _____

APPENDIX F.8

CONTENT ANALYSIS SHEET FOR LABOUR COURT CASES

Serial No.

For all cases:

01. Name of the court:

(1) First Labour Court, Dhaka

(2) Second Labour Court, Dhaka

(1) Decided ☐ (2) Undecided ☐

03. The law(s) and section(s) involved in the case:

(a) Law(s):

(1) The I.R.O.,1969 ☐

(2) The Employment of Labour (Standing Orders) Act,1965 ☐

(3) Others(specify)

(b) Section(s):

(1) ☐

(2) ☐

(3) ☐

04. The industry involved:

(1) Jute (public sector) ☐

(2) Road transport (public sector) ☐

(3) Water transport (public sector) ☐

(4) Electricity ☐

05. Type of the case:

(1) Individual ☐ (2) Group ☐

(3) Collective ☐

06. Who initiated the case ?

(1) An individual worker ☐

(2) A group of workers ☐

(3) An union / C.B.A. ☐

(4) Management ☐

(5) Referred by the Government ☐

(6) Others (specify)

07. What was(were) the reason(s) for the case ?

(1) Pay ☐

(2) Bonus ☐

(3) Fringe benefits ☐

(4) Physical working conditions ☐

(5) Holidays, leaves, hours of work and other timing issues ☐

(6) Disciplinary matters (e.g. suspension, dismissal etc.) ☐

(7) Other personnel matters (e.g. recruitment, promotion, transfer etc.) ☐

(8) Work allocation/organisation ☐

(9) Labour welfare ☐

(10) Others (specify) ☐

08. What enforcement was(has been) sought ?

(1) Legal rights

(2) Previous award(s) of the labour court

(3) Terms of the existing collective agreement(s)

(4) New demands not based on existing agreement(s)

If the case is a decided one:

09. What was the outcome (to the initiator or first party) of the case ?

(1) Successful

(2) Partially successful

(3) Unsuccessful

10. Who attended the hearing ?

(1) Plaintiff (2) Defendant

(3) Both

11. How long (in days) did it take to decide the case ?

days

12. Was there an appeal against the decision of the court ?

(1) Yes (2) No

(3) Not available

If the case is an undecided one:

13. Why is the case remaining undecided ?

(1)

(2)

(3)

14. For how long (in days) is the case remaining pending ?

days

15. What happened to the case ?

(1) Will be decided in the future

(2) Withdrawn

(3) Not proceeded with

(4) Referred back to parties

Name of the investigator

Date _____

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