

# Multiplicity of Trade Unions in India and Its Impact on Collective Bargaining

Jaishnav S<sup>1</sup>, Vijayendra Kumar M<sup>2</sup>

## ABSTRACT:

The trade union movement is very important for safeguarding and advancing workers rights and also for fostering harmonious relations between employers and their employees. Now within the Indian context, the trade unions are particularly significant in the realm of collective bargaining which also seeks to achieve improved remuneration and favorable working conditions and enhanced job security for employees. The legal structure governing trade unions primarily comes from the Trade Unions Act of 1926. This legislation stipulates the procedures for union registration and delineates their respective rights and obligations. A significant impediment within the Indian labor relations framework is the proliferation of trade unions, with numerous unions frequently active within the same workplace or sector. Despite the legal provision for multiple union registrations, a definitive mechanism for designating a single union to represent all workers in negotiations is absent. As a result, the presence of many trade unions often leads to competition, which makes it harder to negotiate collective agreements effectively. Rather than providing a unified front for negotiations with employers, workers are often fragmented and represented by different unions with different agendas. This has often been responsible for undermining the negotiation process and generating instability in the process. In many instances, the political affiliations of trade unions are also responsible for undermining the process and generating competition. This scholarly article aims to examine the multiplicity of trade unions in India and evaluate it in terms of implications on collective bargaining. The article identifies and demarcates the legal scenario relating to trade unions, socio-political circumstances leading to multiplicity, and implications of multiplicity on trade unions. The article also attempts to evaluate the changes brought about by the Industrial Relations Code, 2020, which aims to deal with these issues through concepts of negotiating unions and negotiating councils. Through an evaluation of legal provisions, judgments, and scholarly opinions, it has been argued in this paper that despite trade unions being an essential part of labor rights, multiplicity has significantly impacted their effectiveness. The article concludes with recommendations on strengthening legal provisions relating to recognition of trade unions and institutional changes to strengthen collective bargaining in India.

## Introduction:

Trade unions have played a important role in protecting workers rights and promoting equitable labor practices in industrialized countries of the world. Trade unions, which are organizations of workers, are primarily formed to protect their economic, social, and professional rights. These unions allow workers to negotiate with their employers about things like pay, working conditions, job security, and other employment benefits. In modern labor law, trade unions are seen as important tools for promoting industrial democracy and balancing the power between employers and employees. In India, the main rules for trade unions are mostly found in the Trade Unions Act of 1926<sup>1</sup>. This law covers how trade unions are

---

<sup>1</sup> Trade Unions Act, 1926.

registered. It gives legal recognition to trade unions and provides certain rights and protections to registered unions, allowing them to represent workers in talks with their employers.

This legislation was framed in colonial India with the aim of providing legitimacy to the trade union movement and ensuring that workers were able to collectively bargain with their employers without any threat of legal action against them. Trade unions have over time come to assume considerable importance in India's industrial relations scenario. Nevertheless, despite the recognition of the significance of trade unions, the Indian labour relations system has been facing the challenge of the multiplicity of trade unions. There are many instances where multiple trade unions are simultaneously present in an establishment, claiming to represent the workers of the particular organization. This has often led to the existence of unhealthy competition between these unions, thereby negatively impacting the effectiveness of the process of collective bargaining<sup>2</sup>. Instead of having workers united under a single front during the process of collective bargaining, there may be several unions, each having different structures of leadership, political, and ideological affinities. This has created greater difficulties for employers to ascertain the actual representative of their workers, thereby creating complexities in the process of collective bargaining.

The first and foremost reason for this issue is the lack of clear provisions under the Trade Unions Act of 1926 regarding the recognition of a single trade union for the process of collective bargaining. Although the Act has provided for the registration of several trade unions within a single establishment, it has not provided for the recognition of the majority trade union for the process of collective bargaining. This has greatly contributed to the existence of multiple trade unions within several industries.

This issue has been extensively discussed in the literature of labour law, as the existence of multiple trade unions has negatively impacted the bargaining power of workers, thereby creating greater instability in the process of industrial relations. Keeping in view these issues, the recent labour law reforms have been made to overcome this problem of the multiplicity of trade unions. The Industrial Relations Code, 2020<sup>3</sup> has been enacted to simplify the process of collective bargaining by allowing the concept of the negotiating union or negotiating council, which is to represent the workers during the process of collective bargaining. Against this background, this current research aims to examine the question of multiplicity of trade unions in India and its implications on collective bargaining. The article aims to examine the legal regime relating to trade unions, factors which have led to multiplicity of trade unions in an organization, and implications of multiplicity of trade unions. The article aims to enlighten the reader on the issues relating to multiplicity of trade unions and explore avenues which can strengthen collective bargaining in India.

In order to understand the issue of multiplicity of trade unions and its implications for collective bargaining, it is essential to first examine the concept and role of trade unions within labour relations systems.

## **2. Concept and Role of Trade Unions in Collective Bargaining:**

In order to understand the issue of multiplicity of trade unions and its implications for collective bargaining, it is essential to first examine the concept and role of trade unions within labour relations systems.

Trade unions establish themselves as major players in the arena of labor relations. They manifest themselves as organizations that represent the collective interests of workers. Trade unions came into being as a response to the historical context of power asymmetry between employers and individual

---

<sup>2</sup> International Labour Organization, *Collective Bargaining in Industrial Relations: A Comparative Study* (ILO Labour Studies Series).

<sup>3</sup> Industrial Relations Code, 2020; see also Ministry of Labour & Employment, Government of India, *Report on Labour Law Reforms* (2020).

workers during the industrial revolution. When workers bargain individually with their employers, it is highly likely that the latter would hold more power in terms of economic strength and would thus impose unfavorable terms of employment. Trade unions help to bridge this power gap by allowing workers to collectively bargain and express their views in terms of wages and conditions of employment.<sup>4</sup>

In terms of trade unions in India, it is pertinent to note that the Trade Unions Act, 1926<sup>5</sup> provides a statutory definition of trade unions. According to the definition under Section 2(h) of the Trade Unions Act of 1926, “trade union” means any association of workmen or of employers formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen or between employers and employers. This definition of trade unions highlights their role in regulating industrial relations and facilitating communication between parties involved in employment relationships. By giving legal recognition to trade unions, the Trade Unions Act of 1926 enables them to function as legitimate representatives of workers in all issues related to employment and labor welfare.

One of the main roles of trade unions is their involvement in the process of collective bargaining. Collective bargaining refers to the process in which the representatives of the workers engage in dialogue with the employers with the objective of arriving at an agreement on the terms and conditions of employment. The scope of such an agreement generally includes the rates of pay, working hours, safety, and redressal of grievances, among others. The main objective of the process of collective bargaining is to arrive at an agreement between the laborers and the employers, which would be mutually beneficial and would sustain the industrial harmony and peace. This process has been recognized as one of the important components of democratic labor relations in many countries.<sup>6</sup>

The trade unions play an important role in the process of effective and efficient collective bargaining. This is because, being the representatives of the interests of the majority of the laborers, they are in a strong position to engage in dialogue with the employers and arrive at an agreement, which would be mutually beneficial. Besides the process of collective bargaining, the trade unions also play the role of redressal of grievances and resolution of disputes, which would be conducive to the development of fair and transparent labor relations.

A important aspect of trade unions is the promotion of solidarity among workers. This is done by uniting under a particular banner of organization, workers can better voice their grievances and protect themselves against arbitrary actions of the employer. Trade unions may also undertake various activities like educating workers about their rights under the law and providing legal assistance to workers in resolving disputes with employers. By engaging in such activities, trade unions assume a more significant role in determining the overall direction of labor legislation and socio-economic issues that impact the working class at large. However, it is noteworthy that the efficacy of trade unions in collective bargaining is largely dependent upon the level of unity and solidarity among workers. By having one powerful union represent workers’ interests, it is easier for workers to negotiate with employers. On the contrary, having multiple trade unions in the same workplace may dilute the overall voice of workers and create difficulties in arriving at mutual agreements. This one is particularly relevant in the context of India, where having multiple trade unions in one workplace is not rare. The next section of this chapter will examine the legal framework applicable to trade unions in India and its role in giving rise to multiple trade unions in one workplace.

---

<sup>4</sup> Sidney Webb & Beatrice Webb, *Industrial Democracy* (1897).

<sup>5</sup> Trade Unions Act, 1926 § 2(h).

<sup>6</sup> International Labour Organization, *Collective Bargaining: A Policy Guide* (2015).

### 3. Legal Framework Governing Trade Unions in India:

The regulation and operation of trade unions in India are largely governed by legislative measures, which provide legal recognition to workers' organizations and regulate their activities. The major legislative act in this context is the Trade Unions Act, 1926<sup>7</sup>, which specifies the legal framework for the establishment, registration, and operation of trade unions in India. This legislation, formulated during the colonial regime, aimed to provide legal recognition to the trade union movement and protect workers' rights to associate themselves for their common interests without facing the risk of being prosecuted under the law of criminal conspiracy. Since its formulation, this legislation has continued to function effectively as the guiding legislation for trade union activities in India.

The Trade Unions Act, 1926, is characterized by its specification of the process for the registration of trade unions, which would help them obtain legal recognition to function in India. Registration of trade unions is important, as it would help them attain legal recognition to function effectively as legitimate workers' representatives. Under this legislation, the minimum membership required for obtaining registration, along with other documents such as the rules, objectives, and details of office bearers of the trade unions, would be essential for obtaining legal recognition for their activities. Once registered, the trade unions would attain certain legal rights and privileges, enabling them to function effectively in the representation of workers' interests in matters of employment and other issues of workers' rights.

Another important aspect of the Act, which can be highlighted, is the legal protection afforded to the registered trade unions. The Act has granted certain immunity to trade unions in civil and criminal matters with respect to the actions undertaken in the context of trade disputes. This has been done to encourage the workforce to unite and stand together, without any apprehension of facing legal hurdles. This has been one of the major factors, which has resulted in the growth and development of the trade union movement in India.

However, despite the provisions of the Trade Unions Act, 1926, which grant immunity and recognition to trade unions, the Act primarily deals with the matters of the registration of trade unions and not their recognition for the purpose of collective bargaining. This means that the Trade Unions Act, 1926<sup>8</sup>, has not created any specific framework which requires the employer to recognize the trade unions as the bargaining agents of the employees. This has resulted in the legal possibility of having more than one trade union operating in the same industrial establishment, with each trade union claiming to be the representative of the interests of the employees. This has been cited as one of the major reasons for the proliferation of trade unions in India.

The recognition of trade unions has also been highlighted in the judicial arena. For instance, in the case of *B.R. Singh v. Union of India*<sup>9</sup>, the Supreme Court has highlighted the importance of trade unions in the context of the representation of the interests of the employees and the facilitation of the process of collective bargaining in industrial establishments. The trade unions play an important role in the context of the protection of the rights of the employees and the effective communication of their grievances to the employers. However, despite the recognition of the importance of trade unions, the absence of a specific framework with regard to the recognition of trade unions has resulted in problems in the context of the practice of the process of collective bargaining.

---

<sup>7</sup> Trade Unions Act, 1926.

<sup>8</sup> Trade union act

<sup>9</sup> *B.R. Singh v. Union of India*.

However, in recent years, there have been attempts to address these problems in law. For instance, the Industrial Relations Code, 2020<sup>3</sup> provides provisions to allow a negotiating union or negotiating council in industrial establishments. Essentially, this is to simplify collective bargaining processes since workers are represented by a union that enjoys majority support. Although this is a significant step forward in the evolution of industrial relations in India, it is still a matter of discussion regarding its effectiveness in dealing with the problem of multiple trade unions that have long plagued Indian labor relations.

However, it is important to note that although the Trade Unions Act of 1926 is a vital piece of legislation in regulating and governing trade unions in India, its sole emphasis on recognition is a contributory factor to the proliferation of multiple trade unions in India. In the following section, we shall discuss what is believed to contribute to multiple trade unions and what this phenomenon is all about.

#### **4. Causes of Multiplicity of Trade Unions in India:**

The presence of many trade unions in the same factory or industry has been a defining feature of India's labor relations scene. Traditionally, trade unions were formed to enhance the voice of workers, but the presence of many unions in the same place often leads to division rather than unity. There has been an increase in the presence of many unions, and this can be attributed to several factors, including legal, political, and organizational factors. Understanding these factors is essential in interpreting the effect of having many unions in the labor relations scene.

The first factor is the lack of a legal framework under the Trade Unions Act of 1926<sup>10</sup> to recognize a majority union. This act only governs the registration of trade unions but does not provide for the recognition of the majority union. This has enabled many unions to emerge in the same place of work, each claiming to represent the interests of workers. This factor has enabled many unions to emerge, leading to division or fragmentation in the representation of workers.

The second factor is the presence of political alliances between unions. Many unions in India are affiliated to some political party or the other, and this has enabled many unions to emerge in the same place of work. This has been attributed to the presence of different political alliances, each supporting its own union. This has often created divisions among workers, leading to the presence of many unions in the same place of work. This factor has contributed to the presence of many unions, leading to division or fragmentation in the representation of workers.<sup>2</sup>

However, there are also rivalries that spark the birth of a new and separate union. When there are disagreements on how to act or what policies to push, or even on who to officially represent, it is common that a union breaks away and creates a new union. Ambitions and power struggles also contribute to the division of already established unions, thus increasing the number of unions in a workplace. When there are also disagreements from the members of a union, it is difficult to present a united front when it comes to negotiating with management.

Another reason that sparks the birth of a new union is that of differing interests of workers in a particular workplace. Different workers may not all agree on a particular issue, thus sparking a new union to fight for their individual causes. For instance, craftsmen, technical staff, and unskilled laborers may all form their own unions if they believe that their individual causes would not be fully addressed in a union that encompasses all of them. Although this is a good thing in that it addresses individual problems, it also sparks a rivalry among all the unions in a workplace.

---

<sup>10</sup>Trade Unions Act, 1926.

There are also instances when employers contribute to the increasing number of unions in a workplace. When there is a union in a workplace, employers may also encourage a rival union to spark in order to dilute the strength of already established unions. When a company is able to negotiate with multiple unions instead of a single and united union, it is easier to fragment and reduce the strength of a union.<sup>3</sup>

Thus, the multiplicity of trade unions in India can be attributed to a combination of legal gaps, political influences, leadership conflicts, diverse worker interests, and employer strategies. These factors collectively contribute to the fragmentation of worker representation and create significant challenges for the effective functioning of collective bargaining mechanisms. The next section will examine the impact of multiplicity of trade unions on collective bargaining and industrial relations in India.

### **5. Impact of Multiplicity of Trade Unions on Collective Bargaining:**

The multiplicity of trade unions, existing within the same establishment, is among the most significant implications for industrial relations globally. The workforce established several unions due to their fascination with the way representation appears within diverse groups. The situation involves a fragmented collective of workers, and the competing nature of the unions reflects the fundamental idea of the connection between labor and management. The complex and significant trade union presence contains various elements of bargaining, such as fragmentation and voice, as well as the principles, for instance, effectiveness and functioning. This multiplicity can therefore undermine the fundamental purpose of collective bargaining, which is to provide a unified platform for workers to negotiate their terms and conditions of employment.<sup>11</sup> Industrial relations systems use numerous elements of negotiation in trade unions, for instance, weakened power to represent strength, effectiveness, and stability. The structure contains several repeating challenges from the union demands and the policies in the background. Organizations use collective bargaining which creates a formal process and structured agreements; however, the multi-union set contains slightly rougher interactions. Numerous divisions give the negotiations shape outlining areas where the union priorities turn to conflict and strategies change to a concession. As a result, the collective strength that trade unions are meant to provide may be significantly diluted.

Another significant impact of the multiplicity of trade unions is the increased rivalry and conflicts between unions. It is common for these unions to try and prove their superiority in the workplace either by gaining more members or by opposing the activities of the competing unions. It is worth noting that the rivalry may sometimes lead to conflicts not only between the unions and employers but also among the unions themselves. At times, the conflicts may cause delays in the negotiation process and may even hinder the creation of a collective agreement. These conflicts may sometimes cause instability in industrial establishments and may interfere with the smooth operation of these workplaces.<sup>12</sup>

The multiplicity of trade unions may also cause problems for employers during the negotiation process. At times, employers may find it hard to identify the genuine representative of the workers since all the unions may claim to represent the workers. It may sometimes cause conflicts in the process of collective bargaining. It is worth noting that in some cases, employers may decide to work with one of the unions and ignore others. This may cause conflicts among the workers.

The fragmentation arising from the presence of multiple trade unions may also lead to a longer period in resolving industrial disputes. This is particularly true in a situation where there is no single bargaining

<sup>11</sup> International Labour Organization, *Collective Bargaining: A Policy Guide* (2015).

<sup>12</sup> S.C. Srivastava, *Industrial Relations and Labour Laws* 430–435 (6th ed., 2012).

agent, and in the event of a dispute between workers and employers, several consultations with different trade unions may be required to settle the dispute. This may, in turn, result in a longer period in resolving the dispute and may increase the chances of strikes, lockouts, and other forms of industrial unrest. Therefore, the presence of several trade unions may also have a negative impact on industrial productivity and stability.

The judiciary has also recognized the significance and importance of trade unions in the representation of workers' interests in the context of industrial relations. In the decision in *B.R. Singh v. Union of India*<sup>13</sup>, the Supreme Court has held, "The trade union is an indispensable instrument for the protection and assertion of the rights of the workers and for collective bargaining." However, the court has also recognized the fact that the efficacy and efficiency of trade unions in representing workers' interests would largely depend on their ability to represent workers in a unified and cohesive manner.

Hence, the multiplicity of trade unions creates a challenge for the effective conduct of collective bargaining in India. Trade unions, as a tool for the protection of the rights of workers, may face a challenge in their effectiveness due to the fragmented nature of worker representation through multiple trade unions. Therefore, for addressing this problem, it is necessary that reforms are made in the law and the institutional mechanisms for providing a united platform of workers and strengthening the system of collective bargaining, which will be discussed in the following section of the paper.

## 6. Reforms under the Industrial Relations Code, 2020:

In order to modernize labor laws and address some of the issues in the industrial relations system, the Government of India has introduced significant labor law reforms in the form of the Industrial Relations Code, 2020. This code is expected to replace and consolidate all existing labor legislation on trade unions, industrial disputes, and standing orders. One of the important purposes that have been sought to be achieved through the Industrial Relations Code, 2020, is related to the process of collective bargaining and issues related to multiple trade unions in an organization.<sup>14</sup>

The Industrial Relations Code, 2020, has introduced significant labor law reforms, including the concept of a "negotiating union" or "negotiating council." According to the provisions of the Industrial Relations Code, 2020, if there is only one trade union that has been registered and is functioning in an industrial establishment, that trade union shall be considered the negotiating union. However, if there are multiple trade unions in an industrial establishment, then the trade union that has the support of at least 51 percent of the total employees in that organization shall be considered the negotiating union.

In those cases, the Code provides for the formation of a negotiating council consisting of representatives from different trade unions in proportion to their membership strength. The objective behind the introduction of such a provision is to promote the dialogue between workers and employers on the one hand and to ensure the representation of different groups of workers in the negotiation process on the other.<sup>15</sup> With the introduction of these provisions, the Industrial Relations Code intends to eliminate the confusion over the representation of workers and promote a more organized system of collective bargaining in industrial establishments. The introduction of the concept of a negotiating union and a negotiating council represents a significant attempt on the part of the Code to tackle the problem of the

---

<sup>13</sup> *B.R. Singh v. Union of India*.

<sup>14</sup> Industrial Relations Code, 2020.

<sup>15</sup> Ministry of Labour and Employment, Industrial Relations Code, 2020 – Provisions relating to Negotiating Union and Negotiating Council.

multiplicity of trade unions. The Code recognizes the importance of a majority-supported union as the primary vehicle for collective bargaining between workers and employers. It is intended to promote the collective voice of workers and eliminate the problem of rival unions. However, the concept of a negotiating council provides for the participation of minority unions in the process of industrial dialogue. However, despite all these changes, there are some specific areas of concern that need to be considered with regard to the practical application of all these provisions. Some of the areas of concern, as raised by some scholars, are that the effectiveness of the Industrial Relations Code would largely depend upon the transparent manner in which union membership is determined and the fair manner in which union recognition is carried out. Further, it has been pointed out that the Industrial Relations Code does not completely eliminate the scope for the existence of multiple unions in a workplace, and hence, the problem of union rivalry may persist.<sup>16</sup>

However, it is evident that the Industrial Relations Code, 2020 is a significant step towards consolidating the collective bargaining system in India, as it has introduced specific mechanisms for determining a negotiating union or council.

## 7. Suggestions and Conclusion:

The issue of multiplicity in trade unions continues to be a major challenge for the effectiveness of collective bargaining in India. In fact, the primary objective behind the formation of trade unions was to strengthen the collective voice of workers. However, the multiplicity of trade unions in any industrial establishment has often led to a fragmentation of worker voice, thereby weakening the bargaining position of workers. As discussed in the earlier sections, the absence of a clear provision for the recognition of a majority union under the Trade Unions Act, 1926 has been one of the major reasons for the development of multiple trade unions in any industrial establishment.

One major step has been taken by introducing provisions for the recognition of a negotiating union in any industrial establishment under the Industrial Relations Code, 2020. This is a major development in labour law; however, further steps need to be taken for the effective functioning of collective bargaining in India. More emphasis needs to be given to the development of trade union democracy so that workers can effectively participate in decision-making processes. Moreover, less political interference in trade union activities may help in developing a united labour movement.

Another important recommendation is the development of clearer and more transparent mechanisms for determining majority representation in trade unions in an establishment. Such mechanisms would help employers identify a legitimate bargaining representative and make negotiations between workers and employers more efficient. Additionally, the promotion of cooperation and coordination between trade unions and the promotion of a dialogue between these unions and employers can greatly contribute to the development and maintenance of better industrial relations and the reduction of unnecessary conflicts in the workplace.

In conclusion, the importance and role of trade unions in the protection and promotion of workers' rights and industrial democracy cannot be overstated. The presence of multiple trade unions in a given workplace undermines the efficiency and effectiveness of collective bargaining. The solution to this challenge can only be achieved by adopting a balance between the development and maintenance of mechanisms for unified representation and the democratic functioning of trade unions. The development and

---

<sup>16</sup> S.C. Srivastava, *Industrial Relations and Labour Laws* 450–455 (latest ed.).



implementation of appropriate legal and institutional mechanisms can greatly contribute to the efficiency and effectiveness of collective bargaining and the development and maintenance of better and more stable industrial relations in India.