

The Evolution of Industrial Relations in West Bengal

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Preface

The year 2009 marks the 70th anniversary of the ILO Convention on the Right to Organise and Collective Bargaining, 1947 (No. 98), a fundamental convention highly ratified in South Asia. To commemorate the event, and to better understand the role that collective bargaining has played as a mechanism to regulate relations between workers and employers, the ILO Subregional Office for South Asia is publishing a series of studies on the current status and evolution of industrial relations in Bangladesh, Pakistan, Sri Lanka and three states in India –Maharashtra, Tamil Nadu and West Bengal.

The studies, the first of this nature produced in the subregion in the last decade, aim at providing an insight into workers' and employers' organizations in the subregion, collective bargaining trends and coverage, dispute settlement and existing mechanisms to solve them, and recent tripartism and social dialogue practices. The studies also seek to assess the degree to which industrial relations have now been decentralized and examine the extent to which collective bargaining is providing an effective framework for governing collective labour–management relations at various levels. The studies pay particular attention to collective bargaining as a wage-fixing mechanism, and assess its relevance as part of the whole system of wage-fixing.

Access to data and statistics has been a challenge in all countries. Ministries of Labour do not systematically register agreements, compile data nor analyse data on collective bargaining. With few exceptions, trends identified in the papers are based on the experience and perceptions of practitioners, the social partners and the officials from the labour administration.

All studies were presented and discussed at tripartite meetings, and the views of the social partners incorporated in the text to the extent possible. The research will form the basis for a comparative analysis of industrial relations systems in South Asia, to be developed in 2009.

The ILO will be holding a subregional workshop in Sri Lanka in October 2009 to better understand the links between globalization, industrial relations and collective bargaining. It will cover South Asia and China, and seek tripartite consensus on a set of proposals for a more conducive environment for sound collective bargaining in both the private and public sectors. It is hoped this will form the ILO's agenda to promote collective bargaining in future years.

The ILO would like to thank Ratna Sen for producing the paper on West Bengal. We hope the study will be used as tools for policy makers, social partners and other relevant stakeholders to assess existing law and practice and orient future action in the industrial relations field in the state.

The research project was coordinated by Marleen Rueda, Senior Specialist on Social Dialogue and Labour Administration in the ILO SRO. A number of industrial relations specialists have contributed to review the papers in the series: Susan Hayter, Gotabaya Dasanayaka, Prof. Venkata Ratnam, Chang-Hee Lee, John Ritchotte and Limpho Mandoro.

TABLE OF CONTENTS

| | |
|--|-----------|
| PART 1: BASIC DATA FOR WEST BENGAL | 1 |
| 1.1 POLITICAL AND SOCIO-ECONOMIC BACKGROUND | 1 |
| 1.2 EMPLOYMENT DATA | 4 |
| 1.3 RECENT ECONOMIC GROWTH | 12 |
| 1.4 LABOUR AND EMPLOYMENT LEGISLATION | 14 |
| 1.5 MAIN ISSUES IN THE AGENDA OF THE SOCIAL PARTNERS IN INDUSTRIAL RELATIONS . | 17 |
| PART 2: THE ACTORS OF THE INDUSTRIAL RELATIONS SYSTEM IN WEST BENGAL | 18 |
| 2.1 LEGAL FRAMEWORK | 18 |
| 2.2 GOVERNMENT STRUCTURE FOR INDUSTRIAL RELATIONS AT THE CENTRAL AND STATE LEVELS | 20 |
| 2.3 WORKERS' ORGANIZATIONS | 21 |
| 2.4 TRADE UNION MEMBERSHIP | 24 |
| 2.5 LEGAL FRAMEWORK FOR PARTICIPATING IN COLLECTIVE BARGAINING | 28 |
| 2.6 EMPLOYERS' ORGANIZATIONS | 32 |
| PART 3: WAGES | 34 |
| 3.1 WAGE DETERMINATION AND COLLECTIVE BARGAINING | 38 |
| PART 4 : COLLECTIVE BARGAINING | 39 |
| 4.1 LEGAL PROVISIONS GOVERNING COLLECTIVE BARGAINING | 39 |
| 4.2 EVOLUTION OF COLLECTIVE BARGAINING | 40 |
| 4.3 DATA AND STATISTICS ON COLLECTIVE BARGAINING | 42 |
| 4.4 ENFORCEMENT OF AGREEMENTS | 46 |
| 4.5 OTHER LABOUR-MANAGEMENT COOPERATION OR REPRESENTATION MECHANISMS AT THE ENTERPRISE LEVEL | 46 |
| 4.6 USE OF NEW NON-STATUTORY INDUSTRIAL RELATIONS TOOLS AND DIALOGUE PROCESSES | 47 |
| 4.7 QUALITY CIRCLES IN THE EAST | 48 |
| 4.8 TRENDS, ISSUES AND DEBATES RELATED TO COLLECTIVE BARGAINING | 51 |
| 4.9 IMPACT OF GLOBALIZATION | 53 |

| | |
|---|-----------|
| PART 5 : DISPUTE SETTLEMENT | 57 |
| 5.1 LEGAL FRAMEWORK FOR SETTLEMENT OF COLLECTIVE LABOUR DISPUTES | 57 |
| 5.2 EXISTING MECHANISMS TO REMEDY GRIEVANCES AND DISPUTE SETTLEMENT | 59 |
| 5.3 DATA AND STATISTICS ON DISPUTE SETTLEMENT | 60 |
| 5.4 GENERAL OBSERVATIONS | 61 |
| 5.5 TRENDS IN DISPUTES IN THE EASTERN REGION | 64 |
| 5.6 PROBLEMS FACED BY INDUSTRIAL ORGANIZATIONS | 67 |
| PART 6: TRIPARTISM AND SOCIAL DIALOGUE: MECHANISMS AND PROCESSES | 69 |
| 6.1 EXISTING BIPARTITE AND TRIPARTITE INSTITUTIONS, MECHANISMS AND PROCESSES OF SOCIAL DIALOGUE | 69 |
| REFERENCES | 70 |
| APPENDICES | 71 |
| APPENDIX 1. AN EXPLANATORY NOTE ON UNORGANIZED LABOUR | 71 |
| APPENDIX 2 : LIST OF PERSONS INTERVIEWED AND METHODOLOGY FOLLOWED | 71 |
| APPENDIX 3. DETAIL OF TRADE UNION VOTING RESULTS | 73 |
| APPENDIX 4. ALL-INDIA VERIFICATION FIGURES FOR MAJOR TRADE UNIONS | 76 |
| APPENDIX 5 : COLLECTIVE BARGAINING: PRODUCTIVITY AND UNUSUAL CLAUSES | 77 |
| APPENDIX 6 : SOME AGREEMENTS COVERING HITHERTO UNORGANIZED SECTOR WORKERS | 80 |
| APPENDIX 7 : SOME INTERESTING CLAUSES IN AGREEMENTS IN THE SMALL, MEDIUM SECTOR | 84 |

PART 1: BASIC DATA FOR WEST BENGAL

1.1 Political and socio-economic background

West Bengal is a state in eastern India where the British East India Company cemented its hold on the region following the Battle of Plassey in 1757, and the city of Calcutta (now known as Kolkata) served for many years as the capital of British India. The state was at the forefront of the Indian independence movement through the late nineteenth and early twentieth centuries.

With a land area of 88,752 sq. km and a population of 80.2 million in 2001, West Bengal has the highest population density in India, of 904 persons per sq. km. An agriculture dependent state, West Bengal occupies only 2.7 per cent of India's land area, though it supports over 7.8 per cent of the population. With the River Ganga flowing down half its length, a major port at Kolkata and a long tradition of maritime trade, Bengal attracted merchants and travellers not only from the local hinterland but from areas as far as Europe and the Far East.

The Net Domestic Product of the state compares as follows with other major states of India.

Table 1. Net state domestic product (NSDP)
(in Million Rs at current prices)

| State | 2005–06 | | 1999–2000 |
|----------------|------------|------------------|-----------|
| | State NSDP | Per capita NSDP* | |
| Maharashtra | 3 862 410 | 37 081 [1] | 2 203 040 |
| Uttar Pradesh | 2 411 960 | 13 262 [7] | 1 512 830 |
| West Bengal | 2 139 980 | 25 223 [6] | 1 248 080 |
| Andhra Pradesh | 210 657 | 26 211 [5] | 116 966 |
| Tamil Nadu | 194 528 | 29 958 [3] | 119 367 |
| Gujarat | 186 642 | 34 157 [2] | 92 541 |
| Karnataka | 152 805 | 27 291 [4] | 86 681 |
| All states | 28 717 310 | 25 716 | 1 600 932 |

* Figures in brackets indicate rank

Source: *Economic Survey of India, 2007–08*, Ministry of Finance, Table 1.7.

While the state ranks third in total NSDP, it ranks sixth in per capita NSDP. The per capita figure is below the national average.

According to the *West Bengal Statistical Handbook 2006–07*, the state's average compounded real growth rate of NSDP between 1994 and 2004 was 8 per cent. In 2003–04, the service sector contributed 51 per cent to NSDP, agriculture 27 per cent and manufacturing 22 per cent.

The state has gone through various phases of economic distress, poverty and de-industrialization. All these factors have a bearing on its current level of industrialization and need to be understood for a proper appreciation of the recent changes in the state government's economic policies and the state of industrial relations.

Bengal was among the first regions where the British established their trade centres. There are several discourses on the effects this had on the region's economy, analysts having described the British presence as either virtual loot of the region's economic wealth or as a catalyst for change. There are

major facts in favour of both theories. However, one of the effects of British colonization was the establishment of early industries in this region. The coal mining industry (the earliest coal mine was established in 1820), the engineering industry in the first half of the nineteenth century as a result of the establishment of railways and river transport, and the jute industry to take advantage of the traditional local cultivation of jute used for making handwoven cloth, emerged under British rule. The iron and steel industry was also started at Asansol on the Grand Trunk road. The British also established tea gardens along the foothills of the Himalayas near Darjeeling. Of all these, the jute and engineering industries still provide the largest sources of employment in the state, employing well over 500,000 persons.

These four industries—coal, engineering, jute, and iron and steel, referred to as traditional industries—dominated Bengal's economy for many years and are also the cause of a skewed pattern of industrialization in the state. Early industrialization had a catalytic effect on both the nationalist movement and the trade union movement and helped link them. Many of the early union leaders like C.R. Das and Netaji Subhash Chandra Bose were freedom fighters and nationalist stalwarts. The more extremist form of the nationalist movement, furthered by intellectual revolt against pacifist trends in the Indian National Congress, probably helped establish a tradition of militancy in the union movement in Bengal.

Following India's independence in 1947, and the partition of Bengal, the state's economic, industrial and political situation were severely affected by the refugee influx. Various estimates have put the initial and subsequent inflow of persons fleeing from East Pakistan (later Bangladesh) to India (and West Bengal in particular) at over 20 million, larger than the populations of many European countries. It was a virtual inundation, and the state's economy faced this onslaught with mixed results. The social impact pushed West Bengal further towards socialism and anti-establishment ideologies. On the political front, West Bengal was at the forefront among the Indian states which rejected the Congress hegemony in the late 1960s. West Bengal's culture, as reflected in its literature and cinema, was dominated right up to the 1980s by the social themes of poverty, lack of employment, alienation and anti-establishment ideologies. An extremely turbulent period between 1967 and 1970 was dominated by the Naxalite movement and militant trade unionism, which many believe was the cause of subsequent de-industrialization with industrialists fleeing to other states and widespread sickness and closures of industrial units.

There is of course considerable controversy as to whether it was labour militancy which drove employers out. Trade unions even today are very sensitive on this issue. For instance, the secretary of the West Bengal unit of the All India Trade Union Congress (AITUC) does not subscribe to the theory that it was labour militancy which drove capital out of Bengal. There may have been isolated militant incidents from time to time but it was not a concerted effort. Closure of several companies like Metal Box and Kesoram Cotton Mills (both closed down in the late 1980s due to inability to compete and modernize), and Hindustan Motors (in more recent years due to non-payment of additional DA for several years) was not due to any labour trouble but because of mismanagement.

In 2009, it has become obvious that labour militancy was only one among several reasons for the flight of capital. Other reasons were political uncertainty, poor work culture, the colour of the

government, entrenched red tapism and poor infrastructure. A major factor was also the lack of local capital and entrepreneurship. As a result, West Bengal's dependence on its traditional industries increased. The Moghul administrative system and later the British trade establishments had created a preference for salaried employment among major sections of the population.

The Communist Party of India (Marxist)-led Left Front government in West Bengal, in power since 1977, has made it the world's longest-running democratically-elected communist government. This has brought significant political stability to the state. But political stability alone did not change the contours of industry. Apart from the growth during the 1950s, there has in fact been industrial stagnation in the state. A few successful initiatives, such as development of Haldia port and its industrial belt and some growth in the Durgapur–Asansol belt, did produce some industrial growth in the 1980s.

The skewed distribution in favour of traditional industries which have refused to modernize has resulted in closures and endemic industrial sickness. During the 1980s there was major downsizing in manufacturing employment in most states in India. West Bengal lost 177,000 factory jobs (the highest in India), followed by Maharashtra (100,000 jobs) and Gujarat (38,000 jobs). During the 1990s, following liberalization, Andhra Pradesh added 366,000 factory jobs, Tamil Nadu 309,000 jobs, Maharashtra 227,000 jobs and Karnataka 206,000. While West Bengal added 91,000 jobs, this was only about half the jobs lost in the previous decade (Parikh & Radhakrishnan, 2002). Comparatively, during 2000–06, Tamil Nadu added 172,000 jobs, followed by Punjab (142,000 jobs) and Andhra Pradesh (130,000 jobs).

As a result of all of the above factors, unemployment has been acute, with registered unemployment exceeding 5 million and educated unemployed well over 2 million. This has had its repercussion on the industrial relations scenario, with trade unions having initially strongly resisted technological upgradation, computerization and any kind of automation or mechanization. Most of the bank strikes in the 1980s were about rationalization and automation.

By the late 1980s, however, unions began to accept Voluntary Retirement Schemes (VRS) and organizational restructuring, though not without hard fought battles. There is clear evidence that all the major industries, including public sector units, have restructured their employment in favour of casual employment and reduced permanent employment substantially (see table 4 for reduction in organized sector employment and appendix 1 for unorganized labour or informal sector).

According to the *West Bengal Statistical Handbook*, between 1999–2000 and 2004–05, share of informal sector employment among non-agricultural workers increased overall from 69 per cent to 75 per cent, in rural areas from 71 per cent to 78 per cent, in urban areas from 68 per cent to 72 per cent, and for males from 68 per cent to 76 per cent. Informal employment declined overall for females from 72 per cent to 71 per cent. This was mainly in urban areas (from 69 per cent to 64 per cent) and not in rural areas (where it increased from 75 per cent to 77 per cent).

The sector-wise increases in informal employment were:

- 10 to 12 per cent in construction, transport, storage, communication, real estate, health, and social and community services.
- 8 to 9 per cent in manufacturing, etc.
- 5 to 7 per cent in wholesale and retail trade, repair services, hotels, finance, etc.

The Indian National Trade Union Congress (INTUC) refers to several cases, such as the Tyre Corporation of India at Kankinara (a central public sector undertaking), which reduced its workforce of about 1,200 in 2005 to just 350 in 2007. Its Tangra unit which used to employ about 1,800 persons had been closed down. The West Bengal government undertaking, Neopipes and Tubes, and three spinning mills have closed down. INTUC can accept private buyers taking over sick units, but questions the government's actions in deciding to close or sell such units for which there are no bidders. According to the union, about 140,000 workers have lost their jobs. It wants to build up a sustained movement against the curtailment of worker benefits, and the hire-and-fire system being adopted not only in the private sector but also public sector organizations.

Ironically, the same unions which resisted modernization earlier have demanded technological upgradation in many of the sick plants in the engineering and jute industries and tea plantations, primarily because they are now unable to face competition both domestically and internationally. These factors have compelled the government to actively re-industrialize the state from the late 1990s. Economic rejuvenation is underway and there has been a spurt in the state's economic and industrial growth.

1.2 Employment Data

Out of a total population of 80.2 million in 2001, West Bengal has a male/female ratio of 1000 males to 934 females. The urban population in 2001 was about 28 per cent and growing, and the average literacy rate for that same year was 69 per cent.

As per the 2001 Census, out of a total population of 80,176,000, main and marginal workers accounted for 36.77 per cent (29,481,690) and non-workers 63.22 per cent (50,694,507). Agricultural workers (labourers and cultivators) were 44.12 per cent (13,016,166), 7.37 per cent (2,172,800) were employed in household industries and 48.51 per cent (14,292,723) were other workers.

For the state as a whole, well above half of those employed are engaged in non-agricultural pursuits. This is substantially above the national average of less than 40 per cent of workers engaged in agriculture, indicating that in West Bengal employment diversification is relatively more advanced.

At the same time Work Participation Rates (WPR) are not uniform across the state as seen in table 2:

Table 2. Work participation rates for West Bengal, 2001

| Location | % of labour force | |
|---|-------------------|--------|
| | Male | Female |
| West Bengal | 56.6 | 54.2 |
| Uttar Dinajpur (backward district) | 31.9 | 28.4 |
| North 24 Parganas (industrialized district) | 75.1 | 84.6 |
| Kolkata (capital) | 99.8 | 99.7 |

Source: Census, 2001

There are clearly major variations between Kolkata and even an industrialized belt like North 24 Parganas. It is heartening in a way that in Kolkata the WPR is nearly 100 per cent, which would indicate that nearly every employable person is seeking employment.

However, the average WPR of male workers in terms of main activity fell quite significantly over the decade 1991–2001. Some of this was due to a rise in participation in education, especially for those in the age group of 15–19 years. The decline in the rate of male main workers was countered by the increase in the share of male marginal workers, which is a definite pointer to fewer regular jobs being available over the year. It also suggests that more secure forms of employment may have been replaced by less secure forms, a possibility which is also reiterated by the National Sample Survey (NSS) data on the type of contracts concluded (Chandrasekhar & Ghosh, 2005).

West Bengal has one of the lowest rates of female work participation in the country. However, the difference is that, unlike the rest of the country, these rates have been rising, both for main and marginal workers. The most significant feature in both cases is the relative decline in agricultural work. This could be due to the pressure on land and the impossibility of further sub-division of land. The importance of ‘household industry’ has gone up quite sharply, probably as part of a survival strategy of working households, given the generally weak employment situation.

However, aggregate employment growth from 1993–1994 to 1999–2000 in West Bengal according to the NSS was only 0.76 per cent, compared to 2.44 per cent in earlier periods. These data reflect, in the recent period, employment elasticities which are substantially lower for West Bengal than for the rest of India. This suggests that the pattern of growth became progressively less employment intensive. This was especially marked in manufacturing and services (other than transport and trade)—employment actually declined in both. This was despite the fact that in both sectors output growth was quite impressive, even double the rates achieved earlier. The freeze on new state government employment after 1991 may have played a role in this (Chandrasekhar & Ghosh, 2005).

The sectors that do show some dynamism in terms of employment generation are wholesale and retail trade, transport and storage, and construction; these are sectors for which employment elasticity has not declined in the last period. Within manufacturing, the basic problem seems to be that much of the growth in output has come from large units which are less employment intensive, even as many more labour-using small units close down.

This stagnation in employment is reflected in the large number of job seekers registered in the employment exchanges of the state and the relatively very small number of placements effected. After independence, the Government of India established employment exchanges in all states as part of a national employment service, which enabled job seekers to register themselves. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959, made it compulsory for an employer to notify his vacancies to these exchanges and call relevant job seekers for screening. There is, however, no compulsion to employ, if candidates are found unsuitable. As of December 2000, of the total 958 employment exchanges in India, 71 were in West Bengal.

Table 3. Registered job seekers in employment exchanges in West Bengal

| Year | Registered during the year ('000) | | On live register in Dec. ('000) | | Candidates sponsored against vacancies notified ('000) | | Candidates placed | |
|-------|-----------------------------------|--------|---------------------------------|--------|--|--------|-------------------|----------------|
| | Male | Female | Male | Female | Male | Female | Public sector | Private sector |
| 1995 | 3.5 | 1.3 | 42.0 | 11.9 | n.a. | n.a. | 6 446 | 1 376 |
| 1996 | 5.2 | n.a. | 42.6 | 12.2 | 2.2 | 0.4 | 8 558 | 1 827 |
| 1997 | n.a. | n.a. | 44.5 | 13.1 | 3.2 | 0.7 | 8 425 | 2 546 |
| 1998 | 3.1 | 1.4 | 42.5 | 13.9 | 1.5 | 0.3 | 6 802 | 1 449 |
| 1999 | 3.6 | 1.8 | 42.0 | 13.6 | 2.1 | 0.4 | 11 928 | 2 537 |
| 2000 | 3.4 | 1.7 | 44.3 | 14.7 | 2.1 | 0.4 | 12 520 | 1 238 |
| 2001 | 3.1 | 1.6 | 45.7 | 16.1 | 3.2 | n.a. | 10 108 | 1 049 |
| 2002 | n.a. | n.a. | 47.9 | 16.4 | n.a. | n.a. | 7 361 | 434 |
| 2003 | 2.6 | 1.3 | 49.8 | 17.4 | 0.7 | 0.1 | 9 392 | 505 |
| 2004 | 2.3 | 1.2 | 51.6 | 18.3 | n.a. | n.a. | 11 016 | 514 |
| 2005 | 2.7 | 1.4 | 53.6 | 19.4 | n.a. | n.a. | 7 110 | 553 |
| 2006 | 3.04 | 1.93 | 56.7 | 20.5 | n.a. | n.a. | 12 986 | 2 088 |
| Total | | | | | | | 112 652 | 15563 |

Source: *Labour in West Bengal*, various issues.

In 2006, out of a total of 7.7 million on the live register, 4.1 million were in the age group of 14 to 24 years. Those below school leaving qualification constituted 3.4 million. West Bengal does have educated (graduates and above) unemployed as well in large numbers, the percentage registered in exchanges being about 12 per cent of the total. The bulk of this is ordinary graduates. While fresh registrations each year are around 400,000 to 500,000, the placements are small, ranging between 8,000 and 15,000. Only in 2006 was there some growth in placements.

However, it would be necessary to include the NSS findings to understand the true nature of unemployment in West Bengal. Obviously 7.7 million are not actually unemployed. Many of them are registered job seekers and may be employed but seeking new or better jobs. In the 60th Round of the NSS (Jan–June 2004), the rural unemployment rate worked out to 1.2 per cent and the urban unemployment rate 3.4 per cent on the basis of Usual Status. But by Current Daily Status urban unemployment increases to 4.6 per cent and 4 per cent for the rural workforce.

In the 61st Round (July 2005–June 2006, Report no. 515, Part I), unemployment had increased and was recorded at 1,438,245 by Usual Status—777,461 in rural areas (38 out of 1000) and 660,784 in urban areas (75 out of 1000). In terms of Current Daily Status this increased to 3,216,561—2,291,464 in rural areas (112 out of 1000) and 925,097 in urban areas (105 out of 1000). This puts the lowest unemployment rate at 3.8 per cent and the highest at 11.2 per cent. All these figures indicate that on a daily basis many more are likely to be without work, even though they do get some work on an annual basis. Hence the indication is of more and more irregular work.

It can be calculated that with the total population at about 83,000,000 in 2005–06, and 72.5 per cent rural population (60,175,000 persons), NSS data for labour force participation at 340 per 1000 (rural) and 386 per 1000 (urban) gives an actual workforce of 20.459 million rural workers and 8.8105 million urban workers.

The findings on unemployment in the 6st Round applied to the above figures give the following results for actual unemployed, which vary between 1.438 million and 3.217 million. This is much less than the 7.7 million registered job seekers. The actual unemployment rate is then at the least 3.8 per cent and at the most 11.2 per cent.

While fresh registrations each year are around 4,000 to 500,000, the placements are small, ranging between 8,000 and 15,000. Only 2006 has shown some growth in placements. The bulk of these placements have been in the public sector with the private sector taking just a little over 15,000 people in 11 years. This, however, does not indicate the total intake by the private sector which recruits primarily from the open market. Many private sector employers consider candidates from employment exchanges qualitatively unsuitable. This is proven by the roaring business and impressive growth of employment agencies. The sourcing from employment exchanges would therefore indicate creation of lower end jobs and not professional or technical jobs. There is reason to believe that employment has grown substantially in the tertiary sector since 2001.

1.2.1 Organized and industrial employment

West Bengal has been one of the five states in India which have accounted for over 50 per cent of the total Indian workforce in the industrial and service sectors in 2006, the other four being Andhra Pradesh, Maharashtra, Tamil Nadu and Uttar Pradesh. Of these, the largest number of units are in Tamil Nadu (4.45 million); and the largest employment in Maharashtra (11.8 million jobs), followed by Tamil Nadu (9.87 million jobs). West Bengal is in third place in both number of units and employment.

The current Investor Profile in the state reflects a share of government investment of 39.4.1 per cent, foreign investment of 21.7 per cent and Indian private investment of 38. per cent¹

The major industries in West Bengal are leather, tea, jute, engineering and paper. In addition, the state government's priority areas are petrochemicals, iron and steel, food processing, pharmaceuticals and information technology, based on studies conducted by international consultants. There is substantial public sector presence in West Bengal and in more recent years an emerging joint sector as well. There used to be five central public sector undertakings in the jute industry, 12 in cotton textiles, 26 in the engineering industry, two in tea and about seven in pharmaceuticals and other industries. Of these 20 were sick and referred to the Board for Industrial and Financial Restructuring (BIFR). Some others have been restructured or wound up. There were also 65 state public sector undertakings, producing everything from sugar (from beetroot) to medicines to power. Many have been closed for years. The poor growth in industry has put additional pressure on existing establishments which have always been under compulsion to over-employ. Public employment at one time was a 'saleable commodity' and fuelled corruption. The joint sector includes Bengal Ambuja Housing Development Ltd (the first, set up in 1993) and later Haldia Petrochemicals.

¹ Source: Government of West Bengal

Based on the labour and workforce figures, the conclusion that can be drawn is that of the state's 29.48 million workforce, agriculture and household industry (15.2 million) are almost entirely manned by unorganized labour. The 'other workers' category of 14.3 million includes both organized and unorganized labour. But government records show only 2 million organized employment. Hence the remaining 12.3 million are also part of the unorganized workforce. On the whole then, unorganized or informal workers could amount to 93.3 per cent of the workforce in West Bengal.

Sector-wise organized employment figures clearly indicate stagnation in enrolled employment in the organized sector, both in public and private establishments, over the period 1995 to 2006. This figure does not include many contract and casual employees. Total employment has actually declined from 2.3 million to 2.02 million in the same period. Ironically while primary sector employment has increased slightly from 400,000 to 430,000, both secondary and tertiary sector employment has declined from 740,000 to 610,000 and from 1,160,000 to 980,000 respectively in spite of the recent notable growth in the IT sector.

Table 4. Sector-wise employment in the organized sector ('000)

| Year | Primary | | Secondary | | Tertiary | | Total |
|------|---------|---------|-----------|---------|----------|---------|-------|
| | Public | Private | Public | Private | Public | Private | |
| 1995 | 2.0 | 2.0 | 3.2 | 4.2 | 10.1 | 1.5 | 23.0 |
| 1996 | - | - | - | - | - | - | 22.8 |
| 1997 | - | - | - | - | - | - | 22.9 |
| 1998 | - | - | - | - | - | - | 22.9 |
| 1999 | - | - | - | - | - | - | 23.4 |
| 2000 | 1.8 | 2.1 | 2.7 | 4.4 | 9.8 | 1.6 | 22.4 |
| 2001 | 1.8 | 2.1 | 2.7 | 4.3 | 10.8 | 0.7 | 22.3 |
| 2002 | 1.7 | 1.8 | 2.6 | 4.1 | 9.8 | 1.6 | 22.6 |
| 2003 | 1.7 | 1.9 | 2.9 | 3.3 | 8.8 | 1.6 | 20.2 |
| 2004 | 1.7 | 2.7 | 2.9 | 3.3 | 8.6 | 1.5 | 20.7 |
| 2005 | 1.6 | 2.8 | 2.7 | 3.2 | 8.5 | 1.6 | 20.4 |
| 2006 | 1.6 | 2.7 | 2.7 | 3.4 | 8.3 | 1.5 | 20.2 |

NOTES:

Primary sector employment includes agriculture, hunting, fishing, mining, etc.

Secondary sector employment includes manufacturing, electricity, gas, water, construction, etc.

Tertiary sector employment includes trade, restaurants, hotels, transport, storage, communications, financial services, insurance, real estate, community, personal, social services, etc.

Source: *Labour in West Bengal*, various issues.

While employment in the public sector had increased in India during 1985 to 1996, in West Bengal there was a slight decline from 1.590 million (9.2 per cent of all-India 17.3 million) to 1.499 million (7.7 per cent). Similarly, in the private sector, from 1985 when West Bengal accounted for 882,000 (12 per cent) jobs out of a total all-India employment of 7,322,000, by 1995 this had declined to 774,000 (9.6 per cent) jobs out of a total of 8,058,000 all-India.

The industry-wise break-up of employment in the organized manufacturing sector is as follows.

Table 5. Industry-wise manufacturing employment break-up

| Industry | Year | | | |
|-----------------|---------|---------|---------|---------|
| | 1999 | 2000 | 2001 | 2002 |
| Rice | 12 800 | 13 900 | 14 300 | 14 500 |
| Tea factories | 26 400 | 27 500 | 27 800 | 28 400 |
| Cotton textiles | 45 700 | 46 900 | 47 300 | 47 300 |
| Jute | 215 300 | 222 100 | 212 700 | 212 600 |
| Paper, etc. | 13 400 | 12 400 | 12 500 | 12 600 |
| Printing, etc. | 16 600 | 15 900 | 15 700 | 15 900 |
| Rubber, etc. | 15 000 | 15 100 | 13 000 | 13 300 |
| Chemical, etc. | 36 400 | 38 200 | 39 200 | 38 600 |
| Glass, etc. | 8 800 | 8 500 | 8 400 | 8 600 |
| Engineering | 315 700 | 316 500 | 318 100 | 318 800 |
| Ship building | 8 200 | 8 200 | 7 600 | 6 900 |
| Electricity | 19 300 | 17 400 | 19 600 | 18 800 |
| All industries | 885 800 | 899 100 | 898 200 | 890 900 |

Source: *Labour in West Bengal*, various issues.

The tertiary or services sector consists of not only commercial establishments but also employment in government (state and central establishments), cinemas, hotels and restaurants, hospitals and nursing homes, educational institutions, and registered shops. Commercial establishments comprise banks, insurance companies, travel agents, offices of large companies, financial and investment companies, etc. Employment in such establishments has been recorded in table 6. These establishments do not account for very substantial employment. Out of a total 1,000,000 in services, less than 200,000 are employed in commercial establishments.

Table 6. Employment in commercial establishments

| Year | Number of employees | Number of establishments |
|------|---------------------|--------------------------|
| 1995 | 35 567 | 128 047 |
| 1996 | 37 529 | 136 872 |
| 1997 | 43 054 | 145 853 |
| 1998 | 49 279 | 152 598 |
| 1999 | 57 285 | 153 575 |
| 2000 | 71 259 | 153 927 |
| 2001 | 74 622 | 155 813 |
| 2002 | 76 095 | 159 307 |
| 2003 | 78 970 | 164 907 |
| 2004 | 80 582 | 169 023 |
| 2005 | 81 029 | 170 810 |
| 2006 | 82 100 | 173 966 |

*Figures as on 30 September

Source: Records of Directorate of Labour, Shops and Establishments division

Considering that several large establishments must be having fairly substantial employment size, there must be numerous units with very small numbers of employees to reduce the average size to a little over 2. In fact, while the number of units has increased to more than double, the average employment has shrunk. One possible reason could be that the numbers reflect only regular staff, and many more are employed on a casual basis, which is not reflected in the numbers. The registration fee being larger for more employees, employers indicate the least possible size. The actual employment is likely to be considerably larger. But official records cannot be ignored.

1.2.2 Nature of employment

Regular permanent employment seems to be frozen not only in commercial establishments but in such public utilities as academic institutions and hospitals. The only exceptions are for upper level professional employees and the IT industry. Most new employment is on contract.

Primary data collected for companies show that in December 2007 Diamond Beverages Ltd, a bottler for Coca-Cola in Kolkata proper, employed 139 permanent employees as against 450 contract employees, and Haldia Petrochemicals employed 962 permanent employees against over 1,500 contract and casual workers. Data collected in March 2008 for Castrol India Ltd shows 62 permanent employees including 16 executives and 49 contract labourers for housekeeping, gardening, preventive maintenance, security, etc.

The Centre of Indian Trade Unions (CITU) admits (see appendix 2 for list of interviewees) that employees are being taken mostly on contract basis, and that the proportion in current employment would be about 60:40 contract to permanent, or even 70:30. It claims to have unionized many such contract workers as well. On the issue of contract labour, the union has been for some time caught on

the horns of a dilemma. If it campaigns and agitates for abolition of contract terms in perennial jobs, it cannot ensure that the person who was employed will be engaged in a permanent capacity, even if the employer employs a regular person.

In Bharat Jute Mills, Howrah, a state government undertaking sold off to a private industrialist, INTUC was able to persuade the new owner to retain all existing 250 employees and to recruit a 100 more, though on contractual terms.

According to HR managers/consultants (see appendix 2 for list of interviewees), there are two kinds of contracts. One, where the company itself employs individuals, for a fixed period of one year or two years but on a contractual basis. There are clauses in the contract that say, 'on expiry of this period, your employment will be automatically terminated'. The company may or may not renew the contract, but in any case, it will be for a fresh period, generally after a short break, without any reference to the previous period. The Supreme Court has accepted such fixed period employment terms. Earlier the termination of such employment was treated by the court as a case of retrenchment under the Industrial Disputes Act, 1947, and due compensation had to be paid.

The West Bengal Labour Secretary confirms that contract labour (not casual labour) has increased significantly, being larger in proportion in many units than the permanent workforce, which corroborates the unions' contention. This is more frequent in the newer units being set up, compared to the older companies. As a result of this, he feels, dispute settlement too has correspondingly shifted to the problems of contract workers rather than that of the permanent workforce, since the latter are much better looked after. The latter have access to all statutory and extra-statutory welfare facilities. Most of them also have access to the common canteen (common for managers and staff). They are also much closer to management and more committed to the organization.

The other method of contract employment, frequently in use, is through agencies. Under this system, employees working for a company are not on its payroll, but on the payroll of the agency. The company does not pay the employee either, but makes the payment to the agency, which pays the employee. The same employees may continue to work for a company for years, even shifting from one agency to another during the process. This is a common practice with many jobs which are not lower-end ones, such as computer data entry operators, office assistants, photocopying operators, manufacturing supporters or helpers and cleaners. In some cases, even managerial staff like accounts managers are on contract from agencies.

For such employees, even disciplinary action is not taken by the principal employer but by the agency concerned. This is usually in the form of transfer to a more distant or inconvenient location in another company. There are 'outsourcing managers' appointed by the agency itself (ironically also on contract) whose task is to tour the various offices where their employees are on deputation, checking with the principal employer on their performance, and admonishing or transferring them when required. Pay is usually a consolidated lump sum amount, but Provident Fund contributions are made. Companies take pains to see that there is no deliberate violation of any labour law. They would not like to see any complaints arising from such employment, which could attract state intervention.

Surprisingly, both employees and unions are accepting these new forms of employment. There does not appear to be much resistance to such moves. Prior to 2000, there used to be small groups of union activists who would, on any small or large pretext, barge into the HR department and demand redressal of complaints, especially those relating to employment. Today, management's

power is considered supreme and unquestionable. One reason could be that the job market is better, although the official statistics do not corroborate this. Campus placements have improved significantly and new training and technical institutions have mushroomed in the last five years. But it is possible that irregular terms of employment would not be reported or recorded. Under the Contract Labour Act, 1970, contractual or temporary employment is not permitted for jobs of a 'perennial nature', and these are basically permanent jobs. It is a fact that the employment scenario is certainly better than what official statistics imply.

1.3 Recent economic growth

It is rational to expect employment growth, since industrial growth has picked up substantially in the last years. While a new industrial policy was announced in 1994, during the 2000 elections the party's manifesto declared firmly that the gains in the agricultural sphere (land reforms and land redistribution) would have to be consolidated through industrialization. This was essential to overcome the huge unemployment backlog. In addition, social changes have inclined youth towards non-agricultural livelihoods.

In the period from 1991 to 2004, 4,029 approved industrial investment proposals were received by the state involving a total investment of Rs 757,205.9 million. In the same period, 991 projects with a total investment of Rs 266,801.4 million were implemented. In 2005 alone, the number of approved industrial proposals in the state was provisionally estimated to be 386 with a total investment of Rs 179,684.1 million and 161 projects with a total investment of Rs 191,47.2 million were implemented. On 31 December 2005, 65 major projects (projects with investment of over Rs 250 million) with a total investment of Rs 89,870 million were under implementation in West Bengal.

The largest number of major industrial projects under construction is located in the western part of the state in the districts of Burdwan, East Medinipur, Purulia and Bankura. In the industrially backward district of Bankura, seven major industrial projects are coming up, six in the iron and steel industry and the other a cement manufacturing unit. In Purulia, another industrially backward district, five major projects are under construction, four of which are in the iron and steel industry and the other a cement unit. North Bengal too has seen a few investments in the last years. An interesting point made by the Labour Secretary is that because of the convergence in industrial relations practices and employer–employee relations across Indian states, the location of units in certain industries is becoming immaterial for entrepreneurs. They will not have to face any different union or worker attitudes in Bengal as compared to other states of India. This is particularly true of emerging industries such as IT, ITes and retail.

It must, however, be remembered that while industrial investment has been increasing, specially from the beginning of this decade, the employment potential of most units is much lower than the old labour-intensive units in existence in the state. The state government has promulgated in quick succession policies for bio-technology, mines and minerals, IT and ITes. In the IT sector, 180 companies and in the ITes sector 55 companies have started operating in the software parks and special zones established for them. In addition to significantly increasing the installed power generation capacity, the state government is also implementing a number of schemes for improving and extending the transmission and distribution network. Several private sector projects in power generation are also in the pipeline.

The state government has also been the first in India to formulate an act on Special Economic Zones (SEZs), the Special Economic Zones Act, 2005. The first sector-specific SEZ in India, Manikanchan Gem and Jewellery Park, has already become operational. The signing of the South Asian Free Trade Area (SAFTA) agreement on 18 January 2006 will provide opportunities as well as challenges to West Bengal, one of India's border states. The objective of SAFTA is to reduce existing tariffs to less than 5 per cent within a timeframe so as to increase trade among South Asian countries.

There is no legislation exempting SEZs from any existing labour laws. In fact, normal labour laws are applicable to SEZs, to be enforced by the state government. The central government has requested that procedures be simplified for submitting returns under the laws and for introduction of a single window clearance mechanism by delegating appropriate powers to development commissioners of SEZs. However, West Bengal permits both domestic sub-contracting and transfer of job work abroad for exports in the gem and jewellery SEZ. Collective bargaining in these areas depends on the size of the unit. There is no information, however, of any agreements concluded in this SEZ till end 2007.

The state government has been trying to improve physical and social infrastructure through better road connectivity and urban renewal in water supply, traffic management, sewerage and drainage, solid waste disposal, and housing and infrastructure development with central government grants and loans. New townships are being constructed through the PPP (public-private partnership) model in a number of locations. The West Bengal Industrial Infrastructure Development Corporation (WBIIDC) has undertaken 12 industrial estate projects at different locations in the state.

As a result of rapid industrialization, the acquisition of land for industries and the quantum of compensation offered as well as other benefits has been the subject of considerable debate in the last three to four years. Opposition political parties have joined issue with the government on this matter and there have been several judicial cases as well. CITU, which is affiliated to the ruling party, believes that human development is possible only through industrialization and supports the policy of the government. The AITUC on the one hand endorses the joint trade union movements against the New Economic Policy, demonstrating its resolve to fight against elements like privatization, outsourcing and reduction in Provident Fund interest rates in the New Economic Policy by convening a national assembly of trade unions in New Delhi in June 2002, marching to Parliament in February 2003, and calling for all-India general strikes in May 2003, February 2004, September 2005 and December 2006.

But AITUC on the other hand also declares that it does not have any conflict with the new industrialization wave in West Bengal and the government's policy of inviting foreign capital, provided this investment does not come with attached conditions which go against the interests of the country or that of labour. However, it believes that the state government's policy on the state public sector enterprises is bad for workers and therefore does not support it.

1.4 Labour and employment legislation

One of the main features of labour law in India is their multiplicity. Legislation can be framed by both the centre and the states, since labour is in the Concurrent List of the Indian constitution. These laws cover both organized industry as well as the unorganized sector. Laws meant for the

organized sector can be classified into three main categories—laws on labour management relations, laws on establishments and working conditions, and laws on welfare and social security.

Laws on labour management relations include:

1. Industrial Disputes Act, 1947 which is applicable for any business, trade, service, employment, occupation other than agricultural operation, hospitals, educational institutions, certain government departments like defence, domestic service, cooperatives, and group activities involving less than 10 persons.
2. Industrial Employment (Standing Orders) Act, 1946 for establishments employing 100 or more persons.
3. Trade Unions Act, 1926 and the Amendment Act, 2001 for establishments with any seven persons or 10 per cent of the workers, whichever is more, in a trade, employment or occupation.

Laws on establishments and working conditions include:

4. Factories Act, 1948 for establishments employing 10 persons or more working with aid of power, or 20 or more persons working without the aid of power.
5. Mines Act, 1952 for all mines, bore holes, oil wells, quarries, open cast workings, and related activities.
6. Plantations Labour Act, 1951 for all plantations of 5 hectares or more employing 15 persons or more.
7. Contract Labour Act, 1970 for organizations or contractors employing 20 persons or more.
8. Payment of Wages Act, 1936 for all non-executives in all establishments earning below a certain level.
9. Minimum Wages Act, 1948 for all occupations and factory establishments, service establishments, etc., notified in government schedules.
10. Payment of Bonus Act, 1965 for establishments employing 20 persons or more.
11. Equal Remuneration Act, 1976 for all establishments, occupations, jobs.

Laws on welfare and social security include:

12. Employees' Provident Fund Act, 1948 for all organizations employing 20 persons or more.
13. Employees' State Insurance Act, 1948 for all registered non-seasonal factories not enjoying government benefits already.
14. Workmen's Compensation Act, 1936 for any non-casual worker or those employed other than for a business.
15. Maternity Benefit Act, 1972 for all factories, mines, plantations, establishments employing 10 persons or more, in which women are working.

Gratuity Act, 1952 for establishments employing 10 persons or more.

In addition to the operation of these all-India statutes, West Bengal has the following legislation applicable exclusively to the state:

1. West Bengal Trade Unions (Amendment) Act, 1983 provides for recognition of trade unions based on elections among unions in a manufacturing establishment or industry, or mine or plantation and formation of bargaining councils. Interestingly, the Act does not yet cover white collar establishments like banks and insurance companies. This Act was necessitated by the lack of recognition provisions in the all-India law. (See section on trade unions' bargaining status later.)
2. West Bengal Payment of Subsistence Allowance Act, 1969 provides relief to workers placed under suspension to the extent of 50 per cent of basic wages, dearness allowance (DA) and a few other allowances for the first 90 days and 75 per cent thereafter till disposal. These provisions are better than those provided in the Industrial Disputes Act, 1947.
3. West Bengal Workmen's House Rent Allowance Act, 1974 applies to establishments employing 50 or more persons and stipulates a payment of 5 per cent of basic wages as house rent allowance. There is no all-India law on this.

In addition there are several schemes for employees. West Bengal introduced in October 1998 a scheme for Financial Assistance to the Workers of Locked-out Units (FAWLOI) for payment of a monthly amount of Rs 500 with effect from 1 April 1998. A number of units and workers have benefitted (table 7).

Table 7. Beneficiaries of locked-out units in West Bengal

| Year | Number of units | Number of workmen |
|---------|-----------------|-------------------|
| 1998-99 | 190 | 27 595 |
| 1999-20 | 219 | 32 941 |
| 2000-01 | 256 | 39 809 |
| 2001-02 | 249 | 33 580 |
| 2002-03 | 250 | 33 860 |
| 2003-04 | 263 | 42 729 |
| 2004-05 | 276 | 41 977 |
| 2005-06 | 266 | 35 220 |
| 2006-07 | 249 | 36 631 |

Source: *Labour in West Bengal*, various issues.

The State Assisted Scheme of Provident Fund for Unorganized Workers was introduced from 1 January 2001 to benefit workers not covered by the Provident Fund Act. Under the scheme, each worker between 18 and 55 years (working in any of the notified industries and not earning more than Rs 3,500 per month) should contribute Rs 20 per month, with the state government contributing a matching amount and interest on the accumulated amount. The beneficiary can draw the full

amount on reaching 55 years, or in the case of death (when the amount will be paid to a nominee or legal heir). The Unemployment Assistance Scheme, 1985 was extended to minorities in 1998.

For the Central Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996 the state government has set up a Contract Labour Advisory Board and also has a separate cell in the Labour Directorate, fixing 2 per cent of the construction project cost (valued at Rs 10 lakh and above for private/residential buildings) as cess payable by the employer. But the actual registration and collections started only in January 2006 and a corpus is being built up. Contribution from individual workers has been fixed at Rs 20 per month. Till 6 November 2007 the total number of workers (beneficiaries) registered under the social security scheme was 31,994, of which 3,874 were women. Registration fees and subscriptions from the beneficiaries was Rs 3,830,240. The number of project establishments registered was 3,415, and the combined cess collection was Rs 99,781,698. Aid is given, so far, for accidents and education, and in one case even for death.

Some of the changes in recent years in labour laws have been the modifications made by the state government on employment eligibility. For instance, in the Payment of Wages Act, 1936, the ceiling on the application of the Act to employees earning below a certain level has been abolished and the Act therefore now applies to all salary and wage earners. This is claimed by the state government as a unique development not replicated elsewhere in India. During 2007, the restriction on women's employment at night has been lifted for the IT, hotel and retail sectors. Hence these establishments can employ women at night, subject to certain conditions.

1.4.1. Trade unions: Bargaining status

Significantly, there is no law on collective bargaining or on union recognition at the all-India level and different states have framed their own laws. But enforcement is not easy, since employers are not homogeneous. Small and medium enterprises (SMEs) or even some of the traditional industries are not professionally managed and it is difficult to ensure legislative compliance. They have been known to resist both unionization, or if forced to live with unions, then resist collective bargaining. The state government also does not have a large enough body of inspectors to enforce legislative provisions. In the organized sector, trade unions apply pressure on management to enforce legislative provisions. But since there is relatively less unionization in SMEs, employees are deprived, especially in the matter of welfare and social security.

However, the state government now has a major labour law amendment for recognition of unions and appointment of bargaining agents (discussed later).

1.5 Main issues in the agenda of the social partners in industrial relations

1.5.1 Government

The West Bengal government had no declared policy on labour on its website in 2006, not because labour has ceased to be of importance, but because labour is difficult to have a policy on at this juncture. Given the economic history of the state, the Left Front government is being forced by circumstances to drive an aggressive industrial growth policy to create more employment, similar to what is happening in Orissa, Jharkhand and even to some extent in Bihar, the other eastern states. Its policy on public enterprises is to rationalize its own industrial units and to look at and take serious

decisions on the viability of the undertakings. Specifically its policy is to (a) close structurally unviable units, (b) restructure potentially viable units, combining business, financial and administrative restructuring for retention under ownership of government, and (c) seek joint venture partners through investment of up to 74 per cent of equity in some potentially viable units requiring investment to attain viability. Two units have been closed already, and the government is committed to protecting the interests of the employees. Among the joint ventures, the deal on the Great Eastern Hotel is final with many employees having accepted the Early Retirement Scheme, and the government promising re-absorption of younger employees by the new entrepreneur. The hotel is under extensive renovation already and was expected to re-open in 2008.

In other sectors traditionally dominated by the state, such as transport, the government's policy is to promote integrated and optional development of all forms of transport in West Bengal. This means in practice that the bulk of transport services is provided by private parties. The practice of tripartism, which used to be one of the unique features of industrial relations in the state, is now sparing and confined primarily to conciliation of disputes and occasional meetings of tripartite bodies.

1.5.2 Labour

The existing unions are under pressure due to (a) change in worker preferences for independent or non-affiliated unions (see results of union elections in appendix 3); (b) pressure from management to improve productivity and competitiveness; (c) inability to escape from the government logic of privatization and development support for industrialists and acceptance of government pressure to forgo militant movements and be reasonable in order to attract industrialists to the state; (d) acceptance of contractual and casual employment, for instance, which is being used in many perennial jobs on a regular basis; (e) being defensive about protecting existing rights and strengthening job security in the current context; (f) inability to take militant action against employers (in traditional industries) who rampantly flout agreements or legislation, particularly in jute, engineering and plantation industries (This is much more widespread than the government is prepared to admit. Some observers have admitted that 80 per cent of the units in these industries violate law or agreements.); (g) inability to stand up to management who are much more determined and able to carry out what they have decided, generally in the name of cost reduction and improved competitiveness; (h) inability to prevent the co-optation by management of individual trade union leaders, which is quite rampant (While there always were corrupt union elements who could be manipulated for employer interests, this is much more widespread now, leading to workers suffering, which speaks very poorly of union leadership today.); (i) acceptance of sub-contracting and outsourcing which are common in many manufacturing industries, with a major downward effect on permanent and regular workforce; and (j) attempting unionization in hitherto non-unionized niches, perhaps an attempt to break the stereotypes and shackles.

1.5.3 Management

On the other hand, there are signs of convergence. Management is eager to expand and grow but on their terms, and likes to maintain flexibility on employment issues through various methods (this is in response to the legal restrictions against firing of employees or closure of establishments). They expect full cooperation from both the government and unions and are eager to attune industrial relations policy with their corporate strategy and business plans, which is in keeping with global

trends. Companies are keen to adopt new industrial relations and HR strategies to cope with the demands of competitiveness and are consciously shifting from industry/sector focussed industrial relations to enterprise focussed employee relations.

PART 2: THE ACTORS OF THE INDUSTRIAL RELATIONS SYSTEM IN WEST BENGAL

2.1 Legal framework

2.1.1 Right of workers and employers to form or join unions or organizations

Under the Constitution of India and relevant legislation, employees and employers have full rights to join any union of their liking. During the three decades preceding liberalization, trade unions dominated, particularly in the eastern region. They acquired a number of rights through their movements and through the collective agreements they signed. These rights related both to procedural matters, like the process of negotiations, and more substantive issues like managerial prerogatives and the right to raise diverse issues in bipartite forums.

These rights have been constrained or diluted to a substantial degree after globalization and liberalization in India, especially after West Bengal began its aggressive industrialization drive since 2000. As far as procedural matters are concerned, the unions' bargaining status has been strengthened as a result of the Trade Unions Amendment Act, 1998 (discussed later). But in substantive matters there have been setbacks. For instance, unions have accepted wage cuts under threat of closure in several instances in traditional industries like jute, tea and engineering. They have accepted VRS and steady depletion of permanent employees. They have accepted induction of contract employees and use of outsourcing or sub-contracting. They have accepted labour flexibility in terms of deployment and transfer, as well as multi-skilling. There have been suggestions and advice from the government to the major trade unions not to go on strike or to behave in a restrained manner so as not to alienate industrial investors. An example is the case of the Haldia Petrochemicals strike threat in March–April 2008 on the issue of absorption of contract workers as regular employees, which was called off on the insistence of the government. In many instances, managers give their charter of demands before negotiations, several of which are attached as annexures to collective agreements.

2.1.2 Procedures for registration/deregistration of trade unions and employers' organizations

Under the Trade Unions Act, 1926 and its major Amendment Act, 2001 the condition for registration of unions is: 'No union shall be registered unless at least 10 per cent (subject to a minimum of seven) or one hundred workmen, whichever is less, engaged or employed in an industrial establishment or industry, with which it is connected, are the members.' Such workers may apply to the state's Registrar of Trade Unions for registration of the union, with a copy of the rules of the trade union, a statement of the names, occupations and addresses of the members, the place of their work, the name of the trade union, the address of its head office, and the names, ages and titles of the office bearers.

The original provision of seven persons was believed by many to be the main cause of union multiplicity. In 1982, an amendment was introduced by the central government where the minimum number for registration was increased to 10 per cent of the workforce, or 100, whichever was less.

But this amendment was never enforced, due to trade union objections. Subsequently, in 2001, a fresh provision was made. Under the Act, a union is required to fulfil certain conditions on election of office bearers, holding of annual general meetings, audit of union accounts and submission of returns to the Registrar. The registration of a union can be cancelled, after two months notice, on the following grounds:

- if the union itself wants dissolution,
- if the registration has been obtained through fraud or mistake,
- if the number of members of the union has fallen below the required minimum.

A peculiarity of the provisions in India is that employers may also register their associations under this Act. There is no bar on unions at any level and managers, including general managers, may also register their union under the Act (Sen, 2003). Under the Act, contract and casual workers can also form unions provided they fulfil the above requirements. In practice, there is little unionization among contract workers and even if unionized, they are generally separate and not part of the main plant level unions. In the informal sector, plant-based unions are rare because of the small number of workmen. But there are usually industry level or occupation-wide unions which can include self-employed workers, such as hawkers, head loaders and security employees.

The trends in unionization discernible today are:

1. A significant increase in unionization in the small and medium sector (food processing, transport, printing, pharmaceuticals, trading organizations and security agencies) and in the unorganized sector (repair services, local transport like hand-pulled rickshaws or cycle vans, restaurants, head loaders, theatres, small schools, nursing homes, hawkers, traders and rural workers) as well as contract workers in large organizations. This is evident from scrutiny of new registration records in the Registrar's office and from the list of collective agreements registered. (See also appendix 1 on unorganized labour and Sen, 1997a.)
2. Decline or stagnation in unionization in the organized sector, mainly due to decline in permanent employment, lack of interest in unionization among younger, more qualified recruits, and discouragement from employers. A recent study in 2007 (*Economic Times*, August 2007) by a professor of sociology at Jadavpur University, Kolkata, is relevant in this context. He interviewed 105 white collar employees of IBM, Cognizant, ICICI and some private banks and found that they were not keen to become union members, they were hardly active in union matters, and when they were members they were sceptical about the necessity of union help in negotiations with management. This did not, however, mean that they did not have problems, especially with regard to working hours and job insecurity.
3. The spread of unionization beyond the urban confines of Kolkata and its industrial conglomeration to the districts and small towns. Fifty per cent or more new unions registered in recent years are from outside Kolkata and its industrial conglomeration. This is evident from the addresses provided by unions in the registration records.

4. Unionization among contract workers as a result of deliberate policy on the part of major unions, especially CITU. Generally contract workers' unions are separate from unions of permanent workers in the same establishment. However, during 2007, the Registrar of Trade Unions received two applications from workers of one establishment where both permanent and contract workers are members of the same union. Several similar applications were pending during 2008.
5. Union multiplicity, which has not been conducive to strong bargaining in the organized sector, especially when unions, already under pressure from liberalization forces, have compelled many employees to seek single unions in their enterprises (evident from the table on election results in appendix 3).

This has led many unions in the organized sector to change their strategies and match these with the changed circumstances, such as:

- Using secret ballot elections for most union 'right and jurisdiction' conflicts.
- Acceptance of innovative collective agreement clauses.
- Active cooperation with management for organizational growth and an increase in the share of the pie rather than persistence with distributive bargaining as in earlier years.
- Cooperation in training for both unionized and non-unionized staff of most companies.

2.2 Government structure for industrial relations at the central and state levels

In the central government is the Ministry of Labour and Employment under the Labour Minister. The ministry has a Chief Labour Commissioner, the Directorate of ESI Corporation, the Provident Fund Commissioner, the Director of General Employment & Training, and Director General, Factory Advisory Services. The Ministry has a Joint Chief Labour Commissioner (assisted by the Deputy Chief Labour Commissioner and Assistant Labour Commissioner), a Chief Advisor, Labour Welfare, and the Labour Welfare Commissioner (assisted by the Deputy Labour Welfare Commissioner and Assistant Labour Welfare Commissioner). There are also Regional Labour Commissioners (Training), Regional Labour Commissioners (Central) and Enforcement Officers.

At the state level is the Minister of Labour and Employees State Insurance (ESI). Under the Principal Secretary, Labour are the Labour Directorate, the Shops & Establishments Directorate, the Directorate of Factories, the Directorate of Boilers, the Directorate of ESI, Medical Benefits, the Directorate of Industries, the Directorate of Training & Employment and the Labour Welfare Board.

The Labour Directorate of West Bengal is headed by the Labour Commissioner assisted by Additional Labour Commissioners (six posts in Kolkata, including one post on deputation to the Welfare Board as Welfare Commissioner), Joint Labour Commissioners (seven posts: five in Kolkata, one in Siliguri, and one in Kolkata), Deputy Labour Commissioners (23 posts: eight in Kolkata, and one each in South Kolkata, East Kolkata, Howrah, Kalyani, Barrackpore, Serampore, Asansol, Durgapur, Siliguri, Jalpaiguri, Kharagpur, Haldia, Chandernagore and Berhampore, including one

post on deputation to the Welfare Board as Joint Welfare Commissioner), and Assistant Labour Commissioners (116 posts in Kolkata and regional offices, including one post on deputation to the Welfare Board as Deputy Welfare Commissioner).

2.3 Workers' organizations

2.3.1 Unionization patterns

The major central unions in West Bengal are:

- Centre of Indian Trade Unions (CITU) (Membership– 1,127,497):² A national central trade union in India founded in 1970, politically attached to the Communist Party of India (Marxist). It was the result of a split in the AITUC after the Chinese invasion of India in 1962 and the split in the Communist Party of India itself. It used to be affiliated to the World Federation of Trade Unions (WFTU).
- Indian National Trade Union Congress (INTUC) (Membership: 498,650): The trade union wing of the Indian National Congress, it was founded in 1947 by many who broke away from the AITUC and is affiliated with the ITUC (International Trade Union Confederation) Asia Pacific.
- All India Trade Union Congress (AITUC) (Membership: 576,365): Is the oldest trade union forum in India and one of the five largest. It was founded in 1920 and until 1945, when unions became organized on party lines, it was the central trade union organization in India. Since then it is generally believed to be affiliated to the Communist Party of India but it does not acknowledge this. It is a founder member of WFTU.
- Bharatiya Mazdoor Sangh (BMS) (Membership: 136,514): Is the largest central trade union organization in India and was founded in July 1955 with 5,680 affiliated unions. It is not, however, affiliated to any international trade union confederation although it has relations with central labour organizations of other countries and has been taking part in the ILO sessions at Geneva for the past 25 years.
- Hind Mazdoor Sabha (HMS) (Membership: 239614): Is a national trade union centre in India founded in December 1948 and is affiliated with the International Trade Union Confederation. It has 2,300 unions affiliated to it.
- United Trade Union Congress (UTUC) (Membership: 1,066,302 + 547,133 = 1,613,435): Had split and there are two central organizations, one referred to as UTUC (Lenin Sarani [LS]) linked with the Socialist Unity Center of India (SUCI), and the other known as United Trade Union Congress (UTUC) (B.B. Ganguly Str) linked to the Revolutionary Socialist Party (RSP). While both are signatories to several tripartite industry-wide agreements, they have very little presence outside West Bengal.
- Trade Union Coordination Committee (TUCC) (Membership: [646,288): Is linked to the All-India Forward Bloc and is also a signatory to several agreements.
- National Federation of Indian Trade Unions (NFITU) (Membership: 31,127): A non-affiliated block of unions which participates in the State Labour Advisory Board (SLAB) and in some industry-wide negotiations.

- Indian National Trinamul Trade Union Congress (INTTUC) (Membership: Not available): Is a splinter formed out of the INTUC by the Trinamul Congress, a party led by one-time Congress Youth leader Mamata Banerjee. However its trade union presence is relatively small compared to its political position as the main opposition party in West Bengal.

Table 8. Number of unions on live registers in West Bengal

| Year | New registrations | Pre-cancellation notices issued | Registrations cancelled | Unions on live register |
|------|-------------------|---------------------------------|-------------------------|-------------------------|
| 1984 | 510 | n.a. | 0 | n.a. |
| 1985 | 500 | 17 | n.a. | 11 225 |
| 1986 | 497 | n.a. | n.a. | n.a. |
| 1987 | 505 | 85 | 44 | 12 195 |
| 1988 | 559 | n.a. | n.a. | n.a. |
| 1989 | 388 | n.a. | n.a. | n.a. |
| 1990 | 444 | n.a. | n.a. | n.a. |
| 1991 | 318 | 41 | 27 | 13 752 |
| 1992 | 341 | n.a. | n.a. | n.a. |
| 1993 | 309 | 27 | 20 | 14 344 |
| 1994 | 275 | 1 653 | 16 | 14 603 |
| 1995 | 216 | 6 249 | 1 760 | 13 059 |
| 1996 | 274 | 1 1 248 | 11 866 | |
| 1997 | 300 | 44 | 1 293 | 10 955 |
| 1998 | 265 | 1 220 | 1 059 | 9 604 |
| 1999 | 388 | n.a. | 287 | 9 705 |
| 2000 | 352 | 38 | 38 | 10 019 |
| 2001 | 256 | 1 1 | 10 274 | |
| 2002 | 205 | n.a. | 0 | 10 479 |
| 2003 | 205 | n.a. | 0 | 10 684 |
| 2004 | 188 | n.a. | 0 | 10 872 |
| 2005 | 115 | n.a. | 0 | 10 987 |
| 2006 | 136 | 2 2 | 11 121 | |

Source: *Labour in West Bengal*, various issues.

A large number of notices were issued between 1995 and 1998 in order to facilitate computerization of records. While earlier the number of unions had been increasing steadily, as a result of rationalization a decline set in and the number of unions fell to below 10,000 in 1998 and 1999, picking up slightly in later years. To compound the problem, new registrations have also shown a steady decline from the peaks of the 1980s.

A unique feature of West Bengal's unionization is the existence of industry-wide unions, not as federations but as single unions with branch unions in the various enterprises of that industry. This is true of several traditional industries like coal, steel, jute, tea, banks, etc. Each of these industries is

characterised by their homogeneity, with small variations among the units. This pattern could be a direct result of the existence of employers' organizations in the traditional industries, which were established in the early years of Bengal's industrialization. Even the bargaining in these industries takes place at the industry level, several agreements being tripartite. The engineering industry is slightly different having federations rather than single unions. The reason for this could be the heterogeneity of the firms within that industry.

However this pattern is not true of the larger private sector units in other industries, which have plant- or unit-wise unions. Many of these unions are not affiliated officially to any of the central organizations, though their office bearers may have political leanings. This is true of most of the multinationals or erstwhile foreign-owned companies. However, this is not the case in public sector enterprises, with each of them having several unions affiliated to each of the central forums.

Several changes have emerged during the 1990s.

- There were declines in the average membership of the established unions due to declines in permanent employment and to new encroachers. These were generally independent unions, especially those linked with dissident political groups with Naxalite ideologies. (See Sen, 1994 and table on union elections in appendix 3.)
- The distinctions between the sectors are blurring. While public sector steel plants used to hold a dubious record of sorts for the largest number of unions, the patterns are changing significantly now. NTPC's plant in Farakka, a public sector undertaking, has only two unions, INTUC and CITU, while the private sector Hindustan Unilever at its Garden Reach plant has more than one union. The jute industry, primarily in the private sector, is riddled with multiplicity, 18 unions having signed the last agreement. The tea industry, mainly in private hands, is also riddled with multiplicity.
- Many companies and establishments in West Bengal which had multiplicity have now gone for secret ballot elections and several of them now have sole bargaining agents with overwhelming majorities. Other unions, though existing, have been reduced to minority unions.
- Trade unions have not only unionized employees in the smaller enterprises but also successfully negotiated wages for their new members, as will become apparent in the profile of collective agreements below. This is a significant departure compared to the earlier confinement of trade unions to larger enterprises and is due to a deliberate policy on unionizing unorganized workers (Sen, 1997a). The two largest central unions are not only aware of the changes in employment as a result of globalization, but have also been subject to exhortations by academics and researchers at seminars or discussions over the last two decades not to remain confined to the organized sector.
- A unique case in union leadership in Bengal is that the serving general secretary of the All-India Reserve Bank of India Employees Association was appointed chairman of the West Bengal State Cooperative Bank in January 2005. He retired from the Reserve Bank of India in October 2004, but continued to head the union. As chairman, one of his first decisions was to stop the recruitment of 80 new personnel on the ground that the bank was already overstaffed. He, however, did improve the staff compensation package of the Cooperative Bank.

2.4 Trade union membership

At the all-India level, the verification of union membership as on 31 December 2002 has been completed and indicates over 24 million unionized workmen. Of these, INTUC has about 4 million, CITU about 2.7 million and AITUC about 3.4 million (appendix 4). These figures are based on state-wise verifications and provide indications of union membership in the states. As per this data, West Bengal has about 4.88 million unionized workers, which constitutes nearly 20 per cent of the all-India figures. This figure is rather surprising, since the state does not have more than 2 million workers in organized industry.

At the state level, figures of membership for new registrations are based on applications made by trade unions for registration and denote claimed membership only. They are only indicative of new union membership and do not provide the size of existing unions. The average size of new unions varies between 67 and 261 members, varying widely in different years (*Labour in West Bengal*).

Plant-wise figures obtained during the elections for union recognition are reliable, but since elections have been held in only 28 organizations till now, no estimates for the larger organizations are available for the state as a whole. Union claims are highly exaggerated and cannot be relied upon. It has been found on scrutiny of records that the total claimed membership for a particular industry often exceeds, by a large number, the known employment in that industry. The all-India verification too indicates that claimed membership was 40.2 million.

Union density varies widely across even the organized sector. The traditional industries are intensely unionized, there being many unions among all categories of workers, reaching almost 100 per cent density. The public sector, including government employment, banking and insurance, too is highly unionized and except for a handful of casual or temporary staff, unions cover almost all workers. Hence, density would be over 90 per cent. In the large private sector, other than in traditional industries and MNCs, membership is confined mainly to permanent employees and factory workers. Office staff, and temporary, casual or contractual employees are generally not unionized and are discouraged by management from joining unions. Union density in these organizations would be above 50 per cent but probably less than 75 per cent. The IT industry and the new service sector units (insurance, foreign banks), which have emerged in the last decade, are not unionized at all.

Contractual employees are beginning to get unionized, primarily in larger establishments. They have separate unions in large organizations because they are significant in number, especially in public sector undertakings, the railways, steel plants, dock workers, government construction companies or departments. Hindustan Unilever, Haldia Petrochemicals and Mitsubishi Chemicals are some private sector exceptions which not only have unionization among contractors' workers but also bargained contracts (discussed later).

Total union membership in the state can thus be calculated in three ways.

1. A 100 per cent of the 1.26 million workers in the organized public sector and 75 per cent (0.57 million) of the 0.76 million workers in the organized private sector (table 4) = 1.83 million workers, which is just 6.2 per cent of the state's workforce but 89.7 per cent of the organized sector workforce.
2. Surprisingly, the verified membership as indicated above puts the total membership of affiliated unions which participated in the verification at 4.88 million (see also appendix 4), which is substantially higher than the total organized employment. This indicates more than 3 million membership in the unorganized sector. In any case, verified membership constitutes 16.6 per cent of the total workforce of the state.

3. However, from the membership of 188,890 claimed by 1,457 new unions registered for the years 2000 to 2006, the average membership works out to 129 (*Labour in West Bengal, 2006*). If this average is applied to the total number of registered unions in 2006 (see table 8), then union membership would be 1.435 million.

There is wide discrepancy between these figures and this would at best indicate that West Bengal is one of the highly unionized states. Given that unionization is strong in most of the industrialized belts in India, and West Bengal has seen significant de-industrialization, the verified figures are, to say the least, surprising.

A major change that has taken place in union relations is the reduction in inter-union rivalry. Not only have the turf wars between CITU and its main opponent, INTUC, reduced significantly from almost daily skirmishes and violent incidents in the late 1970s and even 1980s, rivalries among the Left unions themselves have substantially reduced. The Left unions, which normally present united fronts in many situations, are rarely a united lot. At the grassroots or unit level, there used to be bitter fights among them to gain membership. These have reduced significantly, as a result of the pressure that all unions are facing from employers and the competitive situation because of globalization. This is especially true of those units where elections have been held to decide on union status.

At this point it may be useful to look at the focus areas of the three main unions in the state, and compare their policies and beliefs. This is based on interviews with the respective general secretaries, published documents and records of union conventions.

2.4.1 CITU

The general secretary is Kali Ghosh. The main emphasis and a deliberate policy of CITU is to focus on the unorganized sector. This is essentially not new. The actual decision was taken two decades ago, and workers of construction projects, hawkers, brick and tile kilns, offices and shops, rickshaw and van drivers, head loaders, beedi workers, motor vehicle workers, tailors, security employees, hosiery workers, newspaper sellers and contractors' workers were progressively unionized. But the unionization was desultory and fragmented. The task was extremely difficult and still is. CITU admits that its own organizational weaknesses too have played their part in the poor degree of unionization among unorganized workers.

The new focus is to conduct surveys of the actual numbers of workers in each of the areas and to consolidate the unions and build them into a state-wide body. CITU is penetrating hitherto non-unionized industries and occupations. The 8 September 2007 strike was primarily to agitate for social security for unorganized workers. Some examples are an umbrella union for security workers who are primarily contract employees in various industrial organizations. Another is its claim to have achieved a large degree of unionization in the sponge iron and ferro alloy units which have mushroomed in the state in the decade 1990-2000 (employing 250 to 500 per unit). These are located primarily in the Asansol–Durgapur belt as well as the western districts of Purulia, Bankura and West Medinipur. The sponge iron industry has been brought under the ambit of collective bargaining, especially because there is still no government notification on minimum wages for this industry. In the smaller units which are not yet under the jurisdiction of established offices of Employees' State Insurance Corporation (ESIC), agreements have been signed with employers to make the payments on account of ESI

directly to the workers themselves. Some other examples of sustained unionization by CITU are for cinema hall employees, bakery workers and linesmen (those who distribute bread), cold storage employees and goods transport workers. Many of them have been brought under industry-wide agreements, since single establishments employ too few for separate negotiations (see appendix 6).

In the context of 200,000 employees in the private sector given VRS in the state and 16 central public sector undertakings closing down with about 100,000 jobs lost, the union expects and demands that employers not violate any law and respect workers' legal rights of association and work in the establishments that are running. CITU claims to have ensured that ESI and Provident Fund contributions are payable to almost all workers even in smaller establishments from the first day of employment.

In addition, CITU believes that literacy should be emphasized, and no union member, however new, should remain illiterate. The union is trying to rope in NGOs to ensure this. This is a major objective of the unionization drive. The union also aims at creating awareness about health and hygiene, a scientific mentality (abolishing superstition), and cultural and environmental awareness among its members in collaboration with NGOs or state bodies. The union is aware that large established unions should organize training for untrained workers within their reach.

2.4.2. INTUC

The general secretary is Pramatesh Sen.

INTUC also wants to focus on the unorganized sector to unionize workers in it and planned a state-wide convention early in 2008. INTUC has already unionized hawkers, beedi workers and head loaders. For beedi workers (1.5 to 1.6 million), the union is fighting to get a clause on housing loans waived. The Act covering such workers allows a housing loan of up to Rs 40,000 from the government, provided the worker can put in Rs 5,000 of his own. INTUC is trying to get this initial amount waived.

It also wants to prevent child labour through movements to empower the poor, rather than through traditional unionization of child workers. In fact, parents of working children are averse to any kind of union intervention. INTUC believes that poverty is the root cause of child labour and helping the poor obtain benefits they are entitled to from various schemes of the government would help reduce the number of children working. In the organized sector, INTUC has participated in joint movements with other unions to ensure that jute workers got the DA which had been pending for long.

2.4.3 AITUC

The general secretary is Ranajit Guha.

This central organization wants to focus on the special problems of women workers and bring their concerns to the forefront. It mainly works in the traditional industries since they provide a lot of employment. It is also turning its attention to the unorganized sector.

AITUC still cites examples of the 1980s, which to some extent is repeated by INTUC. INTUC is more aware of the unorganized sector, but still does not have widespread concrete programmes for them except in one or two instances. There is very little acknowledgement of the changes which have come about in industrial organizations, the growth that has characterized recent years, the increases in both employment and wages in many industries, or the realities of the global scenario.

These unions appear to be confined to the traditional industries. Even in the state conference in 2003, AITUC talked about the 'economic and financial crisis' in the country and INTUC talked about 'extreme exploitation of workers in the traditional industries' by employers. There is also a tendency to generalize based on a few examples, ignoring the many examples which point to the opposite. Compared to this, CITU appears to be more realistic and is taking positive steps to organize unorganized workers, helping to bring more workers under collective agreements.

2.4.4. UTUC (LS)

The general secretary is Shankar Saha.

This central union has the bulk of its membership in the traditional industries of West Bengal. It has a presence in coal but is not a member of the Joint Bipartite Committee of Coal Industry (JBCCI). It also has a substantial membership among agricultural labour in the state, particularly in the districts of South 24 Parganas, Murshidabad, Purulia and Birbhum. Its main focus has been an anti-globalization movement since it believes this has led to the contractualization of employment. It claims to have been successful in getting contract workers absorbed as regular workers in one medium unit, Nizon Tubes. The lack of success is attributed to the surrender of other unions to the forces of globalization.

2.4.5 HMS

The general secretary is Samir Roy.

This all-India central organization has membership in West Bengal in jute, tea, ports and docks, railways, shops and establishments, cement, private road transport and coal industries. Its focus is combined development of the industry as well as workers employed in them. According to the secretary, the main problem faced in West Bengal is that the Labour Department is not active in the matter of dispute settlements and also favours management. This is no different from the labour departments of other states. But the expectation of the union from a Left Front government is different.

2.4.6 BMS

The all-India Secretary is B.N. Rai.

The membership of this union lies primarily in the traditional sector in jute, engineering, textiles, tea and coal industries. It also has some presence in central undertakings like BSNL and NTPC. Its focus in West Bengal is on the wage erosion in these industries coming as a result of employment restructuring. As senior workers retire, their jobs are being given to younger workers on contract or paid by voucher on a casual basis. Some of these workers are paid as low as Rs 100 per day, compared to the over Rs 200 per day for regular workers. This situation is being brought to the notice of the government through token strikes (such as the one on 5 September 2006 in many jute mills). The union has also agitated against non-payment of DA in these industries.

2.5 Legal framework for participating in collective bargaining

2.5.1 Various levels of intervention (company, local, sectoral, national)

In India and in West Bengal, bargaining takes place at various levels, although there is no national level agreement on any issue. In West Bengal in particular, since there are a significant number of industry-wide agreements, there have to be mechanisms at the plant or establishment level through which industrial relations problems can be tackled. In any case, bargaining takes place only once in three to four years, and there are bound to be many issues which crop up in the intervening years. Wages, major allowances and major productivity levels are determined at the industry level, but smaller agreements on detailed issues may be signed from time to time at the plant level. There would not be contradictions between these agreements, because the issues dealt with would be different.

This is clearly demonstrated in the case of the jute and steel industries. The industry level agreement in the jute industry includes vague clauses on productivity and mentions merely that cooperation is required from unions. The company level or unit level agreements, which were extremely frequent during the early 1990s, on the other hand have ample details on specific outputs, machines, operations and processes (Sen, 1997b).

On the union recognition issue, all the three major states of eastern India (West Bengal, Bihar and Orissa) have instituted secret ballot elections. The West Bengal Legislative Assembly passed the Trade Unions (West Bengal Amendment) Act in 1983, getting the President's assent in 1992. But the rules took another six years to frame, coming into effect only from 4 August 1998.

The history of this Act is indicative of the changing dynamics of unions and industrial relations in West Bengal. It was passed by the state legislature in 1983 after the union wing (CITU) of the ruling Communist Party of India (Marxist) party had consolidated its position in most industrial establishments. However, INTUC, which suffered significant inroads into its strength, had its own political link at the centre, the Congress party. This political clout was used to stall the bill. The bill did not get presidential assent, which is mandatory, till 1992. But by then the union situation in the state had changed significantly, with many employees becoming disillusioned with the established union bureaucracy. There were several cases of non-affiliated militant unions leading the struggle against exploitative employers, especially in the sick units. The case of Kanoria Jute Mills where such a union led a prolonged and innovative struggle has been chronicled extensively (Sen, 1994). This struggle exposed the ineffectiveness of the established unions and alienated workers from them. This left the Communist Party of India (Marxist) government in no hurry to complete the statutory process. The rules to the Act were framed only in 1998.

The Act provides for a union application to the Registrar of Trade Unions for holding elections and for determining the bargaining agent status of the union. Based on the results of the voting, a union which secures more than 50 per cent of the votes gets recognition as the sole bargaining agent. Unions with 40 to 50 per cent of votes become joint bargaining agents. In case only one union gets this percentage of votes and others are smaller unions, there would be a bargaining council with the large union being the principal bargaining agent. All unions with 10 per cent or more of the vote in an industry or 15 per cent of the votes in a plant or factory or establishment could become members of the bargaining council if no large unions emerge. The employer would be liable to punitive fine if the registrar's directive was not implemented. This in effect helped to reduce union multiplicity by restricting very small unions from achieving bargaining status.

After the Act came into force and before the rules were framed, one election had already been held. This was in Garden Reach Shipbuilders and Engineers (GRSE), a central public sector undertaking, where a dissident union successfully fought a case in the Calcutta High Court and obtained a court order compelling the state government to conduct elections on 27 March 1996. The union secured the maximum votes (approximately 46 per cent), but could not cross the 50 per cent mark. Thus it became the principal bargaining agent with AITUC and INTUC as the other members of the bargaining council. CITU did not even achieve bargaining status.

After the rules to the Act came into force in 1998, the Labour Directorate started receiving applications (table 9).

Table 9. Applications for trade union elections in West Bengal

| Year | Applications received | Applications rejected | Elections held | Applications pending et end of year |
|-----------------------|-----------------------|-----------------------|----------------|-------------------------------------|
| 1999 | 13 | n.a. | 2 | 11 |
| 2000 | 20 | 3 | 7 | 21 |
| 2001 | 15 | n.a. | 7 | 29 |
| 2002 | 7 | 2 | 5 | 29 |
| 2003 | 6 | n.a. | 2 | 34 |
| 2004 | 7 | n.a. | 2 | 39 |
| 2005 | 10 | n.a. | 8* | 41 |
| 2006 | 3 | n.a. | 2 | 42 |
| 2007 | 10 | n.a. | 5 | 47** |
| Total for 1999–2007** | 91 | 5 | 40 | |

*2 were uncontested and no elections had to be held.

** Till November 2007.

Source: Records of Registrar of Trade Unions, Labour Directorate, Government of West Bengal.

The details of the elections and voting are provided in a table in appendix 4. The results indicate certain common trends:

1. Although there was initial resistance to the election process in 1999 and 2000, both from management and existing unions, the process of electing collective bargaining agents is gaining in popularity.
2. The elections have resulted in sole bargaining agent status in most cases (34 out of 41). This gives some indications about employee preferences for a single large union in an establishment.
3. Many of the establishments have gone for repeat elections after two years, which proves that all parties concerned have found the process sustainable and beneficial for industrial relations. There has been significant reduction in inter-union rivalry, which is a healthy sign.

4. The overall distribution of 19:21 among affiliated established unions and non-affiliated independent unions is also indicative. In the years immediately after the process started, most of the successful unions were non-affiliated. This could also explain the initial reluctance of the central unions to get the election process going. The results were certainly a warning for those unions. New unions appeared to be closer to the rank and file members.
5. In recent years, however, CITU in particular and INTUC as well, the two main unions in West Bengal, have clawed back into the industrial relations space and have been able to hold their own in several elections.
6. INTUC believes that workers still have faith in the established unions, but are discouraged by the inability of these unions to make substantial demands. On the other hand, many workers are attracted to non-affiliated unions which INTUC claims are irresponsible and make inflated demands. It believes that excessive demands cannot be sustained over a long time.

Some establishment-specific results are also interesting.

1. NTPC Farakka, a central public sector undertaking, has had three elections so far (2002, 2004 and 2007) and union popularity has been confined to the two big ones, initially jointly, then CITU and then INTUC. This is close to the democratic governance model.
2. However, in GRSE, another central public sector undertaking, the non-affiliated union which could manage 46 per cent of the vote in 1996 and 2002 has consolidated its position in 2005 and acquired sole bargaining status.
3. Hindustan Unilever, an MNC, has persisted for many years with a non-affiliated employees' union. Most of the MNCs have non-affiliated union executives elected by employee constituencies. It is believed that these unions are styled on the 'business unionism' concept. In any case they are not linked with any extreme views.
4. Permanent eligible employees (number of voters) has been falling in successive years for all the companies which have gone for repeat elections.

2.5.2 Workers' organizations in the public sector

The public sector, as everywhere else in India, is highly unionized, there being considerable union multiplicity in all public sector undertakings in the industrial union category. In the coal industry, unionization is across several mines and area offices. These are affiliated to the various central bodies. Among coal workers, contract or casual workers are generally separately unionized. In the steel industry, unionization is both plant based as well as affiliated. But both these industries with very large employment have large numbers of craft unions, some of which are not affiliated. For instance, the coal industry has a shot firers union and the steel industry a crane operators union just as the railways has its engine drivers union. Both these industries have permanent negotiating bodies with five to six major unions contributing representatives in proportion to their membership. The power sector has establishment-wise unions which are also affiliated.

State government employees are also highly unionized and have multiple unions. The Left unions have formed a coordination committee and represent their grievances and problems to the government through this committee. The committee also represents employees at the Pay Commission hearings which determine their wages and salaries.

2.5.3 Union avoidance

Several large companies, particularly in the construction business, deliberately avoid unions. Their methods are varied. One example is through community development measures to involve the local population rather than only the employees. Companies often establish a close relationship with the panchayat or local self-government body dominated by the ruling party in the state and take up activities such as renovation of the local railway station and the bathing ghats on the river, setting up eye camps, and other social welfare activities. A multinational soft drinks and agricultural food processing company has adopted the route of employee satisfaction by providing not only a canteen, which is a statutory requirement, but also transport, common uniforms for managerial and support staff, common dining hall, and doles from time to time, such as money for buying furniture or other household items. But these are combined with long working hours.

One lubricant company changed its working hours with similar employee gratifications. Instead of a half-day on Saturday, it introduced a five-day week, with hours from 8.30 a.m. to 5.30 a.m. (apparently, nine hours). But this was softened by including a one-hour lunch break, providing breakfast, then lunch and finally tea in the evening. This ensures that all employees put in a full eight-hour workday.

The most notable large organizations which do not have unions are Haldia Petrochemicals and Mitsubishi Chemicals, both located in the new industrial hub of Haldia, the supplementary port and dock complex. Both are large organized sector units, the former having been co-promoted by the state government itself. Mitsubishi has an employees' committee which raises employee issues with the management, but this is not a regular union. However, interestingly, in both these organizations the contractors' workers are unionized. The West Bengal Labour Secretary feels that this rather subtle union avoidance is achieved through the workforce structure itself. Being highly technically sophisticated companies, the workforce comprises technically qualified persons and managers who do not feel the urge to unionize. The manual or blue-collar jobs are executed by contractors.

These companies maintain direct employee relations. There is no union in between and employees can talk directly to management on many issues. The IT and ITes industries have had this kind of workforce structure for long and have not been unionized. BPOs and call centres, majority unionized in western countries, too have proved elusive for unions. So much so, the proportion of non-unionized large firms is increasing steadily. Among smaller companies, also, unionization in new units is very slow or non-existent.

2.6 Employers' organizations

The Council of Indian Employers (CIE), the sole national organization of employers in India, was established in 1956 and has three constituent bodies under it—All India Organization of Employers (AIOE), Employers' Federation of India (EFI), and the Standing Conference of Public Enterprises (SCOPE). CIE is not registered under any act, although all three constituents are registered individually. CIE is recognized by the Government of India, national and international bodies, and apex employers' associations dealing with labour and social policy issues.

The main function of the CIE is to present and make representations or proposals to the government and other related organizations on the formulation of long-term economic and social welfare policies concerning labour, employers and development in general. CIE is represented on

almost all government advisory boards, for example, the Indian Labour Conference, Standing Labour Committee, Wages Advisory Council, Employees Provident Fund, Employees State Insurance, and Welfare Employment Committee. CIE also protects the interests of employers in central and state labour relations and social welfare committees. Collectively, all three bodies represent the CIE on all the tripartite and bipartite bodies on a rotation basis. CIE holds regular meetings of representatives of its constituents and discussions to arrive at consensus on common issues.

But where West Bengal is concerned some industry- or sector-wise associations are visible. The well-known Indian Jute Mills Association (IJMA), with its office in Kolkata, is registered under the Trade Unions Act, as are some other employers' associations. The number of such unions is surprisingly quite large, although the number submitting returns is very low. In fact the number dwindled to just 30 in 1993 from 92 in 1992. Some writers are of the view that the practice of registering under the Trade Unions Act is undesirable, since workers and employers have entirely different objectives for associating.

Among all-India employers' organizations, apex bodies like the Federation of Indian Chambers of Commerce and Industry (FICCI), originally formed in 1927, and the Associated Chambers of Commerce and Industry (ASSOCHAM), originally registered in 1920, are registered under the Companies Act, 1956. Of these, the former represented mainly Indian business houses and the latter British capital. The seed for the latter was sown by the Bengal Chamber of Commerce and Industry (BCCI), fairly active in Kolkata. After independence, these distinctions became less pronounced, but nevertheless remained. Some associations are also registered under the Societies Registration Act, 1960.

The objectives of these employers' associations are in general to bring a unified employers' viewpoint to the government, develop healthy and stable industrial relations, promote collective bargaining at different levels, and represent employers at different national and international forums (Monappa, 1995).

Chatterjee (1984) disputes the collective bargaining function. He suggests that the purpose of these associations is mainly to keep members informed about the changes in government regulations, laws, etc., and to act in an advisory capacity for members facing complex legal problems. They have opposed the requirement of taking government's permission before lay-offs or retrenchment or closure, have proposed productivity bonus rather than statutory bonus, and have made major suggestions on wages and DA.

The employers' organizations mainly active in eastern India are:

- Bengal Chamber of Commerce and Industry (BCCI)
- Bengal National Chamber of Commerce and Industry (BNCCI)
- Confederation of Indian Industries (CII): This used to be known as the Association of Indian Engineering Industries (AIEI), metamorphosed to become the Confederation of Engineering Industries (CEI) and finally CII. This association also bargains for wages in the engineering industry in West Bengal. However, the last agreement was in 1997, and it is not clear whether CII will sit again for negotiations.

- Indian Chamber of Commerce (ICC)
- Bharat Chamber of Commerce (BCC)
- Oriental Chamber of Commerce (OCC)
- Merchants' Chamber of Commerce (MCC)
- Bengal Millowners' Association (BMO)
- All-India Manufacturers' Organization (AIMO)
- Indian Jute Mills Association (IJMA): It has not only promoted collective bargaining, but has been bargaining even in 2007 for the entire jute industry.

There are several other chambers which are exclusive to specific industries or trade associations located in West Bengal or eastern India.

The chambers'/employers' concerns are reflected in their ideas and activities as reported in their annual reports. The BCCI believes that West Bengal is poised for growth and that the chamber should do its bit for promoting the state among industrialists in other states; that great strides have been made but two areas, work ethics and labour, are still cause for concern; and that there should be frequent dialogue with both government and trade union representatives on the changes. The chamber has organized several location specific initiatives to coordinate and promote infrastructure development to maximize growth. One theme it has promoted through seminars or discussions is 'rightsizing with a human face'.

The CII believes that the five eastern states have excellent growth potential, and competitiveness can be sustained through inclusive growth or on the ability to carry all stakeholders. It has taken the initiative to involve local self-help groups in rural development activities and training for industry. It has partnered with government in improving six industrial training institutes to centres of excellence and to identify 'skill gaps' in selected locations to improve the quality of human resources. It is also interested in legal amendments to the Contract Labour Act and to Chapter VB of the Industrial Disputes Act, 1947 which deals with workplace changes and reorganization. (See part 6, the section on tripartism and social dialogue, for specific issues taken up by these chambers.)

PART 3: WAGES

Wages are fixed in different ways in the organized and unorganized sectors. For the organized sector there are two methods. If we include all units registered under the Factories, Mines or Plantations Act, then the organized sector is large. But, in reality, large establishments in the organized sector are those which implement the major legal requirements for employment and labour and employ 100 or more workers. Those employing below this number can be clubbed as smaller units in the organized sector but have characteristics very similar to that of the unorganized sector (see also appendix 1). The method of collective bargaining is used to fix wages in large-sized organizations and a mixture of unilateral (by the employer), collective negotiations and statutory methods is used for the smaller units, depending on the size of the workforce and the degree of unionization. Minimum wage statutes apply to the unorganized sector, dubbed as 'sweated' industries or occupations.

The Minimum Wages Act, 1948 empowers state governments to notify the minimum wages for various trades and occupations, primarily in the unorganized sector, to prevent exploitation of labour in such industries. In West Bengal, 60 different kinds of employment have now been brought under the notification scheme. An inspectorate conducts inspections in various establishments to see whether the rates are being complied with.

The minimum daily rate for agricultural workers is Rs 69.43 (without meals) and Rs 66.23 (with two meals). There are 335 inspectors to monitor this alone. The number of inspections conducted during 2006 was 7,114, and 2,374 infringements were found. After compliance, 2,302 employers were let off, but 12 court cases were launched against those who did not comply.

For other employment, the rates prescribed are monthly and vary between a range for different districts and for unskilled and highly skilled workers. The median rate for each occupation/type of establishment among unskilled and skilled is given in table 10.

Table 10. Monthly wage rates notified by the West Bengal government for selected major different types of establishments, December 2006 (Rupees per month)

| Types of establishment | Median unskilled wage | Median skilled wage |
|----------------------------------|-----------------------|-----------------------|
| Chaki mills (for grinding wheat) | 2 369 | n.a. |
| Printing press | 1 342 | 1 624 |
| Stone breaking | 1 920 | 1 938 |
| Silk printing | 2 268 | 2 349 |
| Tailoring | 2 346 | 2 383 |
| Paper/straw board | 1 954 | 2 020 |
| Powerloom | 2 386 | 2 416 |
| Rubber/rubber products | 2 349 | 2 386 |
| Ceramics | 2 327 | 2 414 |
| Clinical nursing homes* | n.a. | n.a. |
| Plastics | 2 327 | 2 355 |
| Sawmill | 2 363 | 2 482 |
| Public motor transport | 3 277 | 3 338 |
| Medicinal plantations | 2 188 | n.a. |
| Rice mills | 1 390 | 1 429 |
| Glass industry | 2 746 | 2 816 |
| Decoration | 1 843 | 1 932 |
| Bakery | 2 818 | n.a. |
| Forestry | 1 864 | n.a. |
| Rope | 2 786 | 2 893 |
| Salt manufacture | 2 007 | 2 119 |
| Shoe making | 2 725 | 2 846 |
| Refractory | 2 444 | 2 564 |
| Flour mills | 2 648 | 2 698 |
| Beedi making | 2 558 | Rs 99 per 1000 beedis |

| Types of establishment | Median unskilled wage | Median skilled wage |
|---------------------------------------|-----------------------|---------------------|
| Cinemas (distribution and production) | 2 165 | 2 245 |
| Construction and maintenance | 2 500 | 2 790 |
| Oil mills | 2 524 | 2 573 |
| Tanneries | 2 782 | 3 032 |
| Hosiery | 2 915 | 3 019 |
| Dal mills | 2 450 | 2 530 |
| Iron foundries | 2 576 | 2 686 |
| Security services | 2 699 | n.a. |
| Brick manufacture | 2 534 | 2 634 |
| Hotels and restaurants** | n.a. | n.a. |
| Godowns | 2 497 | n.a. |
| Handlooms | 1 990 | n.a. |
| Paints and chemicals | 2 764 | 2 893 |
| Plywood | 2 594 | 2 694 |
| Fisheries | 1 818 | n.a. |
| Sericulture (daily) | 71.27 | n.a. |

* Order of 1979 quashed by High Court in 2001.

** Order of 1979 quashed by High Court in 1980.

Source: *Labour in West Bengal*, various issues.

The number of inspections in these industries during 2006 was 18,353 and 4,630 infringements were found, of which 4,451 employers were let off after compliance. Court cases were started against 61 employers.

Table 11. Wage rates prevailing in some major industries in the organized sector based either on industry-level collective agreements or pay commission recommendations, 2006–07 (Rupees per month)

| Industry | Basic wage | Fixed DA | Variable DA | Total | Consumer Price Index (CPI) Kolkata (1960=100) | As per agreement dated |
|---------------------|------------|----------|-------------|-------|---|------------------------|
| Jute | 496 | 2 004 | 2 972 | 5 472 | 2 994 | 1995 |
| Cotton textiles | 308 | 1 582 | 2 429 | 4 319 | .. | 1995 |
| Engineering Group A | 1 771 | 1 144 | 2 738 | 5 653 | .. | 1997 |
| Engineering Group B | 1 818 | 1 152 | 2 738 | 5 708 | .. | 1997 |
| Engineering Group C | 1 801 | 1 144 | 2 284 | 5 229 | 2 838 | 1997 |
| Engineering Group D | 1 848 | 1 152 | 1 918 | 4 919 | .. | 1992 |

| Industry | Basic wage | Fixed DA | Variable DA | Total | Consumer Price Index (CPI) Kolkata (1960=100) | As per agreement dated |
|--|--------------------------------------|----------|--|-------|---|---|
| Tea plantations (per day) | 50.9 [1/4/06] 53.9 [1/4/07] | | | | | 2005 |
| | | | | | | For 26 working days this amounts to about Rs 1,400 per month. The amount for subsidized rations, notional house rent, fuel, medical facilities and tea leaves do not come to more than Rs 500 per month. During plucking season, extra leaf price is available. The total earnings would not exceed Rs 2 500. |
| Banking, public sector, sub-staff | 4 060 | | 1 352 (4060 x 33.3%) + House rent allowance (HRA) @ 8.5% = 345 + Compensatory City Allowance (CCA) @ 4% = 162 | 5 920 | 5 920 | 2003 |
| Banking, public sector, clerical staff | 4 410 | | 1 469 (4410 x 33.3%) + HRA = 375 + CCA = 176 | 6 430 | 6 430 | 2003 |
| Insurance, public sector, sub-staff | 4 105 | | 1 138 (0.18 x 154 = 27.72 %) + HRA = 410 + CCA = 123 | 5 776 | 5 776 | As per government notification dated 2002 |
| Insurance, public sector, clerical staff | 4 995 | | 1 385 + HRA = 500 + CCA = 150 | 7 030 | 7 030 | As per government notification dated 2002 |
| State government employment Group D | 2 600 | 1 300 | 936 + HRA = 390 + MA = 100 | 5 326 | DA, 24 % on basic pay | As per last Pay Commission recommendation in 1998 |
| State government employment Group C | 3 350 | 1 675 | 1 206 + HRA = 503 + MA = 100 | 6 834 | .. | As per last Pay Commission recommendation in 1998 |

NOTE:

Engineering (other than central public sector units): Group A = those employing between 50 and 249; Group B = those employing 250 to 1000 and 1001 and above.

Central public sector units: Group C = those employing between 50 and 249; Group D = those employing 1001 and above.

Some brief comparisons in monthly wages between organized sector wages governed by either collective bargaining or Pay Commission recommendations, and the maximum gross pay for lowest entry level work under statutory requirements are:

| Statutory pay (table 10) | | Negotiated pay (table 11) | |
|--|----------|---|------------------|
| Highly skilled motor transport workers (highest in unorganized sector) | Rs 3 338 | Cotton textiles (lowest among organized industry) | Rs 4 319 |
| Medicinal plantations | Rs 2 188 | Tea plantations | Approx. Rs 2 500 |
| Iron foundries | Rs 2 576 | Engineering Group D (smallest) | Rs 4 919 |

3.1 Wage determination and collective bargaining

The main problem in minimum wages is not so much the wage fixing mechanism but the enforcement of wages once fixed. While there is a long list of industries/occupations (as given in table 10) in which the state government has notified minimum wages, the inadequate number of inspectors, general non-compliance by employers and the inability of workers to pressurize employers have created problems. By and large, the situation is subservient to labour market forces. Among the various districts of West Bengal, those which grow three crops a year or are industrialized or urbanized have actual wages prevailing above the minimum statutory rates notified. But there are also several districts which have less per capita income, minimal irrigation facilities and poor industrialization. In these, actual wages are substantially below notified wages.

Government enforcement officers have confessed that if they prosecute employers for violation (which they are empowered to do), the employer will stop employment per se and wind up his business. CITU also admits that they have not been able to enforce notified minimum wages in beedi, bakery, construction and hosiery industries, sawmills and oil mills, and in shops and small offices. In the newer units, the union has not been able to achieve success in enforcing minimum wages, social security payments and even the eight-hour workday. Many employers compel workers to work up to 12 hours.

For the organized sector, the problem relates to the wage fixing mechanism. In several industries which were earlier covered by industry-wide agreements, individual units have either opted out of the system or have tried to evade it. They would prefer bipartite plant level agreements which allow them flexibility to fix wages at levels below the industry norm. (This is discussed in more detail in Part 4.) In addition, those units which could, in terms of size, be looked at as medium sized also have large numbers of employees who are either on contract or are casual employees. For them there is no collective bargaining. But the method of collective bargaining is becoming popular for fixing wages.

The Labour Secretary feels that divergence within industry is increasing in terms of wage variations and differentials (within firms and industries, and among industries). Not only is there a large differential between contract workers and permanent staff, but even among contract workers depending on the industry and nature of operations.

PART 4: COLLECTIVE BARGAINING

4.1 Legal provisions governing collective bargaining

The legal provisions applicable in West Bengal are covered by the Trade Unions (West Bengal Amendment) Act. The Act provides mainly for the recognition of bargaining agents and formation of a bargaining council. The compulsion on employers to bargain is not stated explicitly in the Act

but is implied. There is also no provision to force an employer to bargain if he refuses to negotiate or delays the process. In fact, prior to the enforcement of this Amendment Act, employers did refuse to bargain and unions had no way of forcing employers other than using agitational methods. However, since the election process started for appointment of bargaining agents, no employer has till 2008 refused to bargain once elections have been held in the organization and the bargaining agent's status certified. This applies to bipartite situations.

At the industry level, there is no compulsion on employers to bargain. For example, in the cotton textile industry, no headway could be made on the matter of industry-wide negotiations. The last agreement of 1995 expired in 1998 and the trade unions submitted their charter of demands. But employers have consistently refused to sit for negotiations in spite of reminders and efforts by the government. The government has no legal powers to compel such negotiations. A similar situation prevails in the engineering industry. The last 1997 agreement expired in February 2000 and a fresh charter was submitted by the unions. A tripartite committee was set up by the state in November 2002 to work out thorny issues and prepare a possible timetable for negotiations. Till late 2007 there had been no progress. There is no legal provision which can allow the state to force employers to sit for industry level bargaining. This is a practice established over many years and the state can only apply moral pressure, which is not likely to be very strong since it does not wish to antagonize employers. The issues in these industry-wide agreements feature basic factors like wages and DA. Among the bipartite agreements listed in tables 12, 13 and 14 many are from the engineering industry.

The decentralization of bargaining from industry level to corporate or plant level bargaining is not new either in West Bengal or in India and has been discussed elaborately by others (Sen, 1997b; Sen, 2003). For example, in the banking industry, some of the weaker nationalized banks had wanted to opt out of the system in the 1990s due to poorer performance, pleading inability to pay the high levels of wages negotiated. There were ministerial pronouncements on this issue as well, but the industry level practice continues. In the engineering industry one can clearly see decentralization, since the industry-wide agreement expired in 2000 and a large number of bipartite agreements have been subsequently signed. The jute mills have also been an example of decentralization where stringent productivity clauses were included in bipartite agreements subsequent to the signing of industry-wide agreements. This was confirmed by the Labour Secretary who attributes this to diversities or heterogeneity within an industry. This makes the industry-wide agreement less relevant for many of the units, prompting decentralization. Compared to this he cites the example of the cement industry in India which has centralized bargaining because of the homogeneity of the units.

As far as the collective bargaining rights of contract workers are concerned, bargaining depends on their ability to form unions. If they are unionized, which is the case in many large central public sector as well as in some private sector undertakings, then they are able to negotiate separately for the terms and conditions governing their employment. Private sector employers generally try and avoid negotiation with contract or casual workers. In fact, all regular agreements signed by private sector organizations apply specifically to permanent employees of the organizations. But with larger numbers of employees being employed on contract, it is clear that many are being pushed out of the ambit of collective bargaining. And this is happening in most of the large enterprises which have long histories of established collective bargaining practices. Contract workers who have the benefit of collective agreements are primarily blue collar workers, engaged in large groups under a few contractors (see

appendix 6). Individuals employed on contract and leased from HR agencies are not covered by a collective agreement.

Contract workers' agreements can be put into two categories. The first would be where the organization itself signs a separate agreement with its contract workers in addition to an agreement with its regular staff, such as Hindustan Unilever at its Garden Reach plant and Durgapur Steel Plant, which is a public sector undertaking. The other category would be where the organization plays no role, but an agreement is signed between regular contractors of the company and their workmen such as Jay Shree Chemicals and a battery manufacturing unit (see appendix 6). In no case is there an existing agreement with regular workers extended to contract workers.

The procedures involved in collective bargaining start with the unions submitting their charter of demands when the previous agreement comes to an end. In several enterprises, management also serves a formal charter of 'management demands' to the unions. Some of these are included as annexures in the agreements. However, this is usually preceded by discussions on major issues by both sides and preliminary road maps are already in place before the formal charters are presented.

4.2 Evolution of collective bargaining

Bengal has a long history of collective bargaining. In 1946, the joint steamer companies of Calcutta were known to have signed an agreement with the Bengal Mariners' Union, and after partition and independence, the agreement was repeated with the Indian half of the split union. Bata is also known to have signed an agreement in 1948, Indian Aluminium in 1951 and 1956, and Imperial Tobacco Company (ITC) in 1952. Collective bargaining was therefore initiated by MNCs, which obviously adopted this as a familiar institution. West Bengal, therefore, is no stranger to collective bargaining. However not many employees are covered by such agreements. Since permanent regular employment has been shrinking in the large organized sector, nowadays agreements cover fewer employees in this category.

There are, till today, large differences in the way negotiations are conducted in this region. In some cases, industry level, corporate level and plant/establishment level bargaining co-exist in the same industry. The best example of this is the power sector in which there are large diversities.

- National Thermal Power Corporation, Farakka unit (a central public sector undertaking), in West Bengal applies centrally negotiated all-India wage rates. There is no separate bargaining at the unit level except on minor issues and problem areas.
- Calcutta Electric Supply Corporation (a private sector enterprise) bargains at the corporate level for all its various units in and around Kolkata with uniform wage rates but distinctive incentive rates (productivity bonus) for the different power plants, some of which are very old and one which is brand new.
- In West Bengal State Electricity Board (a state public sector undertaking) wages are determined by the Pay Commission for state government employees and are paid on par. In addition, there are some extra allowances related to the power sector which are paid.

Other diversities are:

1. In the coal, steel and banking sectors, primarily in the public sector, industry level negotiations cover a major part of the all-India industry. The companies or establishments located in West Bengal are covered by these agreements and the state has little role to play in them. The public sector clearly believes in uniformity. Except for banking there has been no talk of decentralization of bargaining in these industries.
2. Industry level agreements also cover private sector enterprises in the traditional industries like jute, engineering, tea and cotton textile located in the state, in which the state has traditionally played a major role and is a signatory to some of the agreements. These agreements cover the entire industry in the state, but do not apply to units in the industry in other parts of India. In the engineering industry, the central public sector undertakings are covered by a separate agreement, although the terms are very similar to that for the other units in the state. The trend, however, is towards decentralization.
3. The state public sector undertakings (more than 50 in number) are covered by the state Pay Commission awards and have no negotiated settlements. Many of them are sick and closed or locked out and the question of wage increases does not apply at all.
4. Most of the private sector large units and MNCs have bipartite negotiations at the plant/ establishment level (see table 14). These agreements are unit specific and cover only the permanent employees of a particular factory or unit. The private sector generally establishes close links between payment and performance.
5. A few private sector companies have corporate level bargaining which covers all the units under one company, whether located in West Bengal or elsewhere. This is comparatively rare. Peerless General Insurance and Finance, Calcutta Electric Supply Corporation and Shaw Wallace are examples. (Shaw Wallace was been acquired by the United Breweries group.)
6. Bulk of the other establishments have bipartite unit-specific negotiations.
7. More and more smaller units are being included within the ambit of collective bargaining (see table 12).

Issues in collective bargaining focus more on productivity, reduction of wastage, rationalization of work, utilization of technology and labour skills, rather than on wages and welfare. This has been happening since the late 1980s and productivity has clearly emerged as a major issue in all agreements (see appendix 5 for detailed clauses). There is some difference on this matter between industry level and plant level agreements. The latter have far greater details on productivity and related issues than the former for obvious reasons.

The establishment of regular collective bargaining appears to have taken care of many of the traditional issues which were contentious in earlier years. Management of change and developing consensus with unions on the need, direction and implementation of change is much more important now, ranging from the relatively simple increases in labour productivity to the much more complex issue of substantial restructuring (Sen, 2003; appendix 5).

4.3 Data and statistics on collective bargaining

The bipartite collective agreements signed in industrial organizations are legally notifiable to the state government's Labour Directorate if the parties want legal backing for the agreement. While all the larger organizations do not send copies since they already have enforcement mechanisms based on long usage, many companies, including the smaller ones, are now taking pains to record the agreements. This provides an advantage for both parties to the agreement since the government can be involved in case of violations. If we take the figures calculated earlier for unionization in the organized sector and assume that all current unionized employees are covered by collective bargaining, then the numbers of workers covered by a collective agreement would be 1.83 million. This is a little over 6 per cent of the workforce of the state. But with increasing irregular employment, more employees in the organized sector are being left out of the ambit of bargaining.

However, during the 1990s the number of such bipartite agreements increased, as will be apparent from table 12 which provides details of agreements signed only in Kolkata North, South and Central. Since many industries in West Bengal are concentrated in the Kolkata region, these data are fairly illustrative of the general trend in the state. More information from the other three growth centres—Durgapur—Asansol, Haldia and Siliguri—would take time to obtain.

Table 12 : Bipartite agreements registered with the Labour Directorate in Kolkata

| Year | Kolkata North | Kolkata South | Kolkata Central | Total |
|-------|---------------|---------------|-----------------|-------|
| 1995 | 22 | 52 | n.a. | 74 |
| 1996 | 25 | 50 | n.a. | 75 |
| 1997 | 35 | 62 | n.a. | 97 |
| 1998 | 30 | 50 | n.a. | 80 |
| 1999 | 37 | 60 | n.a. | 97 |
| 2000 | 11 | 77 | 26 | 114 |
| 2001 | 35 | 92 | 109 | 236 |
| 2002 | 21 | 77 | 99 | 197 |
| 2003 | 15 | 60 | 51 | 126 |
| 2004 | 1 | 57 | 13 | 71 |
| 2005 | 8 | 36 | 47 | 91 |
| 2006 | 6 | 18 | 21 | 45 |
| Total | 246 | 691 | 366 | 1303 |

n.a. = data not available

Source: Records of West Bengal Labour Directorate

The registers scrutinised at the Labour Directorate of West Bengal threw up some interesting observations.

1. A large numbers of agreements are being signed in most years, though there is no clear trend of increase or decrease. In general, North Kolkata has shown a declining trend, since the older establishments were located there and many have turned sick. The new units have come up in the south, where land and space is available. Central Kolkata accounts primarily for shops and establishments.
2. There has been a significant spurt in the numbers signed during the years 2000 to 2003, accounted for mainly by agreements in Central and South Kolkata. This is to be viewed together with the industry-wise break-up of agreements given in table 13.

3. There may be gaps in data for one or two years which show very few agreements. In fact, figures for Central Kolkata from 1995 to 1999 are not available due to the register being misplaced. These figures would have increased the total for years prior to 2000. In general, record keeping in the Labour Directorate has not been meticulous.
4. Many of the smaller companies or units sign agreements every year. Hence some of the numbers apply to the same establishments. This also accounts for the large number of agreements, but this however does not increase the number of employees covered.
5. The larger companies sign separate agreements within a short time gap with different groups of workers or those in separate establishments. For example, a company can sign separate agreements with the 'watch and ward' staff and a separate agreement with contract workers.
6. Some agreements involve the same company and the same union/group of workers but different agreements for different issues. For example, an industrial battery manufacturer signed separate agreements on the same or contiguous dates on seven issues—general wages and allowances, incentives, mediclaim, uniforms, shoes, lunch and night shift allowance, and relieving duty and allowance. All these are recorded as separate agreements and again contribute to the large number of agreements. Other companies have negotiated separately for bonus, productivity, changes in working conditions or re-organization. One establishment signed a separate agreement for 'withdrawal of transport facilities'. These have also added to the total count.
7. Many smaller companies signing agreements are in reality contractors to large companies and sign separate agreements for the contract workers working in the large company. Only in some cases is the identity of the principal employer mentioned (see appendix 6).

Table 13 : Industry-wise break-up of bipartite settlements in Kolkata

| Industry | 1995–97 | 1998–2000 | 2001–03 | 2004–06 | Total |
|---|---------|-----------|---------|---------|-------|
| Food processing, catering, hotels, restaurants | 29 | 38 | 93 | 41 | 201 |
| Engineering, metal products, etc. | 59 | 66 | 103 | 46 | 274 |
| Trading, miscellaneous | 36 | 50 | 128 | 60 | 274 |
| Pharmaceuticals | 14 | 18 | 23 | 12 | 67 |
| Freight, transport, travel | 17 | 15 | 16 | 10 | 58 |
| Printing, inks, accessories, lamination | 11 | 15 | 11 | 7 | 44 |
| Healthcare, medicines | 10 | 10 | 15 | 5 | 40 |
| Textiles, garments, tailoring | 19 | 15 | 35 | 6 | 75 |
| Electricals, electronics | 4 | 6 | 24 | 9 | 43 |
| Music, entertainment | 16 | 22 | 12 | 8 | 58 |
| Packaging, tea blending | 5 | 4 | 11 | 4 | 24 |
| Construction, suppliers cement, real estate, housing colonies | 5 | 4 | 14 | 5 | 28 |
| Ceramics, glass, pottery, security agencies, investments | 4 | 2 | 7 | 3 | 16 |
| FMCG, jewellery | 0 | 8 | 12 | 3 | 23 |
| Chemicals, plastics, rubber, paper | 14 | 0 | 42 | 11 | 67 |
| Telecommunications | 0 | 0 | 3 | 2 | 5 |
| Total | 243 | 276 | 549 | 235 | 1303 |

Source: Records of West Bengal Labour Directorate

The largest number of bipartite settlements is in the engineering industry for many enterprises employing below 50 persons which are not included in the industry-wide agreement. Since the industry-wide agreement has been pending since 2000, many more companies have been compelled to sign bipartite agreements. This can also be taken as an example of decentralization. The industry level agreement remains unsigned while individual units are signing collective agreements at the unit level.

Another large group is food processing, hotels and trading and commercial establishments, located mostly in Central and South Kolkata, which account for the spurt of bipartite settlements during 2000–2003. With the turn of the century and healthy economic growth, number of employees per establishment or shop has increased making them eligible for unionization. This is a heartening sign since even large shops are relying more and more on collective agreements (see appendix 7).

Many new types of establishments are now included in collective bargaining such as beauty salons, gas service stations, nursing homes, confectioners, clubs, computer assembly companies, private hospitals and even a security agency. This trend is encouraging since more workers in smaller establishments are getting paid better and there is greater chance of amicable settlements if negotiation becomes a practice. In 2007, the occupation-wide security agencies' workmen's union signed an agreement with a small security company and was successful in getting a good level of wages. The minimum monthly wage agreed upon was Rs 2,699 plus Rs 175 for uniform allowance plus Provident Fund, bonus and gratuity. Security personnel in general get as little as Rs 1,500 per month.

Table 14 : Year-wise break-up of some bipartite agreements signed by large companies*

| Year | Companies |
|------|---|
| 1995 | Bioco Lawrie, Chloride Industries, ITC Ltd, Calcutta Club, BOC India, Braithwaite, Bata, South Point High School |
| 1996 | ITC (improving factory operations), GEC-Alstom, Asea Brown Boveri, Paharpur Cooling Towers |
| 1997 | Glaxo, Kesoram Industries, GEC-Alstom, Philips |
| 1998 | Godrej & Boyce, ICI, Paharpur Cooling Towers, Hindustan Lever (Brooke Bond employees), BOC India, Birla Corporation, Bioco Lawrie, Tata Tea |
| 1999 | Eveready Industries, Nicco Parks |
| 2000 | Webel Consumer Electronics, Webel Crystals, Webel Capacitors, Webel Carbon & Metal, GRSE (all state public sector undertakings), Bata, Hindustan Copper (central public sector undertaking), Asea Brown Boveri, Glaxo |
| 2001 | Philips, Reckitt & Colman, Glaxo, Hindustan Level (Lipton employees), ITC (Tribeni Tissues employees), BOC, GRSE |
| 2002 | Bata, Britannia, GEC-Alstom, Eveready |
| 2003 | IFB Agro Industries, ITC (Kidderpore factory), Reckitt Benkiser, Tractors India Ltd, Avery, Tata Tea, Calcutta Electric Supply Corporation |
| 2004 | GRSE, Eveready Industries, Bata |
| 2005 | Exide, GRSE, Jessops, West Bengal State Co-operative Bank, Mahindra & Mahindra (Kolkata) |
| 2006 | Braithwaite & Co |

* Copies of these agreements are sent to the government under Section 2 and 18[1] of the Industrial Disputes Act, 1947.

Source: Records of West Bengal Labour Directorate

Some examples about bargaining practices from large companies are:

- Bata signs three separate agreements, one each for its Batanagar factory, for its office staff and for retail outlet employees. The head office has now been shifted to Noida.
- HLL and ITC have separate agreements for each of their factories and their office staff, as well as some contract employees like security personnel.
- Ananda Bazar Patrika, the largest newspaper group in the east, is covered by the wage board for the newspaper industry for basic wages, though minor allowances are determined locally.
- Indian Aluminium, which was taken over by Hindustan Aluminium in the year 2000, used to have its own negotiations for wages at its factory. Now it will be governed by the corporate wage policy.
- Steel Authority of India Ltd (SAIL) units in the east are subject to industry level wage determination for all steel plants. TISCO, the Tata group's flagship unit in Jamshedpur, is included, though the new private sector ones are not included. POSCO in Orissa would be entirely independent, one can assume, if it is set up at all. Several new private sector steel plants are in the pipeline in West Bengal, and it is obvious from existing trends in other states that they will not be included in the ambit of such industry-wide settlements.
- Coal India (with over 4 lakh employees in the east) is similarly subject to industry-wide negotiations, common for all its 7 lakh employees in subsidiaries all over India.

Bargaining at both the industry and unit levels can, in some cases, be taken as supplementary to each other and not just as decentralization. A good example is the case of the iron and steel industry which is governed by an industry level agreement for all the units (including two in West Bengal) under SAIL. The two units in West Bengal are the Indian Iron & Steel Co. (IISCO) and Durgapur Steel Plant (DSP). While the main provisions of the industry agreement are applicable to these plants, both of them have separate company level agreements to supplement the industry agreement. These agreements include details on productivity, manpower deployment, etc. There are also instances of tea gardens signing bipartite agreements with an industry-wide union in addition to the industry level agreement. For instance, during 2007, one garden (Rheabari Tea Estate) signed a supplementary agreement on hospital and ambulance services, drinking water supply, regularization of daily rated employees and notification of vacancies, recreational facilities like football field, amenities like firewood provided in the labour quarters, and payment of dues to retiring workers.

4.4 Enforcement of agreements

Enforcement of bipartite agreements is generally not a problem at all once the signing is over, especially in those enterprises which have been bargaining periodically over many years. The negotiation itself is done very carefully. All units and departments are consulted in advance by management and the process is detailed enough. Controversial points are discussed again and again till consensus is reached. This ensures that there are no short cuts during negotiations and no problems after it is over. The only times there have been a few problems in enforcement is if there are factions within the

signatory unions, not otherwise. This is the view of several managers. Unit level unions also concur with this opinion and say that once an agreement is signed, management does not go back on it.

There is, however, considerable dissatisfaction on the implementation of industry level agreements. INTUC, for instance, says compliance with industry level agreements is poor. It accuses the state government and CITU of having scant respect for bipartite and tripartite agreements, which indirectly lead to non-compliance by employers. Employers' associations which in the case of jute, engineering and tea sign the industry level agreements are unable to enforce these. Employers in sick or weak units, especially, often force their workers to forgo industry level benefits, threatening closure if workers do not accept lower wages and benefits.

The Labour Secretary, too, feels that as variations increase among units in the same industry, enforcement of industry-wide agreements is becoming difficult. There is widespread non-implementation of such agreements. This is particularly true of the jute industry.

4.5 Other labour–management cooperation or representation mechanisms at the enterprise level

Joint labour management bodies at the enterprise level are as follows:

- **Works Committees:** A statutory body for all manufacturing units employing 100 or more workers with worker representatives elected on the basis of departmental constituencies and not nominated by unions. The main industries where this body still exists are the jute and engineering industries, that too without holding regular elections. Very few other industries even constitute such bodies. In others, they may have existed at one time, but have fallen into disuse.
- **Industrial Relations Committees:** Formed voluntarily by enterprises, especially in large central public sector undertakings, to resolve day-to-day problems at the local level. These are not required by any statute and have been set up by management of various enterprises with trade union concurrence.
- **Joint decision-making bodies:** In those enterprises, again mainly the public sector steel plants, where participative management has been formally introduced (for example, DSP). This is also not required by any statute and can be looked upon as a strategy in industrial relations.

4.6 Use of new non-statutory industrial relations tools and dialogue processes

Newer strategies have been evolved. For instance, in IISCO the unions have been closely involved in the selection process for a private entrepreneur to take over the sick public sector undertaking. Once this was finalized, the holding company, SAIL, itself started the modernization process. This is the result of a prolonged struggle by the unions and the unsuccessful search for several foreign partners over the last decade. In DSP, the unions cooperated actively to achieve plant modernization within the target date. It is true that management in this instance adopted a participative style. DSP has achieved a remarkable turnaround, making profits every year since 2002–03.

The trend in consensual industrial relations is becoming more and more pronounced. But the method of achievement of this desirable state is not uniform across all organizations. Some have

opted for the human resources management (HRM) route, while others depend on consultation and participation.

Participation in DSP from 1995 onwards has already been well documented (Bhattacharya, 2002). The organization has been successful in institutionalizing the participative system in industrial relations with good results in a public sector enterprise which had a history of bad industrial relations. The participative system involves three major unions (CITU, INTUC and AITUC). Thirty-three departmental participative bodies and several at the apex level ensure that all important decisions are taken jointly. Decisions have been taken on redeployment, manning, training, promotion, and incentives and restrictive practices, among other issues. Gradual changes followed these decisions. A peculiarity was that the decisions were recorded and the unions made to sign these records so that they could not backtrack later.

The plant has been achieving consistently high growth and capacity utilization rates for several years now. Its wheel and axle plant supplied a highest-ever level of 60,000 wheel sets to the railways during 2005 (a growth of 43 per cent in capacity utilization). Its contributions in terms of R&D have been significant since it has designed a new type of wheel set for high speed trains to reduce friction, heat and brake wear. It has plans for investing Rs 2,800 crore in the next seven years to raise its capacity from 1.86 million tons to 3 million tons per year by routing its entire crude steel production through continuous casting. It has also been successful in reducing its manpower from highs of nearly 30,000 in the early 1990s to a little over 15,000 in 2008.

ITC's experience is illustrative, though in a different way. ITC reports that adversarial feelings and attitudes have gradually changed and diluted because of perceptions about external threat in the form of competition. Foreign cigarettes are easily available now. Union leaders are much more accepting and tolerant about changes. They do not react in a hostile manner to any management proposal.

From 1993–94 onwards, management was able to communicate directly with employees, even though the union was initially reluctant to allow this. (The earlier system was for management to communicate through the unions.) Initially, the management started communicating the changed economic scenario in the presence of union office bearers. Daily meetings are common now. Management is of the view that union–worker interactions have not suffered as a result but have instead increased.

Recruitment practices too have changed, with ITC visiting campuses for diploma engineers in engineering, electronics, etc. The skill level is thus much higher. Work processes have also been gradually modified since 1988–89. Modules or team-based concepts have replaced individual work assignments. Competition among teams is encouraged. Incentive payments, training programmes and operations are module based. In several cases, production and maintenance persons are put together in one module so that regular maintenance to increase productivity can be facilitated. Technology absorption has become much less difficult and the unions accept it easily. In fact, the Kidderpore plant has the fastest technology absorption rate among all ITC's plants.

On the collective bargaining front, although the basic issues in negotiations with unions have not changed, the weightage given to various issues has. Earlier unions refused negotiation on employment and total manpower. Nowadays they have resigned themselves to talking about these.

The tea industry has been using a welfare concept called Mother's Club for a long time—encouraging nutritional and hygiene standards and improved health as a result of that especially among the children of tea garden workers. Women constitute a very large proportion of such workers. This positive welfare function has been linked to awareness creation as well.

4.7 Quality Circles in the east³

Many organizations have chosen the method of limited participation. What the union elections in 1998 and 2002 could not restore in GRSE—industrial relations harmony—is now being achieved through Quality Circles (QCs). From a mere six circles in 2000 the number of quality circles has grown to 160 circles and is able to meet delivery targets for various vessels. Kolkata Port Trust now has 30 QCs in operation and Mother Dairy nine. Hindustan Motors has been using Small Group Activities for a long time. This is not an isolated development. More and more companies covering a large variety of industries are turning to QCs to solve several of their production-related problems. The eastern region has five chapters of the Quality Circle Forum of India (QCFI)—at Kolkata and Durgapur in West Bengal, Rourkela and Koraput in Orissa, and Bokaro in Jharkhand. At the 2004 national convention held in Mumbai, 30 teams from Kolkata made presentations, which would clearly indicate the changed trends in the east. Unions and management are getting deeply involved in the process of reviving organizations jointly and improving quality all round. The Kolkata chapter has over 125 institutional members as of 2007, the last year seeing an addition of over 25 institutional members covering a wide range of industries. During 2005, while new members included three public sector units, the remaining were private sector units including Delhi Public School, Numaligarh—a clear indication of new organizations looking for industrial relations harmony from the beginning. Some other notable members are public sector units like Allahabad Bank, ordnance factories and private sector units like Kitchen Appliances, Jayashree Textiles, Exide Industries (Haldia) and Gonterman Peipers.

Some public sector initiatives are noteworthy. One GRSE QC, DISHARI, with six members from the structural shop identified 52 problems. The most important problem identified was increasing productivity and reducing material wastage. The group decided to shift to mechanized steel sheet cutting which reduced wastage, improved quality and resulted in cost savings of Rs 3 to 4 lakh per year.

Utilities in particular have taken to Total Quality Management, QCs and Kaizen in a big way. A good example is the West Bengal State Electricity Board, a state government undertaking known earlier as a hotbed of militant unionism and poor work ethics. The company started QCs in 2003 and in January 2004 adopted the TQM approach. It now has 72 circles. Calcutta Electric Supply Corporation is a private sector utility with several QCs.

West Bengal State Electricity Board, which celebrated its golden jubilee in 2005, was faced with a crisis in 2003. After the Electricity Act of 2003 introduced un-bundling, the choice of supplier was left to the customer and power generation was transferred to the West Bengal Power Development Corporation. The Railways, for instance, a bulk consumer of West Bengal State Electricity Board, had the option to switch to any other power supplier. Currently West Bengal State Electricity Board purchases 90 per cent of its power from West Bengal Power Development Corporation and others,

and sells it to 48 lakh consumers at prices determined by the regulatory machinery of the state government. This means that West Bengal State Electricity Board has no say in either the purchase price of power or in its selling price. Only 10 per cent of its power comes from its own sources in the form of hydroelectricity. Thus cost cutting and efficient consumer delivery became crucial issues for the company.

As part of its turnaround process, the government arranged for large funding from the Japan Bank for International Cooperation. One of the recommendations of the bank's initial study was to institute QCs to improve operational efficiencies. An international consultant, KPMG, as well as advice from Jadavpur University was sought. This was followed up later with suggestions from the Calcutta Chapter of QCFI. The changes made as a result of the various suggestions has helped West Bengal State Electricity Board turnaround. In 2002 West Bengal State Electricity Board was 13th among state electricity boards in the country. Its position has been steadily improving since then to 11th in 2003 and 8th in 2004. While it suffered significant losses during earlier years, it managed to generate a small surplus of Rs 38 crore in 2003–04, and a substantial one of Rs 270 crore in 2004–05 without any change in prices.

Currently with 72 QCs, West Bengal State Electricity Board has focused on a major problem: transformer failure. This was responsible for major losses in transmission and consumption leading to loss of revenue. QCs to reduce transformer failure have resulted in savings of Rs 2 lakh to Rs 21 lakh per transformer per month and increased revenues. The current employee involvement is a few hundred. West Bengal State Electricity Board hopes to involve at least 10 per cent of its employee strength of 30,000 in a short time.

The Burdwan Electric Supply Department team was formed in June 2004 and has held 20 meetings with the following outcomes:

- 70 per cent of target was achieved in the time period
- 60 per cent of consumer grievances were reduced
- 180 man-days were saved in attending to complaints and calls
- 21,000 units of consumption were increased
- There was a corresponding increase in revenue of Rs 2 lakh.

Kolkata Port Trust once used to have 46,000 employees but currently employs only 11,000. QCs were started in October 2003 and currently number around 30. The Mechanical Engineering Department has 14 circles of which Agni, from the Operation and Maintenance Section with eight members, identified its first problem as excessive man-hours spent in routine maintenance of tractors and mobile cranes, these being respectively 48 and 72 man-hours. A new fixture was created by the circle for holding stationary the jack to lift the vehicles for repairs and maintenance. The fixture was created from yard scrap materials and helped reduce the time taken to 12 and 24 hours respectively. In addition, safety increased and fatigue reduced.

³ This section is based on the proceedings of annual conventions on Quality Circles and on Quality Circle Forum of India (Calcutta Chapter) records.

Among private sector initiatives, Exide Industries at Haldia, which produces automotive batteries, started the Toyota Production System (TPS). Small Group Activities became an essential part of this system along with Kaizen. An analysis of frequent delays in deliveries and consequent customer complaints led to a listing of a number of problems, including machine breakdowns. The objective became to reduce breakdowns, accidents and defectives to zero. The team used a manager's model machine to achieve these targets. Model machines were created with additional features and put into operation for demonstration purposes. After managerial approval was obtained, they were implemented.

Jayashree Textiles was undergoing a major downturn when it adopted world class manufacturing as a device for turnaround. A part of this was the QC system. Currently it has 108 teams. One such team in the Rayon Spinning Mill (RSM) started in April 1998 with 10 members, meeting fortnightly on Saturdays, and has so far identified 38 problems of which a majority have been solved. Low productivity was considered the most frequent, and a flow chart listing 45 to 50 causes were identified to be the reasons for it. The changes recommended by the circle led to increase in productivity from 225 kg per machine per shift to 246 kg, leading to savings of Rs 52 lakh per month.

Kitchen Appliances India Ltd (KAIL), part of the Videocon group, acquired Philips' television factory in Salt Lake in December 1999 and turned it around, retaining many of the previous employees. The company, that took over Philips' Taratala unit started Quality Improvement Teams (QITs) which took up 34 projects, of which 32 have been completed. Seven QC tools have been used for the PDCA (Plan, Do, Check, Assess) cycle to improve quality. They used Poka Yoke (error proofing) to reduce changeover time from one assembly batch to another or removal of interim stopovers.

4.8 Trends, issues and debates related to collective bargaining

Some of the observable trends are:

- Several agreements are arrived at through conciliation proceedings, which are generally referred to as Section 12[3] settlements. This happens after bipartite discussions have proved difficult or reached a deadlock. Such settlements are binding on all employees regardless of whether their union is a party to the actual proceedings or has signed the settlement. This indicates that the parties are unable to settle their differences without the mediation of government machinery. However, this should be considered in the overall context of conciliation, which is not a major form of dispute settlement.
- Decentralization of bargaining (level) from industry to enterprise or unit level.
- Reduction of periodicity of agreements, down from the earlier three to four years in older establishments, to shorter periods. In units which have started bargaining recently, the trend seems to be to sign agreements annually.
- Enlargement of issues from terms and conditions of service to productivity, wastage control, manpower flexibility in both employment and deployment, and introduction of major changes.

At one time there was a debate on whether collective bargaining and workers' participation could co-exist with equal importance. Neither have statutory backing, but the former has a long

history of practice. That debate has largely been resolved in practice with collective bargaining emerging as the main method of labour management relations, the reason being that unions have refused to give up their own prerogatives on collective bargaining. Management too has felt more comfortable with collective bargaining since there is clarity about it in terms of both issues and the relative power of the two parties, which is as yet undefined in the method of participation.

A very important development in West Bengal in recent years has been the increasing inclusion of unorganized sector workers into the ambit of industry-wide collective bargaining. The sponge iron industry-wide settlement was concluded for the first time in mid-2007 covering many small units in the industry, with the government taking the initiative. Employees in cold storage units were covered in the second such agreement also in 2007. Hosiery workers were covered by a settlement in 1998 but this was never implemented. A fresh agreement was concluded at the bipartite level in 2007 under government encouragement. (Government could not be a party to the agreement as the industry in general does not implement minimum wages. But this time the compliance from the owners appears to be better. No union has complained as yet that the terms have not been implemented, according to the Labour Commissioner.) Shops and establishments have also been brought under this purview. (See appendix 6 for details.)

These industries exist entirely in the unorganized sector, consisting of small or medium units, whose workers find it difficult to unionize at the unit level. They have not been covered under any other industry level agreement prior to these agreements. It is not as if the government is extending the coverage of an existing agreement to new units. It is facilitating (generally through conciliation) the signing of agreements in industries hitherto uncovered by collective agreements.

Table 15. Year-wise break-up of some important tripartite agreements

| Year | Agreement |
|------|---|
| 1995 | <ol style="list-style-type: none"> 1. Bakers' Coordination Committee and Workers and Linesmen (distributors) of bakeries. 2. Hindustan Heavy Chemicals and their workmen (under conciliation). 3. Jute mills association and 18 unions (under conciliation). 4. Agreement in the cotton textiles industry. |
| 1996 | <ol style="list-style-type: none"> 1. Engineering industry (other than central public sector undertakings) represented by the CII and workmen represented by 10 unions. 2. Cold storages represented by one association, and the federation of unions (CITU). 3. Cinema industry represented by Eastern India Motion Pictures Association and the single union. 4. Tea plantations represented by five employers' associations and 25 unions formed into three groups of unions, the main one being the Coordination Committee of Tea Unions. 5. Jute mills association and 18 unions. |
| 1997 | <ol style="list-style-type: none"> 1. Birla Synthetics and eight unions of the establishment. 2. Tea plantations represented by five employers' associations and 27 unions formed into three groups of unions, the main one being the Coordination Committee of Tea Unions. 3. Engineering enterprises central public sector undertakings represented by CII and 10 unions. |
| 1998 | <ol style="list-style-type: none"> 1. Tea plantations represented by five employers' associations and 27 unions formed into three groups of unions, the main one being the Coordination Committee of Tea Unions. |
| 1999 | <ol style="list-style-type: none"> 1. Tea plantations represented by five employers' associations and 27 unions formed into three groups of unions, the main one being the Coordination Committee of Tea Unions (under conciliation). This was after a 10-day strike in July. |

| Year | Agreement |
|------|---|
| 2000 | <ol style="list-style-type: none"> 1. Cold storages represented by one association, and federation of unions (CITU). 2. Goods transport undertakings in West Bengal represented by one employers' association, and their workmen and nine unions. 3. Tea plantations represented by five employers' associations and 28 unions formed into three groups of unions, the main one being the Coordination Committee of Tea Unions. 4. Unlike other years, the jute strike starting in March in 52 mills did not end in a tripartite agreement, but in bipartite agreements with different mills reopening on different dates. |
| 2001 | <ol style="list-style-type: none"> 1. Jay Shree Chemicals and fertilizers: Settlement between contractors and their workmen's union (last settlement was in 1996, expired in 1999) and signed after protracted conciliation. 2. Jute mills association and 18 unions. 3. Engineering industry, Nezone Tubes Ltd and their two unions (Chanditala Zone Small Scale Industries union) under which 27 casual employees were made permanent. |
| 2002 | <ol style="list-style-type: none"> 1. Tata Iron & Steel Co. Ltd (TISCO), Kolkata unit agreement was concluded after conciliation. Under it, the gross wages at the lowest level was Rs 8,567 (Basic and DA = Rs 6,655, plus HRA of Rs 862 and travel subsidy of Rs 1,050). In addition there would be lunch allowance at Rs 40 per day and other daily allowances linked with attendance. |
| 2003 | <ol style="list-style-type: none"> 1. Jute mills association and 14 unions after an 11-day strike and protracted conciliation. 2. Cold storages represented by one association, and federation of unions (CITU). |
| 2004 | <ol style="list-style-type: none"> 1. BOC India Ltd (formerly British Oxygen) agreement through conciliation, after a set of management demands featuring productivity, efficiency, output and reorganization of work norms. 2. IJMA and 14 unions concluded an agreement (primarily on DA) two days before the deadline for a strike to commence at the initiative of the Labour Commissioner's office. |
| 2005 | <ol style="list-style-type: none"> 1. Tea plantations (five employers' associations) negotiated with 28 unions grouped into three negotiation committees. Separate agreements for daily rated employees, monthly rated staff and sub-staff, and clerical staff. |
| 2006 | <ol style="list-style-type: none"> 1. SAIL, DSP (bipartite) and three contractors' workmen. 2. Kesoram Rayon and their workmen represented by three unions. |
| 2007 | <ol style="list-style-type: none"> 1. Hindustan Motors Ltd, with about 4,000 employees and going through a period of problematic industrial relations due to industrial sickness, uncompetitive operations, high costs and resultant employees dissatisfaction. This used to be normally bipartite but was concluded through government mediation. 2. Jute industry-wide agreement in 53 mills represented by the IJMA (bipartite) with 20 unions after a 63-day strike (5 January to 8 March 2007). Unlike the previous agreement, most mills appear to have accepted this agreement (exclusively on DA). Last time a majority of the mills had opted out of the settlement signed between the IJMA and the unions under the Labour Minister's active encouragement. This time the information available seems to suggest that except for four or five mills, the others have complied with the payment of DA. It may be noted that DA in the jute industry is still paid on the 1960 base year index. Employers had refused to take cognizance of the rise in inflation and had stopped paying any further DA rise on 257 points. In the agreement, nearly all the mills have recognized a 200 point increase and paid up at the rate of Rs 1.90 per point. The remaining 57 points were to be added from 1 October 2007. |

4.9 Impact of globalization

The impact of globalization has been extensive. Not only have there been many changes in the structure of companies and in terms of employment, but also in employee–employer relations, methods, issues, attitudes, as well as in the extension to new areas. The IT industry is a case in point. While there was considerable interest in the development of collective relations in this industry vis-à-vis the highly unionized nature of other white collar industries like banking and insurance, the actual practice was largely confined to individual relations between employers and the educated, technically qualified employee of the IT industry. The rapid growth of the industry, creating a huge demand for manpower, focused more on retention strategies rather than collective relations. The individual employee was already in a good bargaining position and hence did not need the support of collectivism.

However, the Left unions, never willing to accept retreat, began focusing on this emerging sector. They were aided by the sickness in some state-owned IT units (for example, Webel), which had plenty of disgruntled employees. The special exemption extended by the state government to the IT sector in the case of state-wide bandhs (total strike) may have whetted their appetite. The industrial strike called by the Left unions all over the country on 29 September 2006 and the particular activities of these unions in West Bengal during the strike provoked a lively debate on the exemption of the IT sector from the usual employee relations systems and on the need for unionization in the sector. The Left unions claimed that the sector was subject to several abuses and its employees needed collective redressal. In mid-December 2006, a union was finally launched, with CITU West Bengal president giving a call for all IT workers to join. Incidentally, a global IT union has penetrated Bangalore, Hyderabad, Mumbai and Chennai already, though it has not yet come to West Bengal. CITU, the organizer in West Bengal, is prickly about non-Leftist international organizations.

Employers' response was uneasy. The Bengal Chamber of Commerce in particular took the initiative to organize a conclave of all IT employers to discuss defensive measures in terms of complete adherence to statutes, incentives for extra time spent in the workplace and extra welfare facilities. But unease has remained not only among employers but also at the top level of the state government. At the government's prompting, the new union organized an industrial fair in April 2008, where it arranged for seminars and discussion with management groups from the IT industry on various aspects of the industry and the need for management–union cooperation to demonstrate that it was a responsible union.

In other industries, two case studies illustrate the nature of the changes as a result of globalization.

Eveready Industries India Ltd. has taken restructuring and labour rationalization very seriously to remain competitive. The company has nine establishments all over India, four of them in West Bengal. Of these four, the newer plants in Taratola, in the south-east of Kolkata, have been retained and the older units at Cossipore, in the northern part of the city, have been gradually phased out. Of the latter, Camperdown Works, employing about 300 persons, used to produce stick flashlights for the cinema industry. But with the modernization of cinema production, demand fell and the company began offering VRS to all workmen. Only skeletal staff is now maintained till the plant is fully closed. The main plant in Cossipore producing batteries was established in the 1930s and used to employ about 8,000 persons prior to liberalization. It used Japanese technology. The main product

was large batteries used in large domestic torches. As torches themselves became slimmer, the batteries gradually went out of demand. By 1999–2000 employment was brought down to 1,200 through a judicious mixture of natural separation, voluntary retirement and transfers to the newer plants in the southern part of the city. By 2002 further reduction to 700 had been achieved. Meanwhile, during the 1980s, a new plant was established in the south, near their older zinc plant, Metco. This employed about 800 persons. At this older unit in the southern part of the city, employing about 400 persons, the company produced zinc and carbon plates used for battery manufacture. The Metco plant tried out an innovation, increasing the working hours from the statutory 8 to 8½ hours, achieved through prolonged negotiations with the unions. The mechanism for the change is however confidential.

The company also had a unique experience at its new Noida (Uttar Pradesh) plant. This was a state-of-the-art plant, squeaky clean and completely automated. It adopted a policy of recruiting only ITI (Industrial Training Institute) trained employees. The first year was spent in giving them extensive training and the second year in internship. But once they were confirmed, the new employees claimed they were the poorest paid compared to their counterparts in other industries in the region, notably Samsung and Daewoo. Management had a peculiar dilemma, since they wanted to retain some parity in wages with their West Bengal plants. The employees retaliated by boycotting canteen food off and on. Till 2002 this problem had been not solved.

The company had certain peculiarities in HR practices, such as promotions every month. Some executives or managers were being promoted frequently, especially in sales. The rationale was that promotions needed to be immediate in order to reinforce good performance. Even six months was considered too long a gap between a target achievement and its reward. Attempts to rationalize the system were met with stiff resistance. In the long run this had its drawbacks. Employees would make a great effort to exceed targets whenever they felt that their turn at promotion was near and slacken after the promotion.

The company also made a great effort to introduce TQM and WCM in all its ramifications. Not only was training intensified, but Small Group Activities, QCs, Kaizen and 5S were all simultaneously implemented with generally good results.

Another interesting case, but quite different in terms of managerial strategy, is that of a newspaper group with the largest circulation Bengali daily. The newspaper industry is governed by the Working Journalists Act and a wage board for both working journalists and non-journalist employees of newspaper establishments, including the printing press (the last board was set-up in 2002). This leaves very little room for bilateral discussions or negotiations at the level of the organization, unless a newspaper is unable to or refuses to pay the recommended wages. Minor adjustments on some allowances are discussed at the enterprise level.

In one such enterprise, a new managing director, formerly a managing director in Hindustan Lever, was appointed in 2000. He had a different mindset and was astonished to see a peculiar system where the sales or circulation was adjusted to production through the price mechanism. In short, this newspaper would increase the price of the newspaper to reduce demand. He began enquiring about the system and found that while the circulation was about 700,000, the demand in the region was of about 1.5 million. When he prodded managers for more production, he was told that the capacity of

the machines could not meet the demand. He found that the machines had much greater capacity than was reported to him.

He pressed for higher production. There was some increase, but distribution got delayed. There were complaints from distributors that the paper was reaching them very late. He now found that the editorial department was sending the prepared page late for production. He gave an ultimatum to both the departments that the presses had the necessary capacity to produce 1.5 million newspapers per night, and that this must be done to turn the group around. He gave three weeks for the production system to get into order. It worked.

Thereafter, he devised a production meeting everyday at 4 p.m. involving both the production and the editorial sections so that there would be coordination among them and no reversal of the process. A new plant was also set up in the Durgapur region in 2004–05 and printing of the English language daily decentralized to regional capitals in eastern India and through third party printers. This released more capacity for the Bengali daily, the largest revenue earner.

The handling of the main union was another peculiarly manipulative exercise, but something which had already been initiated. In fact the taming of the union had already been achieved before the new managing director came on board, and that probably accounted for the small resistance to higher productivity. This union, affiliated to CITU, had instigated a 21-day work stoppage in 1984, the only time that the newspaper did not publish. After work resumed, many of the older union activists either retired or were gradually shifted out of the press into the editorial department with status oriented designations, many continuing in service beyond the age of superannuation. The vacuum was filled by new members, but with higher doses of pay to keep them subservient to the management. The pay scales offered are higher than required by the Act or by the wage board. The union today has very little bite. Even the general shift working hours have been lengthened from 9 a.m. to 6.30 p.m., with the office being closed on Saturdays. The new office bearers appear to have been co-opted into the management system. The employment structure was changed to achieve this.

All fresh recruitment was on contract basis for one or two year periods. There were hardly 30 to 40 persons inducted into the press, but large recruitments as officers, editors and journalists were made. In any case, the total employment which used to be about 2,000 was reduced to 1,400 in 2006, of which 900 were in production and 500 in editorial. But printing itself was decentralized to new locations, the main press in the heart of Kolkata's business district being rendered almost inoperative. Among production personnel, only about 350 are actual workers, the rest being engineers, officers and technicians. The overall ratio of contract employees to permanent employees is 60:40 and in the press about 50:50.

The focus of HRM in the company has significantly been on officers and executives, rather than on workers. The new managing director had already completed rationalization of job categories in Hindustan Lever from 17 levels to seven before he joined this newspaper. He replicated a similar rationalization, implementing an exercise known as Decision Making Accountability (DMA). This involved looking at each work level, analysing the job responsibility, comparing the job description for the position with the job responsibility through intensive interviews by the HR department and rationalizing the job by improving its content through empowerment. This also helped to provide employee satisfaction as well as rationalized pay scales and workload.

Other impacts related to globalization and liberalization and in particular to the unions include cultural differences after acquisition, an issue not only for management but for unions as well. In one case, when American Express (Amex) was taken over by StanChart, the Amex union was genuinely disturbed by the reports it was getting on the StanChart culture. The employees at Amex were a pampered lot and they even called in a consultant to prepare and explain to them what they should expect and what they could do to cope with the changes in work culture.

Concern about the impact of globalization among unions is reflected in:

- Unions meeting more frequently among themselves to identify changes and meet challenges.
- Management getting more focused on operational aspects rather than strategic aspects of change.
- In many cases management trying to co-opt the unions into the process of change.
- There are no unions in the real estate business, which is growing phenomenally.
- Unions are on the defensive in many cases since workers have internalized the belief that they must give more production to get more pay, and that once productivity goes up, they will get more benefits from management. This has made workers sceptical about the need for unions, because they now feel it is no longer union intervention which can get them more but their own hard work.

PART 5 : DISPUTE SETTLEMENT

5.1 Legal framework for settlement of collective labour disputes

The bipartite mechanisms for settlement of labour–management relations have been discussed earlier. Collective bargaining can be seen as an institutional mechanism for settling differences, not necessarily disputes, between employers and their workmen. In the tripartite sphere is available the usual mechanisms of conciliation, voluntary arbitration and adjudication. The data for disputes as well as their method of disposal are discussed in this section. An industrial dispute is defined in the Industrial Disputes Act, 1947, as ‘any dispute or difference between employers and employees, 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 with conditions of labour, of any person’ (Section 2[c]).

The method of conciliation could be used to resolve both rights and interests disputes. The right of collective bargaining and the status of the bargaining agent are now being determined under the rules of the Trade Unions Amendment Act, 1998. Hence conciliation and adjudication (in labour courts and tribunals) deal with matters other than this, including right of employment such as discharge, dismissal, retrenchment and payment of correct wages. The reasonableness of wages is, however, a matter largely determined through collective bargaining and in some cases conciliation.

The total number of disputes raised in West Bengal for conciliation fell steadily from 3,103 in 1994 to 2,053 in 2002 and 1,852 in 2003. Lockouts have however increased (see table 16). These data are probably an indication of two trends:

1. That disputes in general are declining because employers and employees find it mutually beneficial to preserve harmony and reduce conflict.
2. That organizations are now increasingly able to find bipartite solutions for those disputes which are cropping up.

This does not mean that relations between management and unions have become very harmonious, but that both parties have perceived that it is better to resolve disputes amicably and jointly so that employees do not lose wages and employers production. Unions too are in no position to agitate for workers' benefits since workers themselves prefer to get smaller benefits rather than face industrial closure. This has happened in the case of some strikes, for example in the jute industry where workers have pressurized unions to call off strikes after a very short period.

Table 16 : Numbers of strikes and lockouts, persons involved and man-days lost

| Year | Strikes | | | Lockouts | | | All work stoppages | | |
|------|--------------|---------------------|-------------------------|--------------|---------------------|-------------------------|--------------------|---------------------|-------------------------|
| | No. of cases | Men involved ('000] | Man-days lost (million) | No. of cases | Men involved ('000) | Man-days lost (million) | No. of cases | Men involved ('000) | Man-days lost (million) |
| 1995 | 33 | 234.4 | 1.3 | 136 | 74.4 | 5.3 | 169 | 308.5 | 6.5 |
| 1996 | 17 | 23.6 | 1.7 | 144 | 104.6 | 10.5 | 161 | 128.2 | 12.1 |
| 1997 | 29 | 8.3 | 0.6 | 161 | 89.2 | 7.6 | 190 | 97.6 | 8.3 |
| 1998 | 25 | 2.8 | 0.2 | 213 | 105.0 | 11.4 | 238 | 107.7 | 11.6 |
| 1999 | 34 | 330.3 | 3.9 | 264 | 142.7 | 17.8 | 298 | 473.0 | 21.7 |
| 2000 | 27 | 204.5 | 3.1 | 286 | 167.4 | 16.1 | 313 | 371.9 | 19.2 |
| 2001 | 20 | 20.5 | 1.4 | 305 | 129.4 | 19.8 | 325 | 149.9 | 21.3 |
| 2002 | 30 | 82.1 | 1.2 | 346 | 148.7 | 20.7 | 376 | 230.7 | 21.9 |
| 2003 | 32 | 458.9 | 1.6 | 399 | 176.1 | 25.6 | 432 | 635.0 | 27.1 |
| 2004 | 20 | 205.5 | 1.7 | 354 | 177.8 | 24.4 | 374 | 383.3 | 26.0 |
| 2005 | 26 | 210.5 | 3.1 | 357 | 133.7 | 22.3 | 383 | 344.2 | 25.4 |
| 2006 | 24 | 201.9 | 0.6 | 352 | 115.1 | 20.7 | 376 | 316.9 | 21.4 |

Table 16 leads to some interesting observations. First of all, ironically, while the total number of disputes handled has declined, the total number of work stoppages has increased significantly between 1995 and 2006. Clearly, the number of lockouts is far greater than the number of strikes, and this trend is permanent. Lockouts have been increasing steadily against declining strikes. From 1998 onwards, lockouts constitute, on average, 90 per cent or more of total work stoppages. In terms of man-days lost, strikes account for less than 10 per cent of total work stoppages. In the year 1998, lockouts account for over 95 per cent of days lost. From 2000 onwards, employers have used lockouts as a regular tool against workers and their unions, closing down on average one unit per day. These indicate employer dominance.

Years in which the number of strikes is not large but the man-days lost are substantially high indicate industry-wide strikes, usually in the traditional industries which are strike prone. For instance, in July 1999 there was a 10-day strike in the tea industry. In 2003 there was a jute industry strike. In 2005 an industry-wide strike by tea plantation workers and in 2006–07 an industry-wide strike by jute workers accounted for larger number of man-days lost.

Even the man-days lost provide ample evidence of employers' willingness to face lost production to teach unions a lesson. While the annual average man-days lost in strikes was barely 2 million between 2000 and 2006 (the maximum number of man-days lost for strikes was in 1999 and 2000, between 3 million and 4 million man-days), employers' lockouts ran up an average of nearly 19 million man-days per year in the same period, peaking at over 25 million in 2003. This was accounted for primarily by the jute and tea industries. In the latter, while there was a day's strike, lockouts lasting months accounted for the large numbers of man-days lost. Similarly, the jute industry had strikes of a few days either preceded or followed by lockouts for months.

The primary cause of strikes was management's refusal to accept or even discuss the charter of demands of unions for improvement in working conditions and wages, which led to unions going on strike. Two factors primarily accounted for over 90 per cent of the lockouts. The first factor includes uneconomic running, technological obsolescence, loss of economic viability and management's intention to reduce the workforce. The second was alleged indiscipline, which means that management claimed, when declaring the lockout, that workers had violated discipline and forced management to close the establishment. This has very often been found to be a ruse used by management to close the unit rather than incur losses when running it. In the jute industry there is ample evidence that management deliberately provokes workers to abuse a manager or even assault one, and then uses it as grounds for declaring a lockout. The usual causes of wages or working conditions do not figure in the causes of strikes and lockouts, except in a very few instances.

In the jute industry, some of the strikes have been caused by unfair labour practices or unethical practices of employers. Among these is the appointment of 'zero number' workers, or workers not on the usual rolls of the company but employed on a casual basis and paid against vouchers. Obviously, they are paid wages considerably lower than the permanent workmen for whom the terms of the industry-wide agreement hold good.

All these indicate the ascendancy of employers. From a predominance of violations of labour law two decades ago, issues close to the employers' hearts such as productivity, workload, production targets and efficiency account for 80 to 90 per cent of the disputes raised for conciliation today. In recent years the observation of some conciliation officers has been that employers appear to dominate discussions with unions.

The West Bengal Labour Commissioner observed that there is a greater sense of responsibility among both trade unions and management in terms of behaviour and other issues. Specifically, he felt that compliance with legislative provisions and terms of agreement was better on part of employers. As an example he cited the jute industry, notorious for defaulting on social security payments. This industry now has no current default even though arrears are pending. Trade unions are also more amenable to arguments and respond concretely.

The Labour Secretary felt that the focus and preoccupation of the Labour Directorate has shifted from resolution of disputes to labour welfare, social security for unorganized workers, and social security for employees of sick units.

The conciliation machinery in the east is not being stretched. There has been a definite decline in the number of disputes being referred for conciliation, presumably with a corresponding increase in bipartite solutions.

5.2 Existing mechanisms to remedy grievances and dispute settlement

In both the private and the public sectors, works committees under the Industrial Disputes Act, 1947 and the relevant rules of West Bengal are intended to provide a discussion forum and solutions through consensus on conditions of work (ventilation, lighting, temperature, sanitation), facilities (drinking water, canteen, restrooms, medical and health services), safety, adjustment of festivals and holidays, administration of welfare funds, educational and recreational activities, etc. Up to December 2006 the West Bengal government had ordered 1,005 establishments to constitute through elections works committees (which are mandatory for units employing 100 or more persons). Presumably these had not formed works committees. Only 119 units were compliant. Even though this is a tool of industrial relations, there appears little urgency in this matter. (See also sections on bipartite and tripartite mechanisms.)

5.3 Data and statistics on dispute settlement

The Labour Directorate has to handle quite a large number of disputes. Each year a large backlog of disputes exists, and to this backlog is added fresh disputes. The process of conciliation can begin with unions or management 'raising a dispute' with the conciliation machinery by writing to the Labour Commissioner. Disputes are assigned to respective conciliation officers, depending on the location of the establishment. The government can on its own also intervene in a dispute if it feels that there is a possible threat to public order or the dispute may cause substantial distress to the employees or the public. The conciliation officer sets a date for discussions and informs the concerned parties. Discussions are carried on in his presence either till the parties agree on some or all of the issues, or decide to return to bipartite discussions. In case of a deadlock or failure the matter can be recommended for adjudication (compulsory arbitration).

Statistical data in West Bengal also indicate that even the percentage of disputes disposed of by the Labour Directorate is declining from a substantial 45 to 50 per cent between 1994 and 2001, to just 37 to 38 per cent in the post-2002 period. This could indicate reduced dependence on the state labour machinery. An interesting comment from an official was that since the Labour Directorate often insists on legally valid solutions to disputes, employers now being much stronger than unions are depending on their own strength to get trade unions to accept bipartite solutions. Hence they do not need the state machinery.

Table 17 provides a picture of the number of disputes handled, and the method by which they were settled.

Table 17 : Break-up of total disputes and method of disposal

| Year | Total no. of disputes handled | Disputes disposed of | Disputes settled through conciliation | | Disputes recommended for adjudication | | Bipartite settlement | | Otherwise disposed of | |
|------|-------------------------------|----------------------|---------------------------------------|------|---------------------------------------|------|----------------------|------|-----------------------|------|
| | | | No | % | No. | % | No. | % | No. | % |
| 1995 | 6 630 | 3 073 | 920 | 30.0 | 230 | 7.5 | 162 | 5.3 | 1 754 | 57.3 |
| 1996 | 5 907 | 2 352 | 498 | 21.2 | 272 | 11.6 | 265 | 11.3 | 1 310 | 57.1 |
| 1997 | 5 897 | 3 197 | 757 | 23.7 | 268 | 8.4 | 165 | 5.2 | 2 001 | 62.6 |
| 1998 | 5 102 | 2 138 | 478 | 22.6 | 234 | 10.9 | 165 | 7.8 | 1 215 | 57.4 |

| Year | Total no. of disputes handled | Disputes disposed of | Disputes settled through conciliation | | Disputes recommended for adjudication | | Bipartite settlement | | Otherwise disposed of | |
|------|-------------------------------|----------------------|---------------------------------------|------|---------------------------------------|------|----------------------|-----|-----------------------|------|
| | | | No | .% | No. | % | No. | % | No. | % |
| 1999 | 5 285 | 2 234 | 461 | 20.6 | 238 | 10.7 | 89 | 4.0 | 1 420 | 63.6 |
| 2000 | 5 326 | 2 857 | 511 | 17.9 | 262 | 9.2 | 162 | 5.7 | 1 906 | 66.7 |
| 2001 | 4 873 | 2 570 | 1 120 | 43.6 | 241 | 9.4 | 154 | 6.0 | 1 032 | 40.2 |
| 2002 | 4 356 | 1 650 | 500 | 30.3 | 229 | 13.9 | 141 | 8.6 | 757 | 45.9 |
| 2003 | 4 558 | 1 769 | 534 | 30.2 | 226 | 12.8 | 125 | 7.1 | 865 | 48.9 |
| 2004 | 4 378 | 1 379 | 347 | 25.2 | 138 | 10.0 | 114 | 8.3 | 776 | 56.3 |
| 2005 | 4 312 | 1 465 | 468 | 32.0 | 200 | 13.7 | 88 | 6.0 | 697 | 47.6 |
| 2006 | 4 064 | 1 003 | 287 | 28.6 | 95 | 9.5 | 88 | 8.8 | 532 | 53.0 |

Source: *Labour in West Bengal*

Between 1995 and 2006, the number of disputes handled each year has been declining steadily. The number of disputes disposed of has shown an even sharper decline (from approximately 50 per cent to less than 25 per cent). The picture is the same for number of disputes settled through conciliation as well as bipartite negotiations. Figures are not available for settlement of disputes through voluntary arbitration, but for many years now this method of dispute settlement has contributed negligibly to reduction of disputes.

The number of disputes 'otherwise disposed of' is substantial. In fact, on average, the majority of disputes seem to be 'otherwise disposed of'. The term is really an euphemism for lapsed conciliation proceedings, which have not been pursued by either party. This could mean that the dispute was solved by the lapse of time or left without a solution. There was no registered bipartite solution either since then the agreement would have been sent to the government. The bipartite settlements referred to above are those where the settlement copy was sent to the government. The percentage in this case is not more than 10 per cent.

The issues dealt with in conciliation are primarily 'rights' issues on charters of demands which employers have not negotiated till then, or relate to employment terms, such as terminations and retrenchments. Many are productivity-related issues. On this issue there has been an important change in recent years. Earlier, government conciliation officers did not co-sign settlements with clauses on productivity-linked wages. The government was wary of being officially involved with this issue. That restriction has now been removed and several productivity-linked wage settlements have been concluded under conciliation proceedings. This is a clear indication of the government's pro-management stance.

5.4 General observations

From 2000 onwards, the state government's reading of the industrial relations situation is that there is 'stability' (*Labour in West Bengal*, 2006) or that there has been a 'significant improvement' in labour-management relations (*Labour in West Bengal*, 2003). This is based on the reduced number of strikes or the conclusion of 'long-standing issues through bipartite and tripartite negotiations'. Interestingly, in spite of the large number of lockouts, the government claims that industrial relations in the state is largely 'satisfactory' or 'by and large peaceful'.

Is there then a contradiction between the government's observations and what statistics indicate? Not really, since data for 1995 to 2006 on industry-wise break-up of strikes and lockouts in table 18 provide an explanation for the apparent dichotomy.

Table 18: Number of strikes and lockouts in the five traditional industries

| Industry | Strikes | Lockouts |
|---|---------|----------|
| Tea | 8 | 202 |
| Jute | 51 | 233 |
| Engineering (major) | 9 | 259 |
| Engineering (minor) | 66 | 830 |
| Cotton textiles | 1 | 176 |
| Total for five industries | 135 | 1 700 |
| Total for all industries | 317 | 3 317 |
| Percentage of five traditional industries to all industries | 43 | 51 |

Source: *Labour in West Bengal*

The preponderance of traditional industries in West Bengal and their poor economic health have been discussed earlier. It is apparent therefore that statistically the large numbers of work stoppages and man-days lost do not indicate the real situation of industrial relations in the state. Most large and modern industries have gone on record to say that they have not had any industrial relations problems for the last 10 to 15 years. A common feature of all the traditional industries is technological obsolescence, poor product differentiation and marketing, inability or reluctance of management to spend money on modernization and re-invest in assets, and the consequent decline in performance in a competitive situation.

The tea industry has been in the news with reports that there have been many starvation deaths due to loss of employment in sick gardens. There is truth in several such cases, but the tea industry has had major problems ever since the break-up of the Soviet Union in the early 1990s and the loss of a huge sustained market. Both exports and domestic consumption have declined and prices have fallen leading to uneconomic operations. However, the industry is on a revival path with considerable capital injection for re-plantation and modernization and establishment of several bought-leaf factories. As of 2007, out of the 277 gardens in Darjeeling and the Dooars (foothills of North Bengal), only 13 are closed. The Labour Commissioner confirmed about 15,000 workers of these closed gardens are getting financial assistance of Rs 750 per month, benefiting from a state government scheme for workers of closed organizations. The government has also asked the district administration to help such workers through any of the other government schemes. INTUC, however, claimed that in 2005, 27 gardens were closed.

The Centre for Education and Communication (CEC), New Delhi undertook, in 2003, a fact-finding study on closed and abandoned tea gardens in West Bengal, Tamil Nadu and Kerala along with central trade unions and other stakeholders. The report shed light on the inhuman living conditions and starvation deaths in these gardens and invited much public attention. Hunger deaths in the Ramjhora tea estate in Jalpaiguri in West Bengal have been reported in the newspapers during 2006–07 as well. More recently, CEC conducted a status report on 12 closed and abandoned gardens

in West Bengal, Tamil Nadu and Kerala. The report revealed that there were no qualitative differences in the living conditions of the workers in the closed and abandoned tea gardens over a period of four years.

Issues critical to the tea sector highlighted in such reports make it obvious that cooperation between the state, trade unions, management and civil society organizations is vital in the reopening of closed and abandoned gardens. A process of constituting a Department of Plantations by the Union Ministry of Commerce and Industry is still in the pipeline. The Cabinet Committee on Economic Affairs (CCEA) cleared a Special Purpose Tea Fund (SPTF) in January 2007. The amount is estimated to be Rs 47 billion over a period of 15 years.

According to the general secretary of CITU, in the last seven years 74 bought-leaf factories employing less than 100 workers each have been established in North Bengal. These factories are new and do not have any gardens or plantations. They buy the raw leaf from existing gardens or even from outside and process it into tea. They are also not bound to sell their tea through the auction system, and hence get a better price than the gardens. But this has also led to the problem where existing gardens have closed down their own factories and get their tea processed from outside. This helps them bypass the auction. After a long struggle, CITU has unionized the workers of these factories and on 1 November 2007 an agreement was signed with the owners to pay regular wages to the workers of bought-leaf factories. These wages are nearly at the same level as the wages signed under the tripartite agreement for established gardens.

The cotton textiles industry, under which there used to be a large number of mills in eastern India, has declined significantly over the years. Out of the older private sector mills (once household names), six are closed and in various stages of liquidation. Only three of the mills acquired by the National Textile Corporation (a central public sector undertaking) are running. Nine mills have been closed down and dues of workers paid off. In the larger private sector domain, only four factories belonging to large business houses are running. Seven were locked out during 2006. Obviously this has had a severe impact on the workforce engaged in cotton textiles. Increasing input costs, high power costs and lack of captive power generation, technological obsolescence and low productivity have brought this once very important industry to its knees. The state's initiative to complete an industry-wide settlement has not made much headway. The lowest level wage rate is approximately Rs 4,500. This industry has been unable to utilize the immense growth in the garment sector as a result of the removal of textile quotas under the WTO regime from 2005.

The engineering industry is still the single largest employment provider in the state, though its variations are immense and include everything from incandescent bulbs to ships and are spread over public sector heavy manufacturing units to numerous private sector small and medium units. Many of the latter cater to the larger ones in providing components and inputs. Wages where 50 or more persons are employed are determined by the tripartite industry-wide settlement. Wages for those working in units employing less than 50 persons are determined according to the minimum wages notification (see table 10). However, the problems in the industry appear to have put a halt to the negotiation process. The last settlement was signed in February 1997 and the subsequent fresh charter of demands from the unions in 2000 was not settled by employers. The government took the initiative to set up a tripartite committee to look into the details of the engineering industry situation

at the end of 2002 and to facilitate dialogue. But till 2007 no negotiations had been held. The CII, which is the employers' association for this industry, claims 'in view of the present state, the industry was not in a position to meet the Charter of Demands of the workmen' (*CII Annual Report, 2006*). It is clear that employers want wages linked to productivity, which the unions have opposed on the ground that it is not possible to have any uniform prescription for productivity-linked wages in an industry which is as diverse as engineering. The trend is clearly towards bipartite negotiations, which means decentralization of the existing tripartite industry level bargaining.

5.5 Trends in disputes in the eastern region

Most large private and public sector units indicate that they have had no work stoppages or strikes in the last two decades, except the occasional bandh or all-India strike. Hindustan Lever Limited (HLL) is the only exception with a six-month lockout during 2003. Videocon, for instance, prides itself on the fact that it has not had 'even one second's work stoppage' since its takeover of Philips, whereas the previous owner used to be plagued with labour problems. The management claims with pride that collective bargaining has consumed only seven hours of time. But the traditional industries like engineering, jute, tea and recently hospitals have experienced more than one strike in recent years.

5.5.1 Observations of CITU on industrial relations

1. Worker attitudes have changed significantly. Previously they would only make demands. Now their focus is on protecting themselves. There is also less enthusiasm for unionization among workers, especially in cases where success is not immediate or substantial.
2. In some established industries, union activists have given reckless calls for strikes or agitations, regardless of the ground realities, resulting in sickness or closure and the subsequent surrender of workers to employers.
3. There has been some wage standardization due to unionization.
4. As a result of the industrialization policy, from 1994 to 2004 1,013 units in IT, ferro alloys, cement, etc. have been established at an investment of Rs 29,000 crore, providing new employment for 1.36 lakh persons.

5.5.2 Observations of INTUC on industrial relations

1. Labour relations are very poor in the state (example of Metal Box and Hindustan Motors).
2. Employers are now giving charter of demands.
3. There is job insecurity.
4. Labour is turning away from movements and agitations. (This can be gauged from the changed picture at these trade union offices, which used to be fairly full of workers of all kinds two decades ago. No worker was seen in any of the offices during our visits.)
5. The Labour Directorate is callous and enforcement of law poor. It does not try to ensure employer presence at conciliation meetings. In cases of lockout or closure, the Labour Commissioner pleads helplessness.
6. CITU is compromising with employers in many places to avoid closure of units.

5.5.3 Observations of AITUC on industrial relations

1. Initial globalization (from 1991 to 1995) put labour under great threat and therefore it made great sacrifices just to keep mills running. Labour was on the defensive.
2. There was also helplessness in the face of the inevitability of liberalization and a loss of faith in trade unions, since they were perceived as not being able to reverse economic policies. In the jute industry, many workers have bypassed their unions and signed agreements with management. But contradictory comments can be seen in the newsletter, which says that 'unions are in the pockets of their leaders'.
3. There has been an increase in unorganized labour and casual and contract workers at the cost of permanent employment. Government needs to enforce labour laws applicable to them.
4. Worker rights have been curbed in various industries. For example, Bhushan Steel (in its new factory in Serampore employing 2,000 to 2,500 persons) has been violating labour laws (wages, hours of work) and using migrant labour from Jharkhand (changing them from time to time) employed practically on slave labour terms. Asansol Jute Factory (a new unit) pays only Rs 25 per day to its workers. In Hindustan Motors, while managers get large raises workers are not even paid the DA increases. Bata, after closing down the head office in Kolkata and moving it to Gurgaon, offered VRS to those who did not want to shift. At the retail outlets, working hours have been increased to 9 p.m. every day and to seven days a week. Nearly 300 to 350 showroom managers all over India who protested the new system without new recruitment lost their jobs. Lower level employees were promoted to take their place, provided they agreed to the new hours. This has now been referred to the Central Industrial Tribunal. Sponge iron and ferro alloy units also employ a lot of migrant labour and do not observe labour laws. Many companies have undertaken rampant outsourcing.
5. However, there is now 'trade union unity' with joint action by the unions together, such as the 14 December 2006 all-India industrial strike.
6. There have been some union lapses such as deficiency in submitting reports to all concerned and communication failures between leaders and members.
7. The state government encouraging industrialists has made employers more 'arrogant, aggressive and uncaring'.

While the macro picture is changing slowly, there are substantial variations within establishments and industries. In particular, the way industrial relations is perceived and handled within different units in both the public sector and private sector varies greatly. One instance of a public sector unit, an insurance company, would be illustrative here. The following description is based on perceptions of experienced HR persons who have worked in the company.

After 1991, most people in this industry agreed that major changes were in the offing. But this air of expectation of change was the only perceptible difference. Nothing was done till 1996 to think through either the direction and specificities of the change or to open dialogue with groups within or outside the organization to identify the changes and the actions required. In particular, the

unions were never consulted about the likely implications. In fact, at the time when management finally decided to do something by extending and intensifying training, the unions wondered whether it meant anything at all. In training sessions employees asked whether the training was make-believe and whether they would ever actually get to apply this learning in the work they did. In fact, there was a sort of disbelief of the training itself. There was also resistance against post-training transfers from development officers and divisional managers, which might lead, they felt, to disruptions of existing chains of work for commissions.

It was not as if real problems did not exist. They were primarily related to the inability of management to manage the workforce and work distribution. One such problem was the absorption of casual workers adding to the already bloated staff during the late 1980s, which made responses to the New Economic Policy even more difficult. The perceptions at the top level were that: (a) unions were a hindrance to any change, (b) trivialities like minor transfers, absenteeism, lack of completion of minor tasks and inter-union rivalries took up all the space in industrial or employee relations, and (c) employee relations were essentially adversarial.

The public sector usually gives a lot of leave and holidays for employees. This keeps daily absence pretty high and in order to fill the gaps ad hoc measures are taken. In addition, overstaffing leads to poor work ethics. Management got into the habit, encouraged by the unions, of taking on casual employees to do the tasks, usually manual assistance jobs, of those who were absent. The holding company, General Insurance Corporation (GIC), was the only sanctioning authority for the creation of posts. The casual employees were generally relatives and friends of employees and even of managers. Even though many were graduates they were shown in the records as having only some schooling. From an initial few, these casual employees became a large pool, being employed in turn for a few weeks or days in both the head office or in the divisional offices. In order to prevent them from claiming benefits due to persons who have worked for 240 days in a calendar year, many were allowed to even work under assumed names to manipulate the records.

Management as well as the major unions ignored the ballooning problem, not understanding the seriousness of the situation and being nonchalant in their attitude. One of the unions, UTUC (LS), affiliated to the SUCI, seized the opportunity to come into prominence and moved the labour tribunal on these casual employees and encouraged the 'pool' members to display all their payment vouchers. The major unions opposed it, since employment would grow without them benefiting from it in terms of membership. But based on the vouchers and other records, the tribunal ordered the absorption of about 240 persons, all members of the 'pool'. GIC was compelled to accept this as the insurance subsidiary had little option in the matter.

Bargaining at the industry level has also not been conducive to thrashing out problems. Discussions take place at the holding company level in Mumbai periodically every three years between 32 union representatives (two for each of the 16 unions, regardless of their membership strength). In any case, the agreement is constrained by (a) the conditions provided by the Ministry of Banking and Insurance prior to negotiation, (b) approval by the ministry after negotiations, (c) political lobbying with Members of Parliament and ministers by the unions, and (d) the agreements arrived at in Life Insurance Corporation and in the banking industry.

In all these years there has never been any demand from the side of management on changing work practices or work ethics or on the subject of employment rationalization, productivity and

transfers—all of these are crucial issues in an employment intensive industry faced with competition. This whole bargaining process, though elaborate in structure and appearance, was never more than a façade and did not reflect mature relations between management and unions. The bargaining did not appear to be of any great value.

Compared to this public sector company, the situation has been quite different in the private sector units which took the whole process of liberalization very seriously, asking for quid pro quos in the process of collective bargaining. These companies used to look after their employees well in any case, and post-1991, especially from the mid-1990s, began driving hard bargains. A peculiar practice was to sign identical agreements but with each of the two or three unions separately.

Another trend observed is that some issues are being taken into the realm of judicial intervention. In 2004, the reach of the judiciary extended to the task of managing employees in the Botanical Gardens. An environmentalist filed a PIL in the Calcutta High Court against the management of the gardens, charging that priceless flora were being neglected and damaged because of lack of maintenance. A court committee recommended that the work timings of the gardeners be changed from 10 a.m. to 5 p.m. to two shifts of 6 a.m. to 1 p.m. and 1 p.m. to 8 p.m. The gardeners refused and the court has asked the state to enforce the new timings.

5.6 Problems faced by industrial organizations

Discipline is a one of the key issues faced by industrial units.

- Absenteeism is a major problem. At least 25 per cent of the instances of indiscipline are related to absenteeism. Most large private sector companies like Exide, Nicco, India Foils, Castrol, Tribeni Tissues, Pepsico, Woodlands Hospital, etc. have in recent years faced this problem. All of these companies are good paymasters. It could be a response generated by alienation. Absenteeism is not only on account of long absences due to overstaying sanctioned leave, but also about frequent or habitual absences. Such absenteeism disrupts the production schedule seriously and is abhorred by most companies.
- Dishonesty among employees, such as fraud, defalcation of funds or other transgressions is also a disciplinary issue and treated very severely. Punishment is not related to the quantum of theft or damage and in almost all cases dismissal is the punishment. Most companies have zero tolerance for any such behaviour.
- Company's often have clauses in the agreements they make with workers on the issue of discipline. De's Medical, a medical company, in its agreement in 1999 included a clause on rights of the management which stated, 'in order to enforce discipline in the factory or other offices or branches located elsewhere, the Company will from time to time take suitable measures as per Law.' Hindustan Lever's 1998 agreement includes a clause (no. 21) on disparity of wage improvements which states categorically that 'it is agreed that no dispute/demand whatsoever will be raised with respect to such [wage] disparities [arising from unequal gains accrued to different workmen in wage scale and fitment].' Indian Aluminium Co. Ltd at Belur has a clause in its June 1999 agreement stating, 'it is agreed that it is the joint responsibility of the management and the unions to maintain discipline and efficiency in the plant.'

Another issue is transfers, either interdepartmental or inter-establishment. Most companies rationalize their operations at frequent intervals. In fact, manpower planning is mostly about this and about decisions to outsource. For example, if there are sections where some of the existing employees are due to retire soon, then management begins to plan whether it is more beneficial to close down the section and outsource the tasks. The residual employees of that section, if small in number, are usually transferred to some other department or establishment of the company. But on this latter issue there is still some resistance, and companies have to use much persuasion to get people to accept transfers.

High turnover, especially among managerial and supervisory personnel, is also a problem. This could be the result of the breakdown of employer–employee relations because of the agency system. For this category, pay scales are hardly in use. Pay is totally flexible, especially among sales and marketing personnel in the FMCG industry. For them, pay is usually performance based and related to quantitative target achievements. This leads to wage inversion in many cases, where junior managers can earn more than senior managers. This could also be a contributory cause to high managerial turnover.

INTTUC, the trade union wing of the Trinamul Congress (Mamata Banerjee), has adopted a peculiar modus operandi in establishments where it has a major presence. It does not engineer a direct split within the union, since it may not be sure of its strength, but sets up a parallel executive committee, claiming to management that this committee is the real union executive. Management looks with disfavour on such attempts as backdoor entry. In a state public sector undertaking, a director was recently transferred because he recognized such a parallel executive committee.

CITU is under pressure from its own members. Constrained by the government's drive to industrialize, and therefore not to alienate industrialists, the union is perceived by many employees as being too reasonable, or not militant enough. The train of events under liberalization has also not helped it. There is a certain inevitability in the process and unions have been unable to resist the process. Hence unions are in general perceived by many workers to be ineffective. On the other hand, unions which make a show of militancy attract membership, even if in the short run.

PART 6: TRIPARTISM AND SOCIAL DIALOGUE: MECHANISMS AND PROCESSES

6.1 Existing bipartite and tripartite institutions, mechanisms and processes of social dialogue

The main tripartite body operating in the state is the State Labour Advisory Board (SLAB), which discusses issues that have defied solution in other forums and suggests possible methods for solution. This body was established for the purpose of maintaining industrial peace and harmony, particularly to advise the state government on all matters pertaining to labour as may be placed before it by the Labour Minister. It was reconstituted in 1977 after the Left front came to power in West Bengal and its composition (total about 35 members) includes a Chairman (who is the Labour Minister); Labour Secretary and Deputy Secretary; the Labour Commissioner and Deputy Chief Labour Commissioner, Central (Dhanbad); Director, National Employment Services, West Bengal; Director, ESI, West Bengal; Regional Director, ESIC; Chief Inspectors of Factories and Boilers

Directorate; Regional Provident Fund Commissioner; representatives of central public sector undertakings; one representative each of nine chambers of commerce; representatives of Hindustan Steel, West Bengal Industrial Development Corporation (WBIDC) and the National Textile Corporation (NTC); two representatives each of CITU and INTUC; and one representative each of the eight other unions.

In practice its principal function over the years has, however, been to hold an annual meeting on bonus. The deliberations of the committee result in guidelines for industrial establishments in the matter of paying bonus. Although bonus is statutory, employers tend to agree only to the minimum 8.33 per cent of annual salary. The maximum permissible under the legislation is 20 per cent. Hence the government suggests that employers pay 'not less than what they paid the year before' and that the payment should be made within a certain date, depending on the dates of the biggest festival in West Bengal.

The state government, however, refers to all government intervention in dispute settlement as tripartism. The 1997 *Labour in West Bengal* report emphasised that 'Tripartism is the main plank of [the] labour policy of the state. Through mutual discussion at the tripartite level it has been possible to arrive at wage agreements during the year under report in the engineering industry in the state with a separate agreement for the Central Public Sector Engineering Undertakings, as well as in the tea industry.' As a matter of fact, industry-wide settlements in jute, tea and engineering are all tripartite. This report as well as subsequent issues also claim the conciliation process of dispute settlement as an example of tripartism.

Non-statutory initiatives in dialogue are taken by various chambers of commerce which convene discussions and interactions among themselves and representatives of government and trade unions on various issues from time to time. Their discussions related to labour indicate both their concerns as well as their support for new developments. The Bengal Chamber of Commerce has discussed pension funds, economic development and constraints, issues related to Haldia Port, pollution control and environmental issues, renewable energy, success stories in manufacturing, ESI, new price index and industrial relations in the twenty-first century. The Bengal National Chamber has discussed issues of contract labour, and budget and inflation. CII's Employee Relations Panel has organized tripartite discussion forums on the working of the ESI Act, management of contract labour, outsourcing and retention of skilled workforce, all of which indicate current concerns in industry.

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APPENDICES

Appendix 1. An explanatory note on unorganized labour

Various terms such as informal labour and unorganized sector have been used in Indian literature on labour to denote all persons who are either not employed in organized industry or who are not on the permanent rolls of such industry. Organized industry is a term used to refer to all units registered under the Factories Act, 1948 and to which major labour laws apply (generally those units employing 20 or more persons). However, many smaller units employing even up to 100 persons may not be included in the purview of all labour laws due to poor implementation of statutes. Household industry and small industrial units would therefore be included in the informal sector. The term small and medium enterprises (SME) can be taken to denote units which are registered organizations under any of the establishment statutes, but are not small enough to be bracketed with the informal sector. SMEs may employ between 25 to over 100 employees and generally follow some of the welfare statutes, paying for example Provident Fund contributions, ESI, bonus, but not being scrupulous about leave or hours of actual work. But even in the larger established organizations (both in manufacturing and services), many employees are not on the permanent rolls of the organization and may be working either as part of a labour contract, or as depute from a recruitment agency, or as a casual employee on daily wages.

The contract system of labour itself evolved from the days of early industrialization. In those initial years, while there was no absolute shortage of labour, it was still necessary to coax labour towards factory employment. The source of this labour was, quite naturally, the rural areas or villages (Dasgupta, 1994). But it was the last century of British colonial rule in India that witnessed the formation and limited growth of a wage-earning industrial workforce of more or less permanent nature. Recruitment was often done by jobbers (also known as mukaddams, maistris or sardars) who acted as intermediaries, primarily in the form of a ‘chargeman [supervisor], assistant mechanic, technical trainer, responsible for workers hired, as also debt financier, housing arranger, and intermediary between employer and employee’ (Royal Commission on Labour, 1931, p. 23). It was these ‘labour suppliers who gradually metamorphosed into labour contractors’.

Contract or casual labour are generally not included in the unions of permanent employees, leading to separate unionization for many of them. Only in public sector organizations are such unions party to collective agreements.

Appendix 2. List of persons interviewed and methodology followed

In government:

1. Labour Secretary, Dr Suvesh Das.
2. Labour Commissioner, Mr Satyabrata Chakrabarty.
3. Deputy Registrar of Trade Unions, Ms Ruma Chowdhury.
4. Deputy Labour Commissioner, Mr Zaheeruddin.
5. Joint Labour Commissioner, Mr T.P. Bhattacharya.
6. Deputy Commissioner, Shops & Establishments Directorate, Mr Ravi Rasaiya.
7. Directorate of Shops & Establishments, Mr. A.D. Datta.

For government officers, the interviews were based on:

1. Specific questions to comment on data published in *Labour in West Bengal*.
2. Provision of additional data or explanation.
3. Trends observed during the last 10 years on labour relations and labour.
4. Comments on the writer's observations on trends.

In unions:

1. General Secretary, CITU, West Bengal, Mr Kali Ghosh.
2. General Secretary, INTUC, West Bengal, Mr Pramatesh Sen.
3. General Secretary, AITUC, West Bengal, Mr Ranajit Guha.

For trade union office bearers, the interviews were based on:

1. Provision of additional data on member unions or explanations on membership trends in published data.
2. Trends observed during the last 10 years on industry trends, labour relations and labour.
3. Policy and focus areas of the union in the post-liberalization phase.
4. Successes recorded in labour relations in recent years.
5. Wages and employment trends in general in industry in West Bengal.
6. Future thrust areas.

In management:

1. Dr Biswanath Ghosh, retired general manager, Ananda Bazar Patrika (also ex. HR manager in Eveready Industries and National Insurance), currently an HR consultant.
2. Mr Gautam Bandopadhyay, senior manager, HR, Ananda Bazar Patrika.
3. Mr Sivaji Roy, retired senior manager, NJMC Ltd, currently an HR consultant.
4. General manager, Human Resources, ITC.
5. Senior manager, HR, Indian Aluminium Ltd, Belur Works.
6. Manager, HR, National Insurance Co. Ltd.

For managerial representatives, the interviews were based on:

1. Specific experience on changes in relations with unions.
2. Observations on changes in union behaviour and methods.
3. Employment flexibility.

Appendix 3. Details of trade union voting results

| Date of election | Name of company | No. of voters | Union affiliation | Status of union |
|------------------|--|-----------------------------------|----------------------------------|----------------------------|
| 1999 | Hindustan Development Corporation Ltd (Santragachi unit) | n.a. | Non-affiliated union (65% votes) | Sole bargaining agent |
| 1999 | Contai Cooperative Agricultural & Rural Development Bank | n.a. | Non-affiliated union (65% votes) | Sole bargaining agent |
| 2000 | Farakka Super Thermal Power Project (NTPC) | 1 070 | INTUC (48% votes) | Principal bargaining agent |
| 2000 | Britannia Industries Ltd | n.a. | Non-affiliated union (63% votes) | Sole bargaining agent |
| 2000 | Trainers' Association of Calcutta (Turf Club) | n.a. | Non-affiliated union (97% votes) | Sole bargaining agent |
| 2000 | J.J.H. Industries Ltd | n.a. | CITU (40% votes) | Principal bargaining agent |
| 2000 | Alstom Industrial Products Ltd (Paharpur unit) | n.a. | Non-affiliated union (61% votes) | Sole bargaining agent |
| 2000 | Associated Pigments Ltd | n.a. | CITU (55% votes) | Sole bargaining agent |
| 2000 | Philips Carbon Black Ltd | n.a. | Non-affiliated union (74% votes) | Sole bargaining agent |
| 2001 | ICI Ltd (Rishra Works) (Chemicals) | 385 | Non-affiliated union (43% votes) | Principal bargaining agent |
| 2001 | Bharat Biscuits Ltd | 92 | Non-affiliated union (59% votes) | Sole bargaining agent |
| 2001 | H.G.I. Industries Ltd | 647 | INTUC (56% votes) | Sole bargaining agent |
| 2001 | Wacker Metroark Chemicals Ltd | (Uncontested; certificate issued) | Non-affiliated union | Sole bargaining agent |
| 2001 | Worthington Pumps Ltd | (Uncontested; certificate issued) | Non-affiliated union | Sole bargaining agent |
| 2001 | The Statesman Ltd (Newspaper) | 845 | Non-affiliated union (69% votes) | Sole bargaining agent |
| 2001 | New Allenbury Works (Engineering) | 293 | INTUC (54% votes) | Sole bargaining agent |

⁴ MacroScan is a website managed by professional economists seeking to provide an alternative to mainstream positions in economics; the website is maintained by Economic Research Foundation, New Delhi.

| Date of election | Name of company | No. of voters | Union affiliation | Status of union |
|------------------|---|-----------------------------------|---|----------------------------|
| 2002 | Garden Reach Shipbuilders & Engineers (GRSE) | 4 348 | Dissident non-affiliated union (55% votes) | Sole bargaining agent |
| 2002 | Farakka Super Thermal Power Project (NTPC) | 1 081 | CITU (approx. 54% votes) | Sole bargaining agent |
| 2002 | Hindustan Engineering & Industries (Howrah) | 1 193 | Non-affiliated union (43% votes) | Principal bargaining agent |
| 2002 | Hindustan Motors Ltd | 6 227 | Dissident non-affiliated union (53% votes) | Sole bargaining agent |
| 2002 | Hyderabad Industries (Formerly a Birla group engineering company, now acquired by a local entrepreneur) | 793 | Non-affiliated union (57% votes) | Sole bargaining agent |
| 2003 | Calcutta Electric Supply Corporation (CESC) | 13 000 | CITU (57% votes), AITUC (23%), INTUC (17%) | Sole bargaining agent |
| 2003 | Alstom Industrial Products Ltd | 430 | n.a. | |
| 27 August 2004 | Durgapur Steel Plant | 14 893 | CITU (48.79% votes) | Principal bargaining agent |
| 24 Nov. 2004 | Farakka Super Thermal Power Project (NTPC) | 1 073 | CITU (51.24% votes) | Sole bargaining agent |
| 19 Jan. 2005 | New Allenbury Works (Engineering) | 255 | INTUC (51.38% votes) | Sole bargaining agent |
| 18 March 2005 | Hindustan Motors Ltd | 5 158 | Non-affiliated union (formed during struggle, 60.99% votes) | Sole bargaining agent |
| 18 March 2005 | Hyderabad Industries Ltd | 661 | Non-affiliated union (64.27% votes) | Sole bargaining agent |
| 5 April 2005 | Hindustan Lever Ltd | (Uncontested; certificate issued) | Non-affiliated union | Sole bargaining agent |
| 20 July | Garden Reach Shipbuilders & Engineers | 3 807 | Non-affiliated union (52.17% votes) | Sole bargaining agent |
| 12 August 2005 | Calcutta Electric Supply Corporation (CESC) | 10 436 | CITU (57.55% votes) | Sole bargaining agent |
| 30 Nov. 2005 | Everest Industries Ltd | 230 | UTUC(LS) (54.62% votes) | Sole bargaining agent |
| 19 Dec. | Hotel Hindustan International | (Uncontested; certificate issued) | CITU | Sole bargaining agent |
| 8 Nov. 2006 | Alstom Industrial Products Ltd | 296 | CITU (52.39% votes) | Sole bargaining agent |
| 22 Nov. 2006 | Shaw Wallace Distilleries Ltd | 190 | Non affiliated employees union (59.89% votes) | Sole bargaining agent |
| 21 March 2007 | Hindustan Engineering & Industries (Dankuni unit) | 583 | CITU (66.72% votes) | Sole bargaining agent |
| 5 June 2007 | New Allenbury Works | 231 | INTUC (59.03% votes) | Sole bargaining agent |
| 22 August | Farakka Super Thermal Power Project (NTPC) | 1 055 | INTUC (50.05% votes) | Sole bargaining agent |

| Date of election | Name of company | No. of voters | Union affiliation | Status of union |
|------------------|------------------------|-----------------------------------|---------------------------|----------------------------|
| 7 Sep. 2007 | Anmol Biscuits Pvt Ltd | 370 | CITU (56.76% votes) | Sole bargaining agent |
| 5 Oct. 2007 | Hindustan Lever Ltd | (Uncontested; certificate issued) | Non-affiliated union | Sole bargaining agent |
| 9 Jan. 2008 | Hindustan Motors Ltd | | CITU (49.25 %), SSKU, SKU | Principal bargaining agent |

n.a. = data not available

Source: Office of Registrar of Trade Unions, Government of West Bengal.

Appendix 4. All-India verification figures for major trade unions (in 100,000s)

| Name of union | Verified membership (as on 31 Dec. 1980) | Verified membership (as on 31 Dec. 1989) | Verified membership (as on 31 Dec. 2002)* |
|--|--|--|---|
| Bharatiya Mazdoor Sangh (BMS) | 12.11 | 31.17 | 62.16 |
| Indian National Trade Union Congress (INTUC) | 22.36 | 26.92 | 38.92 |
| All-India Trade Union Congress (AITUC) | 3.44 | 9.38 | 33.42 |
| Hind Mazdoor Sabha (HMS) | 7.62 | 14.81 | 32.23 |
| Centre of Indian Trade Unions (CITU) | 3.31 | 17.75 | 26.78 |
| United Trade Union Congress (LS) (UTUC) | 6.21 | 8.43 | 13.69 |
| United Trade Union Congress (UTUC) | 1.65 | 5.85 | 6.07 |
| Trade Union Coordination Committee (TUCC) | 1.23 | 2.30 | 7.33 |
| National Federation of Indian Trade Unions (NFITU) | 0.84 | 5.30 | 0.34 |
| National Labour Organization (NLO) | 2.46 | 1.39 | n.a. |
| Total (including others) | 61.26 | 123.34 | 246.65 |

Source: Ministry of Labour and Employment

n.a. = data not available

*Source: Notification G No. 38(2)/2003-Vfn of Ministry of Labour and Employment, Government of India

The increases (almost exactly double of what it was in 1989) in union membership in the last decade have been mainly in the plantation and agricultural sectors among beedi workers, cart pullers, etc., which is significant in the sense that hitherto unorganized workers are getting organized under the umbrella of the established trade union movement. Region-wise, the gains made by AITUC have mainly been in the Hindi-speaking belt of Bihar, Rajasthan and Jammu & Kashmir, and Andhra Pradesh rather than in West Bengal. CITU gained mostly in West Bengal but made little headway in Kerala or Tripura which are both Communist Party of India (Marxist) ruled states.

Appendix 5. Collective bargaining: Productivity and unusual clauses

Basically, clauses on productivity are not new. Their occurrence in an increasing number of agreements is, however, noteworthy. Productivity clauses were first included in agreements even in the 1950s and 1960s, the best known

being the Tisco agreement of 1956, or the ones signed by Indian Aluminium, ITC or Bata. Analysis of productivity clauses will show that there is an element of evolution in them. They generally started with piece rate clauses, where straight rates were offered to workers to produce a certain number of pieces per period of work. Progressively higher rates were offered for production quantities in increasing slabs. Piece rates are still negotiated in coal mines or in piece-goods, but it is not possible to apply piece rates in most complex industries now or in most operations of even primary industries. An improvement came with the use of incentive schemes, which were relatively more flexible, could also be applied to process industries or even to complex production processes, and could be adapted for groups as well as for individuals or to service organizations

But the limitations of both piece rates and incentive schemes have compelled management to opt for detailed productivity clauses linked with technological and process changes. Such agreements go much beyond the ordinary productivity clauses of conventional agreements and include clauses on production, output, quality, reduction in costs and wastage, idle time, manpower utilization, flexibility in manpower rationalization and use, supervision, overtime, absenteeism, multi-skilling, outsourcing, duty change and handover.

Over the years, agreements have become more complex and have included more issues, with parallel changes in language. Productivity is a major feature of almost all agreements today. However, the issue itself is not new. In the late 1970s and early 1980s, clauses on productivity were vague. For example, Siemens' agreement in 1981 stated: 'The union assures that it will render complete and wholehearted cooperation in the management's efforts to introduce changes and improvements including better utilisation of resources of men and materials, introduce various cost reduction measures, avoiding wasteful expenditure, rationalisation and effect technological developments, introduce and improve systems, methods, operational procedures and reorganisation involving changes in jobs, sections or departments.'

Dunlop Tyre's 1980 agreement stated: 'The company undertakes to introduce changes required for optimising market needs and the unions...agree that full cooperation shall be forthcoming from workmen to work on new products, sizes, specifications, methods and technology from the day of introduction.'

An agreement signed by Chemicals and Fibres of India Ltd (CAFI) in 1982 stated: 'It is in the interests of management, the union and the workmen that the company must sustain and improve its competitive status and earning capacity. For this, the union and the workmen will cooperate with the management in all its efforts to improve efficiency and productivity.'

By the mid-1980s, the language had changed. Vagueness was replaced with specifics. In 1983, Dunlop made specific changes in piece rates linked to actual production. CAFI made the terms more specific by stating the changes management would like to make, such as, 'Carry out rationalisation of jobs, redesign and restructure existing jobs, give suitable training to employees, without retrenchment or downgrading, etc.' Management too became much more proactive on this issue. For instance, management requirements or what can be described as a counter charter was included in the Hoechst agreement of 1984–87 in its annexure II, which listed specific demands in terms of attendance, absenteeism, production, etc.

Similarly, Hindustan Lever in its 1983 agreement, in addition to general terms about modernization and mechanization, included details in annexures which listed a string of changes relating to new facilities introduced. Firestone's 1983 agreement clearly stated its daily output in terms of number of tyres and tonnes of production, as well as working hours in minutes. Presumably, the company was losing about an hour each day in idle time.

Attendance improvements and attendance allowance was introduced from the early 1980s by some of the larger companies. Now, even small companies have attendance bonus or attendance allowance without a collective agreement. Calcutta Electric Supply Corporation introduced an Attendance-cum-Performance/Productivity (APP) Bonus from its

1985 agreement, which also took into account the reduction in overtime hours. This was continued in subsequent agreements. The 1993 agreement provides for the allotment to each worker of certain APP points for a combination of reduced overtime, limited absence (for less than three days in a month, inclusive of authorised leave) and for achieving a minimum level of production. Bonus was calculated on the basis of these points and value in Rupees allotted for each point (for details see Sen, 2003).

Britannia Biscuit Company's agreement of 1995 was restricted to just the clerical, supervisory staff and area salesmen of one factory, but signed under section 12[3] and 19[3] of the Industrial Disputes Act, 1947. The agreement included clauses on operation of micro-processors and their subsequent changes. The union on its part assured cooperation with management in improving work culture, punctuality and discipline standards.

Bata India's four-year 1995 settlement did not emerge out of conciliation and provided for hourly and piece rates of work. It had elaborate productivity details for different jobs. The clause on quality made it mandatory for workmen and management to follow all the quality specifications laid down in the ISO 9000 certification procedures. The productivity clauses laid down the minimum pair requirements for each type of shoe, sandal or boot, specified the date from which the new targets were to be implemented and stated categorically that the new wage rates would be applicable only from the day that production increased. The weekly payment system was revised to fortnightly and staggered payments allotted for different categories. The plan bonus rates for supervisory staff were also revised in an annexure to the agreement. Forklift beats were also revised, and the job description and exact duty hours of factory sweepers, public health sweepers, gangmen and jamadars were elaborated. It was clear that Bata did not leave any vagueness in the agreement. Bata posted impressive profits in the subsequent period, which was partly due to changes in pricing policy but also due to successful collective bargaining.

Some exceptions however exist. Philips India signed agreements on the basis of plant-cum-region. For example, the three-year 1997 agreement in Calcutta covered three factories in three different locations in Calcutta represented by one union. Although the company started with a recital of its woes and the competition it was facing in the wake of liberalization, it nevertheless assured its union that no employee would be retrenched. The union in return assured management of all cooperation. The section on productivity once again outlined the company's problems and emphasized the need for rationalization, flexibility, mobility, multi-skilling and training. But it did not give details. The nomenclature of various grades from the junior-most worker to clerical, technical and subordinate staff was incorporated into 18 grades. But the irony was that such a mild agreement (compared to the much tougher agreements in jute or other industries) led ultimately to the closure of one of Philips' factories in Calcutta. There could be causality between the two, and one may infer that had Philips been able to push through a harsher agreement it may have been more beneficial for the members of the union in the long run. The company was ultimately sold to Videocon.

Another sick unit, the automobile veteran Hindustan Motors, also appears to have paid the price for a soft approach. Its three-year 1996 agreement with two unions for its factory in Hooghly also began with a mention of the new environment of liberalization, but appeared unable to match the new requirements. In fact most of the features and issues were a repetition of the 1992 agreement, with hardly any change either in the language or results. For instance, the agreement assured the reinstatement of nine dismissed workmen (they were dismissed many years ago) and provided a timeframe for the absorption of casual workers in phases. The wage increase was ad hoc and lump sum, depending on length of service. A cursory reference was made to a revised performance bonus, based on the number of units produced per day. Interestingly, the agreement included a reference to ancillarization. Currently, Hindustan Motors sources much of its components and materials from distant regions of India. But why this was included in the agreement without mentioning other details of employee involvement is curious. The outcome of the agreements have not been happy since the company nearly closed in 1999.

Shaw Wallace's five-year agreement signed in early 1994 was also indicative of the non-professional attitude of the management. Although the agreement was comprehensive enough to cover all establishments, including godowns (stores) in the entire eastern region, Madhya Pradesh and Uttar Pradesh, and began with a sentimental tribute to a departed union leader who was responsible for smoothening the process of negotiations substantially, the agreement itself was conventional. The clause on employment said that replacements for separations would not be usual but also that they may be considered, especially in case of decease or retirements. In the clause on work methods, a thrust on productivity and efficiency was mentioned but redeployment was offered as a solace. Introduction of computers was mentioned, making it clear that it had none previous to 1994. The union's charter of demands, included in the annexure, made it clear that the management capitulated to the union. The demand was for a minimum of Rs 900 and the union got Rs 850. By 1996–97 the company was in major trouble, although the liquor business (its main product) was growing and it had a near monopoly in the eastern region. By mid-2005 the company had been acquired by United Breweries.

Some agreements combine generalizations with stiff specific clauses. Berger Paints' five-year agreement was signed in April 1994 with all unions located in and near Calcutta. It was therefore a plant-cum-region level agreement and was signed under section 2[p] read with section 18[3] of the Industrial Disputes Act, 1947. The company followed the 1982 base DA with a neutralization of Rs 11.50 per point. The usual opening remarks referring to increased competition in the new industrial environment was, however, not just an introduction. It prepared the way for a section on employment, which was interesting and typical of current trends. The agreement categorically stated that 'direct employment by the company in activities that are not directly connected with manufacturing and marketing of paints and in which the company has no expertise as compared to more professional outside agencies... unless such activities are statutorily required to be carried out' will be phased out. The section also pointed out that natural vacancies would not compulsorily be filled, there was no assurance of future recruitment for internal candidates, except based on merit and for employees dying in harness. Minor clauses included signing attendance time for coming and going, staggered tiffin breaks, employment flexibility (no refusal by any employee to do any task assigned to him/her) and cleaning of own machines/workplace.

Hindustan Lever Chemicals Ltd in its agreement in 1997 put productivity into a separate annexure (of six pages) because of the details. This section starts with general comments on emerging competition, and the need to achieve quantum improvements and bring in greater mobility/flexibility of workmen to upgrade the capabilities of the factory. It covers process (common relieving, job rationalization, flexibility, mobility), laboratory (quality assurance, export sampling, technicalities) and engineering (team size, flexibility, routing of jobs, etc), workload and manning in bagging sections, new projects (utilization of existing manpower) and so on.

Hindustan Lever's January 1998 agreement includes in annexure B some clauses on Factory Needs, which list total flexibility, redeployment, transfer, machine productivity, manpower productivity, grades rationalization and changes in production plans. The last mentions that 'a section in the department may be shut due to lack of production plan... and employees may be redeployed.' In annexure C a list of employees being redeployed is included. Annexure F provides 'team sizes' for different operations and machines in different sections.

Indian Aluminium included in its June 1999 agreement a clause reasserting managerial prerogatives. 'It is agreed that the right to plan, direct and control operations of the plant, to introduce new or improved methods, to expand production facilities and to establish production schedules and quality standards are solely and exclusively the responsibilities of the Management. The Management's authority to perform these and other duties will be respected in every case... employees should in the first instance obey the order and then proceed for the redress of the grievance (in case of a problem).' This agreement also includes a clause on environment, which states, 'The Management and the Unions agree to jointly strive for adapting to changes required for accreditation under ISO 14000 Environment System Standard through proper training and involvement of all employees.'

In the public sector, the banks agreement of June 2005 is interesting. Signed at the industry level between the Indian Banks Association (50 banks including nine foreign banks) and five all-India unions, two of which have their headquarters in Bengal, it covers details on many issues. The agreement was bipartite and based not only on the charters of demands of the five unions, but also on several issues notified by management to the unions concerning efficiency of operations, customer service, utilization of manpower, discipline and maintenance of harmonious industrial relations. While schedule II of the agreement lists the special pay for different jobs, schedule III provides details of duties for different jobs rewarded with special pay. This schedule runs into twelve pages. This clearly indicates concern for efficiency. Another major issue with banks is transfer or deployment of staff at different branches. This is covered in 16 sub-clauses in a separate schedule titled 'Deployment of Staff'. Another very important clause (clause 31), which leaves room for supplementary bargaining at individual bank level, is the one on computerization/mechanization and technological upgradation. This allows individual banks flexibility in these matters as well as in marketing of a bank's products, switching to single window operations, retraining and reskilling, and 24/7 working. The only industry level stipulation is that there will be no retrenchment on account of computerization.

The *Annual Survey of Industries 2006* provides ample evidence on increases in labour productivity and value added by labour.

Appendix 6. Some agreements covering hitherto unorganized sector workers

Bakery industry, December 1995 (through conciliation):

Employers: West Bengal Bakers' Coordination Committee

Workers: Paschimbanga Bakery Shramik-O-Linesmen Union (umbrella union for employees and distributors)

Terms included:

- Increase of Rs 160/- per month for each workman
- Rate of commission for linesmen to be uniform 11 per cent on ex-factory price of bread
- Linesmen will also get extra commission where the system exists
- No victimisation for workers who had gone on strike
- Other issues to be settled within six months.

Cinema industry, January 1996 to January 1999 (arrived at through conciliation after strike):

Previous settlement was 1992 to 1995.

Employers: Eastern India Motion Picture Association

Workmen: represented by Bengal Motion Picture Employees' Union, covering all categories of workmen

Terms included:

- Classification of cinema houses into six categories (based on pay scales, increments, wage levels, etc.)
- Minimum basic wage for unskilled workers varying between Rs 601 for top category A to Rs 286 for lowest category F
- Minimum basic wage for skilled workers varying between Rs 718 for category A to Rs 340 for category F
- Increase of Rs 120 for all workmen in all categories in addition to above pay scales
- Appointment of committee by state government to look into problems of cinema houses
- DA to be paid under same formula as previously
- Other issues to be discussed at bipartite level.

Goods transport settlement, April 1999 to March 2003:

Previous agreement ended in 1998 and unions submitted a charter of demands. No settlement could be reached at bipartite level and the agreement was achieved through conciliation in late 2000 after a day's token strike and notice of further three days strike.

Employers: Calcutta Goods Transport Association

Workers: Nine unions of goods transport employees

Two groups of undertakings (Group I employing between 1 and 50, Group II employing 51 and above)

Terms included:

- Ad hoc increase in wages (Rs 120 and Rs 160 respectively)
- Rs 1,900 of DA to be treated as fixed DA; variable DA to be at Rs 1.90 per point on CPI (base, 1960)
- Revision of wage scales
- Rs 1,500 for new recruits as probationers
- Medical allowance and HRA
- Statutory bonus
- Letters of appointment and ID cards to be issued to all.

In addition:

- Unions gave an undertaking that no unilateral action would be taken
- No employee would carry on parallel private business
- Principle of 'no work no pay' agreed upon
- Union/workmen would not interfere in day to day managerial functions
- Staff would not spend time reading newspapers/magazines/listening to the radio or knit in the workplace during working hours.

Cold storages agreement, 1 October 2003 to 30 September 2006:

Previous agreement was from 2000 to March 2003. Bipartite level discussions could not resolve matters arising out of charter of demands of the federation and had to be signed through conciliation.

Employers: West Bengal Cold Storage Association

Workers: Federation of Cold Storage Employees' Union (some office bearers being ministers and MLAs of the Left Front government)

Terms included:

- Wages and increments
- Fixed and variable DA
- Medical allowance
- Bonus (14 per cent)
- HRA
- Arrears
- Leave
- Inclusion of employees under the Provident Fund Act

- Continuation of existing benefits
- Continued insurance and safety (as per Factories Act and Workmen's Compensation Act).

The last clause is interesting and indicates why employers are accepting collective bargaining as a tool of industrial relations: 'The federation of the unions and the workmen do, hereby, agree to extend all possible cooperation to the management in the maintenance of industrial peace and harmony, production and discipline in the cold storages. The workmen will also cooperate with their employers for the smooth and proper functioning of the units. Regarding any problem faced by any cold storage in the matter of shifting duties, etc. the same would be discussed and resolved at bipartite/tripartite level.'

Contractors' Workmen at Jay Shree Chemicals & Fertilisers, 1 April 2001 to 31 March 2004:

Previous agreement was from September 1996 to September 1999. Jay Shree Chemicals signs direct agreements with its permanent and regular staff, but are not involved in this agreement officially.

Employers: Several contractors at Jay Shree Chemicals engaged in powdering and bagging fertilizers and chemicals

Employees: Contract workers working at Jay Shree Chemicals

Terms included:

- Piece and daily time rates (at varying rates per net metric ton for different operations after 12 per cent increase over previous rate. Work includes bagging, stitching bags, loading and packing)
- Rs 2 per day per head allowance
- Rs 3.50 per day for meal
- Two or four days pay as ex-gratia (minimum Rs 180 to Rs 360) for those working 240 days in a year
- Employment of maximum 298 workmen by each contractor
- Other kinds of jobs during lean season (workmen not to object to redeployment)
- Interim settlement pay for six months due to delay in agreement.

Interesting clauses include:

- In view of the above, it is agreed that the workmen will maintain perfect peace and discipline and cooperate in achieving full production with optimum efficiency and the parties will cooperate with each other in this matter.
- Union assures that no demand, excepting statutory ones, shall be raised on behalf of the workmen during the tenure of this settlement.

Contractors' workmen of a large battery manufacturing unit in Haldia and the contractors of that organization,

April 2006 to 2009:

Signed after the workmen's union gave a charter of demands and through conciliation

Employers: 22 contractors of the battery unit

Employees: Contract workmen under them

Terms included categorization of workers into project and non-project groups, wages, leave, overtime, bonus, canteen, hazard and conveyance allowances, productivity, etc.

Interesting clauses include:

- The workmen appreciate and agree that they have no exclusive right to be employed in any particular job or work site and are liable to be redeployed/transferred/retrenched (with compensation) depending on availability of work and exigencies of business of the unit.

- Terms and conditions of this agreement with respect to rise in production/productivity shall be binding on both parties and be enforced with immediate effect (details given in an annexure to the agreement).

Agreement between SAIL, Durgapur Steel Plant and contractors workmen, 1 November 2006:

The plant is covered under the industry level agreement for the steel industry which applies to all permanent and regular employees but not to contractors' workers. The latter are unionized separately.

Employer: Durgapur Steel Plant

Workers: Contract workers under three unions affiliated to different central organizations

These three unions had served notice of strike on the issue of regularization of some workmen, many of whom had been working for 30 years in the plant. They had contended that many regular workmen were retiring each year and there was scope for absorbing contract workers as regular employees as management was recruiting new persons as replacements.

Terms included:

- Skilled, experienced and suitable contract workers would be considered in future for absorption provided they met the criteria for different jobs.
- Management would consider the demand for including contract workmen under the ESI and EPF Acts.

Appendix 7. Some interesting clauses in agreements in the small, medium sector

OTA Falloons Forwarders (dock clearing agents), April 2008–2011, variable pay:

The pay agreed upon is quite varied with a wide range which indicates individualized pay. For example, dock assistant's revised basic varies from minimum Rs 3,650 to Rs 8,310; custom assistant's revised basic pay varies from minimum Rs 5,030 to Rs 8,210; stenographer's revised basic to Rs 7,098; and peon's revised basic to Rs 2,450.

Limelight Service Agency (caterers) with Madhya Kalikata Hotel, Bar and Restaurant Employees' Union

(omnibus union of Central Kolkata), April 2008–2011, employee flexibility and contract employment systems: Relevant clauses are:

- 6 [i] All employees who have completed continuous service of one year or more will be issued letter of appointment (indicating that many are employed in this industry without any such letter).
- 6 [ii] If any of the men engaged by the contractor is found not suitable for the purpose for which he has been inducted in the premises of the principal employer, the contractor-employer shall immediately arrange for replacement of the said personnel and the employees with not object to the shifting of such personnel to such other sites of the contractor.
- 6 [iii] The contractor will issue identity cards to all workers at his own cost.
- 6 [iv] Workmen should strictly follow the directions of the contractor and his men in the manner and nature of work to be executed at various locations and sites.

EIH Ltd (unit Oberoi Airport Services, Kolkata), February 2008, with their employees/workmen themselves, non-union agreement and longer daily work:

This was signed with 49 employees each of whom added his signature to the agreement. Terms were usual, like grades/scales of pay, ad hoc increases, HRA, education allowance, leave travel assistance, ex-gratia, medicare, leave, long service awards, retirement age of 58, etc. In addition, employees were assured of full cooperation in the face of operational difficulties, and clause 19 stated: 'It is agreed between the parties that duty hours/shift for the

workmen will be fixed to nine hours per day with half an hour break for recess/rest and the timings shall be fixed to cover 24 hours, depending upon the requirements of the company.’

Several agreements among small units related only to termination of services of either individual employees or to small groups of employees. The nature of the clauses specify the employees’ names and that services have been terminated or rendered surplus and their full dues have been cleared, and the union agrees not to raise any further demands in this respect. Examples are:

Jimmy’s Kitchen (a restaurant) in July 2007 terminating three unsuitable employees.

International Advertising Agency (a company painting and setting up hoardings) in July 2007 terminating some employees due to closure of a section.

Astor Hotel Pvt Ltd in June 2007 on grounds of discipline. The clause stated: ‘It is agreed by and between the parties that the spirit and ethics of this settlement is to maintain congenial, peaceful, disciplined atmosphere and a devoted workforce for the satisfaction of customers, guests and patrons of the hotel... [no one] either union or management will take any unilateral action without resorting to avenues of amicable settlement of all disputes and differences.’

Bengal Carpets Pvt Ltd, May 2007, worker flexibility: ‘That the workmen agree to accept transfer from one job to another within the same organization and further agree to accept from one job to another in any other sister concern under the same management without any additional emoluments.’

Large hospital, April 2007–2010, bipartite, registered agreement, cooperation of union:

- In curbing wasteful practices and training
- Non-interference in ‘treatment or management of patient’.

Som Services Pvt Ltd (domestic gas cylinder dealers), December 2006, incentives and employment:

- With increase in dealers’ commission from Indian Oil Corporation, the supplier of the cylinders’ workers would get 10 per cent extra pay
- Rs 2.60 would be paid as commission per cylinder delivered
- Appointment letters would be issued within a specified date
- Both parties would strive to maintain cordial relations and discipline.

Castrol India Ltd, Paharpur, Kolkata (lubricants company), June 2006–2010:

Arrived at through conciliation.

Management charter of demands annexed.

Substantial pay increase of Rs 1,000 per month but pay reduction for absenteeism.

Managerial prerogatives:

- Recruitment recognized as a management function.
- Promotion at management’s sole discretion (but policy may be discussed).

Progress of organization as ‘joint responsibility’. Union agrees to ‘actively cooperate’ in the ‘management’s legitimate function of introducing new technology, processes, equipment and machines’.

Divine Nursing Home, 2004–2007:

Disputed agreement. Interestingly the record kept by the government had a covering letter from the union stating that the copy of the agreement sent earlier by the management was not correct. The monthly pay increase reported in the management’s version was Rs 280 whereas the union version had Rs 350.