
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

**TRADE UNION LAW VIS-A-VIS TORT, CONTRACT &
CONSTITUTIONAL LAW**- Abhishek Varshney¹**Abstract:**

The evolution of trade unions was a result of a significant shift in the employer-employee dynamic that was motivated by industrialization. Trade unions emerged as a response to exploitation by using collective bargaining to secure fair treatment. Trade union law regulates union formation and activities that protect workers and foster industrial harmony. This law interacts with tort, contract, and constitutional law to ensure accountability and equitable treatment. Through legislative frameworks and judicial decisions, it is meant to balance the interests of workers, employers, and society, promoting socio-economic welfare. In this article, we'll untie the knots between trade union law with tort, contract and constitutional law.

Keywords: Trade Union Law, Workers, Collective bargaining, Tortious liabilities, Agreement, Trade union.

Introduction:

It is a well-said fact that when a person gets driven by Greed, they can stoop to any level to satisfy that thirst, even at the cost of exploiting others, and that is what led to the rise of Trade unions in the Indian Economy. In earlier times, the relationship between labourers and employers mainly revolved around personal contacts, lacking the complicated yet secure techniques involved in the modern period. But, when the world underwent a drastic change due to the development of the Modern Factory System, the dynamics of employer and labour underwent a deep transformation

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around the world, and the effects were visible in India as well. Workers were devoid of any knowledge about their rights and were in dire need of work to fulfill their needs, and became solely reliant on such laborious work.

The workers found themselves in a dilapidated condition where they were subjected to the dictates of the employers driven by greed to maximize profit at minimal cost. The resultant irregularity in power dynamics led to the exploitation of workers, who found themselves at the mercy of employers

To address the prevailing inequities, workers teamed up themselves into unions, using collective bargaining as a means to declare their rights and negotiate more favourable terms of employment. This marked a fundamental moment in the evolution of labour-employer relations, as the emergence of organized labour served as a defence against the unchecked power of employersⁱ.

A trade union is a representation of a teamed-up labour force in their pursuit of advocating for equitable treatment in various aspects of their employment, including but not limited to fair wages, favourable working conditions, reasonable work hours, and other entitlements vital to their labour.

Trade Union law, as provided in the Trade Union Act of 1926ⁱⁱ, is that it encompasses the legal framework governing the formation, registration, rights, and functioning of trade unions. These laws aim to regulate the relationship between workers and employers, protect the rights of workers to organize and collectively bargain, and ensure fair labour practices within the workplace, it also addresses issues such as the recognition of trade unions by employers, the negotiation and enforcement of collective agreements, and the resolution of disputes between labour and management. Overall, trade union law seeks to promote industrial harmony, protect the interests of workers, and facilitate collective action for the betterment of working conditions and terms of employment.

Interplay of Trade Union Law with Tort, Contract, and Constitutional Law:

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The development of industrial relations in India was greatly influenced by the establishment of labour laws, which aimed to create fair and equal opportunity for all individuals. With the establishment of the International Labour Organization (ILO) in 1919 which aimed at promoting freedom, equity, security and justice worldwide for all classes of workers, further emphasized the need for well-crafted labour legislation within the nation. These initiatives not only led the foundation stone for the enactment of labour laws but also influenced the draftsmen of the Constitution to insert provisions beneficial to labourersⁱⁱⁱ.

Constitution of India and Trade Union Law:

The Constitution of India guarantees the citizens of India a Right to Form Trade Unions and be a part of it. The right is covered under Article 19(1)(c)^{iv} of the Constitution of India. It guarantees to all its citizens the right "to form associations and unions or cooperative societies" Article 19, clause (4)^v grants the state the authority to enact laws that impose justifiable limitations on this entitlement in the quest for public order, morality, or the preservation of India's sovereignty and integrity. The right to form trade unions should not lead to the conclusion that trade unions have a guaranteed right to effective collective bargaining or to strike as a part of collective bargaining or otherwise.

Statutory bodies such as local boards and municipalities are not incorporated within the scope of the right to form associations or unions. Thus, actions taken against such bodies under relevant laws cannot be considered a violation of the right to form associations or unions.

In the case of *O.K.A. Nair v. Union of India*^{vi}, wherein the appellants were members of civil employee unions across Defence Establishments, their unions were deemed unlawful by the Commandant. They contested this decision, alleging a violation of Article 19(1)(c). However, the Supreme Court ruled that civil employees of defence establishments fall under the definition of "members of the armed forces" as per Article 33, thus refuting their entitlement to form trade unions. Additionally, it was emphasized that the right to form associations or unions does not inherently guarantee

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the attainment of any objective, implying that trade unions lack an assured right to effective bargaining.

In the same way, the other articles dealing with the interest of the workers or labourers are articles 42 and 43. The constitution guarantees fair and equitable working conditions for all workers and maternity benefits for women workers under Article 42. This article emphasizes the welfare of workers and the importance of humane working conditions. Similarly, Article 43 emphasizes the need for living wages, decent working conditions, and social security benefits for workers^{vii}. When considering the relationship between Article 42, Article 43, and trade union law, it's evident that trade union legislation plays a crucial role in realizing the principles outlined in these constitutional provisions.

Tort Law and Trade Union Law:

Section 18 of the Act protects members of trade unions from civil or tortious liabilities that may arise from actions taken in furtherance or anticipation of any trade dispute. However, this immunity only applies if the inducement is lawful and does not involve violence, threats, or any other unlawful activities. This protection extends to authorised officers or members of a registered trade union. It's important to note that these actions must be conducted using legal means that comply with state legislation. This immunity does not cover physical harm, verbal abuse, or other illegal tactics.

In the case of *P. Mukundan and Ors. v. Mohan Kandy Pavithran* (1991)^{viii}, the Kerala High Court ruled that a strike, in and of itself, does not constitute a legally actionable offence. Additionally, it was established that Section 18 of the relevant legislation protects the trade union, its officers, and its members from legal actions arising from workmen's strikes.

Torts are civil wrongs and can be addressed through civil court proceedings. However, Section 18(2) provides an exception to tort liability. This exemption applies when the actions of the parties contribute to a trade dispute. To qualify for immunity from tort liability, the actions must be linked to a trade dispute.

Contract Law and Trade Union Law:

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Contract law forms the foundation of individual employment relationships. When an individual enters into employment with an employer, they typically form an employment contract outlining terms and conditions of employment, such as wages, working hours, and benefits. Contract law administers the creation, clarification, and execution of these agreements. However, trade union law can influence the terms of these contracts indirectly through collective bargaining agreements negotiated between employers and trade unions.

Section 27 of the Indian Contract Act^{ix}, declares any agreement restraining trade as void. However, Section 19 of the Trade Unions Act, of 1926, provides an exception to this rule. According to this section, agreements among members of a registered trade union that restrain trade activities are not considered void or voidable. It's important to note that this provision applies exclusively to registered trade unions, as unregistered ones are subject to general contract law regulation.

Conclusion:

The evolution of trade union law and its interaction with tort, contract, and constitutional law reflects the dynamic nature of labour relations in society. From the onset of industrialization to the present day, trade unions have served as crucial defenders of workers' rights, advocating for fair treatment and equitable working conditions. Moreover, the interplay between trade union law and tort law highlights the accountability of unions in their actions. In contrast, contract law governs the complex nature of individual and collective agreements shaping labour relations. As trade unions continue to evolve, they remain essential in shaping a more just and equitable society for all workers.

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