Challenges and Opportunities in Democratization of Industrial Relations

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It is a widely shared management perspective that there is a progressive erosion of the managerial prerogative in so far as industrial relations is concerned. In this article, Jerome Joseph regards this phenomenon as the evolution of democratization of the workplace under the influence of the state, the judiciary, and the organized labour. The future course of industrial relations does not lie in managerial unilateralism but in appropriate attitudes conducive to constructive bilateralism.

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There is general agreement on the urgent need for the transformation of industrial relations in the Indian context in order to enable industry to respond effectively to an environment which is changing rapidly under the impact of internationalization, competition, and technological advancement. The consensus among managers is that a major feature of industrial relations as it has evolved in the Indian situation has been the progressive erosion of the managerial prerogative. And there is also a growing feeling among managers that the heightened demand being made on them for more effective and efficient decision making can be met only if the transformation of industrial relations is directed towards the restoration of the prerogative of managers to deploy labour according to the cut and thrust of business exigencies.

It will be my endeavour in this paper to demonstrate that the "erosion of the managerial prerogative" which managers are referring to is really the progressive unfolding of the process of democratization of industrial relations. And instead of lamenting about the loss of the right to manage, it is my view that it might be more appropriate for management to respond constructively to the emerging challenge and opportunity of the democratization of the workplace.

Managerial Perceptions

Since managerial dissatisfaction appears to be with the present dispensation, it might be useful to begin with a careful examination of the existing profile. Industrial relations in the current scenario is characterized by the following factors:

- The relationship is not built on structural consensus but on structural contradictions. The employer "owns" the organization and workers are propertyless wage labourers.
The right to control or manage the organization is vested with the employer-owner or his functionaries.

The relationship is characterized by a conflict of interest that flows from the alienation inherent in the wage labour system.

The relationship involves a continuous struggle to gain control over work structures and processes at the workplace.

Legislative enactments and executive orders of the state determine the positional rights of employers and employees.

The relationship is conditioned by judicial interventions and injunctions which itself is facilitated by the preference of both parties for litigation as a means for redressal of disputes.

Managerial verdict on the above profile of industrial relations is near unanimous — the right to manage has been eroded so much that managers have virtually no control over industrial relations. This is evident from some of the perceptions of managers, elicited through discussions, given below:

- Trade unions have taken over the management of the workplace. They are interested only in getting more for less and have no commitment to productivity.
- Trade union leadership has become a law unto itself.
- There has been a progressive erosion of the power of trade union leadership over the rank and file. Rank and file union members are intransigent and indisciplined. The strategy of top management getting into an equation with top trade union leadership to control the rank and file no longer works.
- Politically affiliated unionism brings extra organizational political interference. Political expediency, electoral politics, and the decline in value-based politics renders the task of management difficult.
- Interunion rivalry, irresponsible militancy, and rampant corruption accentuate the management problem.
- Labour legislations like the Trade Unions Act, 1926 and the Industrial Disputes Act, 1947, have retarded the development of bilateralism. Substantive laws like the Payment of Bonus Act and the Industrial Employment Standing Orders Act have hindered the development of a productive work culture.
- Disputes procedures have encouraged a litigative culture. They have eroded managerial control over the workplace. The judicial system is dilatory, expensive, and subject to the general deterioration in values. The judiciary is perceived to be prolabor. However, litigation as a trade union tactic is preferred to direct action by management.
- The state executive-bureaucrat combination has a stranglehold on decision making especially through powers conferred on them by procedural laws related to disputes.
- There is a constant threat of strikes, litigation, verbal abuse, and physical assault whereas the managerial right to hire or fire, commence or close down operations, lay off and lockout are kept on a tight leash.

The managerial perceptions enumerated above provide useful insights into the meanings managers assign to the erosion of their prerogative to manage workplace structures, tasks, and relations. The sources of the decline in the managerial prerogative have been identified as:

- Organizations of labour and their organized actions compounded by multiple unionism, political leadership, and political affiliation.
- Political organizations and their influence on workplace decisions through affiliated labour organizations.
- The judiciary and its power to review or revise managerial decisions.
- The legislative bodies with their powers to place limits on what managers can do and cannot do through statutory Acts.
- The executive-administrative arm of the state with its powers to issue guidelines, directives, and ordinances as well as to intervene through disputes procedures.

There is a general consensus among managers that this situation can be geared to productive efficiency only through the restoration of the right to manage. Hopes of such a restoration were raised when the Trade Unions and Industrial Disputes (Amendment) Bill 1988 was placed before the Rajya Sabha. Sifting through the plethora of provisions in the proposed amendment bill, I would summarize
the salient features as follows:

• The Bill gives primary importance to collective bargaining for resolving interest-related disputes.
• The Bill addresses itself to the vexatious question of union recognition as a bargaining agent. While employers have welcomed the check off method for determining the bargaining agent, unions have opposed it. Besides, the recognition of a few unions is bound to create the problem of managing non-recognized unions.
• There are further curbs on the right of unions to strike.
• Litigation is bound to escalate because the scope of the definition of industrial dispute has been widened. The provision for the direct access of workmen to adjudication proceedings is likely to intensify the culture of litigation.

Managers have received the proposed amendments with scant enthusiasm because the general feeling is that the pattern implied in the proposed amendments does not deviate substantially from the existing pattern. It has certainly not met the aspirations of managers whose major concern as pointed out earlier has been to arrest the erosion of the managerial prerogative. The vital question to my mind is: Have managers defined the problem right in being concerned over the erosion of the right to manage? Is the hope of a restoration of the managerial prerogative realistic in the present day context? Have managers read the signs of the times right?

It seems to me that to answer some of the above questions, one has to examine the phenomenon of the erosion of the managerial prerogative a little more carefully.

**Stages in the Erosion of the Managerial Prerogative**

Responses from managers during my discussions with them have helped in piecing together five stages in the erosion of the managerial prerogative:

Stage 1: The first stage was that of unquestioned unilateralism in which management had a clear field over both the substantive as well as the procedural aspects of industrial relations.

Stage 2: The second stage was that of eroding unilateralism due to state regulation, judicial intervention as well as the organized action of labour. Management's dual response was that of autocratic and/or feudal paternalistic unilateralism. Autocratic unilateralism used a complex of strategies and tactics to prevent, divide or break organized labour. Feudal-paternalistic unilateralism used positive as well as negative instruments to incorporate organized labour through a strategy of placation and domestication.

Stage 3: The third stage was that of grudging bilateralism as a result of the pressures from organized labour on policy making bodies and management. The policy in this stage was to develop an equation with an amenable union or group of unions on day to day issues. On long term issues, all significant unions were involved within the framework of limited collective bargaining.

Stage 4: The fourth stage was that of militant bilateralism in which managements tried to regain lost ground by matching union charters with their own charters for increasing productivity, enhancing efficiency, upgrading technology, and reducing employee costs. Militant managerialism has been made possible by the indiscriminate exercise of managerial rights such as the right to retrench, right to lockout, right to close down operations, and rights related to disciplinary and disputes procedures.

Stage 5: The fifth stage, a continuation of the four stages mentioned above, is that of pluralist bilateralism which is the underlying logic of the proposed amendments. In this stage, management and labour are being encouraged to adopt collective bargaining to settle differences. Collective bargaining in pluralist bilateralism is confined to interest issues such as wages and allowances. Rights issues are handled under disputes procedures like conciliation and adjudication.

The task of management (cost minimization, man-machine productivity, maximization of return on investment) has remained constant through the process of evolution but the power to fulfil the task is no longer concentrated in management. The arms of the state (the legislature, the executive, the judiciary), people's representatives (political parties, social action groups), and organized labour have asserted themselves ending the unquestioned unilateralism of the early days.

**What Managers Want**

Little wonder then that in the managerial scheme of
things, the process of restructuring industrial relations is linked inextricably with the restoration of the prerogative to manage — a prerogative which has been constrained considerably as a result of the statutory and non-statutory interactions with the other actors in the interplay of industrial relations at the point of the workplace. We have had a glimpse of what managers mean when they talk about the evolution of the erosion of the managerial prerogative. What then are they implying when they ask for a restoration of the right to manage? The salient features of what managers want are given below:

- Those who own and/or control capital have the right to control work organizations, tasks, and relations.
- The freedom to plan for manpower requirements, to recruit, and to select without any internal or external influence.
- The restoration of the freedom to take decisions on the internal mobility of the workforce and also to reduce the manpower levels through layoff and retrenchment in tune with business requirements.
- The freedom to change norms and standards related to organizational structures, tasks, and relations in accordance with intraorganizational as well as environmental opportunities.
- The freedom to weed out those who do not conform to organizational norms and standards without any interference from internal or external agencies.

Democratization of the Workplace

The restoration of the managerial prerogative does not stop with the restoration of some of the managerial freedoms but also extends to the suggestion that certain privileges and powers of the other actors in the arena of industrial relations should be curbed. Discussions with managers suggest that the following workers' rights contributive to the erosion of the right to manage have to be addressed along the following lines:

- Trade unions are viewed as major constraints in effective decision making. Although multiple unionism and interunion rivalry are admittedly to the manager's advantage, yet there is a feeling that an appropriate method of union recognition would introduce some measure of order in the current scenario.
- The right to strike should be curbed or even banned altogether. Strict penal provisions could deter workers from strike involvement.
- Judicial intervention in disciplinary decisions needs to be curtailed. Managerial decision making in disciplinary matters needs to be strengthened in order to introduce a semblance of work discipline in organizations.
- State and judicial interventions through conciliation and adjudication proceedings contribute to substantial erosion of the right to manage. It would be advisable if the state agencies and the judiciary adopt a non-interventionist policy in order to enable managers to deal effectively with the emerging pressures to increase the productive efficiency of organizations.

Managers are entirely right in being concerned about the reality of the erosion of the managerial prerogative from the era of unquestioned unilateralism to that of the impending pluralist bilateralism. But what has been viewed as an erosion of the right to manage can be interpreted entirely differently — from a holistic perspective what has been happening can be interpreted as a process of democratization of the workplace decision making processes. The main actors in this process are the very actors who are viewed by managers to be responsible for the erosion of their prerogative—the agencies of the state, the judiciary as well as the organizations of labour. State regulation, judicial pronouncements, and the growing strength of the working class together have ushered in a slow but sure process of democratization of the workplace. The yearning for the restoration of the era of managerial unilateralism is really a call for the reversal of the democratization process.

Towards Constructive and Principled Bilateralism

The challenge and the opportunity for industrial relations managers today, therefore, lies in responding constructively to the emerging trend of democratization. Such a response is necessitated in organizations for the following reasons:

- It is a logical sequel to the process of democratization which is already in evidence in industrial relations as explained above.
• It is in the highest traditions of the dictates of democracy as enshrined in the Constitution of India. The roots are to be found in the Preamble, the fundamental rights, and the Directive Principles of State Policy. Article 43A, for instance, has committed Indian industry to democratizing decision making in organizations.

• The seeds of democratic bilateralism are to be found in the provisions of some laws which form the basis of industrial relations. The Works Committee, for instance, has been provided for in the Industrial Disputes Act (1947).

• Democratization of the workplace is a global trend. Both capitalist as well as socialist countries have begun serious experimentations with the process in order to empower the worker as well as to improve organizational performance in the context of technological advancement, stiffer competition, and internationalization.

• Radical changes have taken place in the profile of workers in the organized sector. Today's worker is more educated, technically more competent, and more conscious of his rights. The traditional stereotype of the rural, illiterate, unambitious, easily manipulatable, gullible, unquestioning worker no longer holds.

• Neither the feudal-paternalistic nor the activist-autocratic approach has any probability of success for very long. What is needed is a mutuality built on openness and a sense of community.

• Organizations have not paid sufficient importance to the development of a sense of community primarily due to:
  - concentration of ownership
  - hierarchical control systems
  - inequities in the distribution of value added through collective effort.

For too long individualism has been emphasized in organizations. Task and responsibility systems, performance appraisal, growth in the organization, rewards and punishments systems have been built around the individual to the detriment of the totality of the organization. Besides, the social dimension of performance has not received due weightage. Individualistic tendencies have driven a wedge between labour and management, supervisors and management, supervisors and labour, top management and middle management. Such tendencies have to be reversed for the sake of the health of the organizational totality.

It is my considered view that the need of the hour is to move towards constructive and principled bilateralism. Thus far bilateralism has been defined far too narrowly in terms of trade union recognition and collective bargaining. It is time to stop being pusillanimous and to strive towards widening the scope of bilateralism to encompass not only interest-related issues but also work-related issues.

The following institutional mechanisms covering labour-management relations, therefore, will have to be brought under the scope of what may be described as the movement for progressive, principled, democratic bilateralism:

- Grievance Redressal Committees
- Disciplinary Committees
- Collective Bargaining Councils
- Collegial Management Councils

I outline below the application of the principle of democratic bilateralism to the four institutional mechanisms listed above.

Grievance Redressal Committees. Two types of conflicts are possible in the labour-management context — conflict of interests and conflict of rights. Employee grievances are conflicts over rights, that is, conflict over the apparent or real denial of what has been enjoined upon the parties or agreed upon by the parties as a right. Common grievances in the Indian context relate to:

- compensation
- mobility in the organization
- health and safety
- equipment and machinery
- relationship with superiors
- relationship with peers and subordinates.

The main problem with grievance redressal is that the grievant has to go to the very constituents who are directly or indirectly responsible for the grievance. Quite understandably, therefore, unilateral grievance redressal authorities are perceived to be partisan. Hence, the need today is to set up credible grievance committees.

The credibility of grievance procedures could be facilitated through the application of the principle of democratic bilateralism which in operational
terms would mean that:

- The grievance committee should be bipartite with equal representation for labour and management.
- The employee representatives in the committee should be elected through secret ballot.
- The grievance committees should be constituted on a two-tier system — one at the grassroots level and the other at the apex level of the organization.
- The grassroots level committee should function at the departmental level and should meet every month to hear and clear grievances in a continuous manner.
- The apex level grievance committee should be a high-powered committee along the lines of the "Lok Adalats."
- The apex level committee should have only appellate jurisdiction. They should meet once every quarter and clear grievance appeals with great urgency, concern, and integrity.
- The spirit and functioning of these grievance committees should be far removed from the timebound, bureaucratic committees in operation today.

Disciplinary Committees. Organizational discipline has become increasingly a bone of contention between labour and management. This is mainly because the management of discipline has become embroiled in the politics of positional, procedures-dominated industrial relations. Both the parties have contributed to the erosion of the credibility of disciplinary proceedings. Unethical practices on the part of both management and labour have not only resulted in the decline of organizational discipline but have also made it near impossible to deal firmly even with proven indiscipline.

Management has been responsible for the erosion of its own credibility by using disciplinary powers to serve partisan interests. More than the lack of discipline, it is the lack of a code of disciplining ethics which leads to both intraorganizational as well as extraorganizational challenge to managerial decision making in the area.

Management of organizational discipline is rampant with corruption and lack of principle. Both parties are equally culpable. It is hoped that the application of the principle of democratic bilateralism will restore discipline its right place in organizations. It will also ensure that the substantive and procedural aspects of organizational discipline are built on a solid basis of firmness, fairness, mutuality, and humanity.

Bipartite Disciplinary Committees with duly elected worker representatives should be constituted. Such committees should not only be responsible for dealing with indiscipline but should also find ways and means to promote work discipline. Even in dealing with indiscipline, the emphasis should be on constructive reformation of the individual or group rather than on legalistic punitive action.

These committees should abide by a code of ethics. Based on my analysis of case law related to disciplinary proceedings, I feel that the following issues should be addressed by these committees:

- The real reason for disciplining the worker should be the same as the charges made against him.
- Disciplinary action should not be aimed at a worker because he is an active unionist or a conscientious dissenter.
- The charge against the worker should be clearly formulated and stated in writing.
- There should be substantial supporting evidence.
- The worker should be given a fair opportunity to explain his position.
- The enquiry by the committee should be independent and impartial.
- The worker should be allowed to cross-examine management witnesses and also produce his own.
- The evidence used should be brought up in the presence of the worker; it should not be produced without his knowledge or outside the enquiry proceedings.
- The worker should be provided with interpretation facilities if the language of his enquiry is not his own.
- The focus should be on bringing about a change of heart rather than on punitive action. If at all penal action is imposed it should not be out of proportion to the seriousness of the misconduct.

Collective Bargaining Councils. The institutional mechanism of collective bargaining is already in use for hammering out long term settlements between
management and labour. This forum has been used to address what can be termed as "interest" issues. Some of the major issues which have been brought under the scope of collective bargaining are:

- Grades and Scales of Pay
- Annual Bonus
- Various Types of Allowances
- Employee Welfare
- Social Security
- Service Conditions
- Rationalization
- Automation and Electronic Data Processing.

Even so, several worker rights are not adequately protected in practice. It would be important to ensure that the following five worker rights are protected:

- Right to form trade unions
- Right of unions to be recognized through secret ballot
- Right of recognized unions to represent workers on all forums
- Right of recognized unions to company in formation
- Right of unions to strike.

The policy on recognition of unions has led to practices that have not only compromised the principles but have also debased and debilitated industrial relations. Democratic bilateralism can help shift the focus from curbing unionism to developing principled and open relationships with representative unions. Such a culture can be created only if the process of determining the representative union is democratized through secret ballot.

**Collegial Management Councils.** Democratization of the workplace calls for democratization of the procedural aspects of industrial relations also. It has been suggested that the process of resolving disputes over rights can be democratized through bipartite grievance and disciplinary committees. The process of settling differences on interest issues can be democratized through the collective bargaining mechanism. There is a need for democratizing one other procedural aspect of industrial relations — the management of work-related issues. This brings us to the mechanism of what I would call 'collegial management councils.' The word 'collegial' is preferred to the word 'participative' because, it communicates the spirit of bilateralism more effectively. The word 'participative' has connotations of a certain paternalism which is the very antithesis of bilateralism.

The failure of most experiments with 'participative' management can be attributed to the powerlessness of such forums. What is needed is not just participation in decision making but collegiality in decision making. Collegial management councils should be empowered to take decisions at the level at which such councils are located.

Democratic bilateralism through collegial management councils would mean the following:

- The councils should function at the grassroots as well as the apex levels. The concrete expressions of these councils would depend on specific organizational structures.
- The composition of the councils should be characterized by equal representation for labour and management.
- Representation of labour on the councils should be determined by secret ballot conducted among employees given the level at which the councils are located.
- The councils should steer clear of interest issues and focus on the following work-related issues. A list of such issues in a hypothetical manufacturing organization is given below:

  - Decisions related to the workplace (Lighting, heating, ventilation, protective clothing, uniforms, housekeeping, plant design and layout, safety, work organization, work allocation, performance monitoring, quality control, waste reduction, new machinery, and changing work processes).
  - Decisions related to the Plant (Setting and achieving targets, manpower planning and manning, monitoring productivity, training and development, working conditions, housekeeping, maintenance schedules, use of contractors, pollution/environment problems, welfare and social security, amenities, social and cultural activities).
  - Decisions related to the Company (New business, new markets, location, mergers, closures, upgradation of technology, finance, action plans).
There is a great deal of interrelatedness between work-related issues and interest issues in practice. Hence, there is a great danger of jurisdictional confusion on the question of which issue should go to which forum. It would be useful to bear in mind that interest issues arising out of decision situations within the purview of collegial management councils should be promptly transferred to the collective bargaining council for negotiation and settlement.

Collegiality in managing organizations calls for a high commitment to openness. It follows therefore that labour representative’s right to authenticated information on organizational matters should be statutorily enforced in order to facilitate collegial decision making processes.

Some Implementation Issues
Several implementation problems may arise in the course of experimentation with democratic bilateralism. But one important issue which will have to be faced relates to the whole question of the determination of labour representatives on the committees and councils.

The application of the principle of democratic bilateralism to this issue could take the following lines. Three types of trade union scenarios are envisaged in providing for labour representation in the four institutional mechanisms:

**Scenario 1: No Union Situation**
Labour representatives to the four forums should be elected through secret ballot by the electoral college consisting of all employees of the organization.

**Scenario 2: Single Union Situation**
Labour representatives to the four forums will be elected through secret ballot from among members of the union and also by members of the union.

**Scenario 3: Multiple Union Situation**
Secret ballot should be conducted as a first step to determine the Chief Representative Union. Elections should be conducted to determine labour representatives on Grievance Redressal Committees, Disciplinary Committees, and Collegial Management Councils from among members and by the members of the Chief Representative Unions.

For determining labour representation on Collective Bargaining Councils, two types of multiple union situations are envisaged.

**Multiple Union Situation 1:** If there are 10 or less unions, all unions could be given representation.

**Multiple Union Situation 2:** If there are more than 10 unions, secret ballot which is conducted to determine the Chief Representative Union for the other three forums can also be used to determine 10 representative unions rank ordered on the basis of votes polled.

The task of conducting secret ballots could be the responsibility of the officers of the labour department. The period of office of all representatives on all the committees and councils should be not more than three years. Representation on all the committees should be confined to employees of the organization only.

The formula outlined above will not only democratize human resources decision making in organizations, but also trade union-member relationships. It will also transfer power to the rank and file workers and will arrest oligarchic tendencies in trade union organizations. Trade unions will also be able to develop grassroots leadership which is vital for the survival and growth of trade unionism in the country.

Democratic Bilateralism: Problems and Prospects
I have advocated the principle of democratic bilateralism for restructuring the procedural aspects of industrial relations as an alternative to the restoration of the managerial prerogative. Such a restructuring challenges certain set ways of thinking about what the profile of industrial relations should be like. This is, however, a challenge worth taking considering that the outcome of the process will far outweigh the problems encountered in the process.

One major outcome would be the humanization of the workplace where industrial man will be a subject and not a mere object in the process of transformation of production processes and of society. The humanization of the workplace through democratization has the potential for bringing about a dramatic change in managerial vision and perspective. Caught up in this process, the demand for the restoration of the managerial prerogative will yield gracefully to a fierce commitment to managerial democracy.

The realization will come that management is more than managerial writ, that the primary task of management is to empower the human community
within the confines of production structures and processes.

Yet another important outcome would be the protection and promotion of the democratic rights of labour. The future of Indian society and its progressive humanization hinges on the creative potential of the democratization of labour processes. But such a process will call for a sustained effort to upgrade the technical, behavioural, and managerial skills of labour in order to facilitate the process of democratization of the workplace.

The restructuring suggested above should not be taken to mean that the agencies of the state or the judiciary have no role to play. The government will have to first initiate a process of dialogue with trade unions, political parties, and employees with a view to bringing the four institutional mechanisms within a comprehensive industrial relations legislation. Subsequently, the agencies of the state and the judiciary should take on a nurturant role supportive of the institutional mechanisms and ensure that they function democratically.

The search for a response to the challenge and opportunity of industrial relations does not lie in yearning for the restoration of managerial unilaterality. The future lies in responding constructively to the dictates of democratic bilateralism under the watchful eye of the state and its agencies.