

MODULE 6



TRADE UNION

CENTRE FOR EDUCATION AND COMMUNICATION (CEC)

TRADE UNION

Centre for Education and Communication (CEC)

173 A, Khirki Village, Malviya Nagar

New Delhi 110017

T: 91 11 29541841 / 29541858

F: 91 11 29542464

E: cec@cec-india.org; W: www.cec-india.org

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Conceived and prepared by:

The Information and Feature Trust (TIFT)

Lakshmi (Kayyadam), Thondayad Calicut – 17.

Content Generation: Vivek Singh

Visual Presentation: Sandhya Visvanathan and Aniruddh Menon

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WHAT ARE THE PROBLEMS FACED IN EMPLOYMENT AT BRICK KILNS?

Do you have problems while working in brick kilns?

Can you tell us what these problems are?

Have you ever approached the employer/contractor in relation to your problems?

Even if you have, have they ever heard your concerns?

Have you approach your employer individually or have you ever tried approaching the employer in a group, collectively?

Most of the times workers are not able to approach the employers individually because of the power equation between them.

This is where a union helps.



WHAT IS A UNION?

A single worker is helpless in dealing with his/her employers... a union provides him/her with an opportunity to deal with the employers.

Unions set the standards for all the workers alike.

One for all and all for one.

TRADE UNION IS A COLLECTIVE OF WORKERS

Trade Union is an organized group of workers catering to the varied/socio-economic interests of its members.

It is based on membership.

Trade Union protects the interests of the workers through the use of the mechanism of collective bargaining.

Trade Union protects the rights of the workers who are its members and helps them receive legal and social protection as well.

It makes sure that the voice of workers reaches the right set of ears.



AM I DOING SOMETHING ILLEGAL BY JOINING OR FORMING A UNION OF WORKERS

All workers have a right to organize.

This is guaranteed by the Constitution of India under Article 19(1)(c) which provides for freedom to form associations and unions, which includes trade unions.

Therefore it is important to understand that voicing concerns about workplace safety, living conditions, wages and medical facilities is recognized by legal authorities.

Time and again the Supreme Court has recognized and upheld the right of workers to form or join a trade union.

The right to form a trade union and involvement in collective bargaining is legal under central and state legislations.

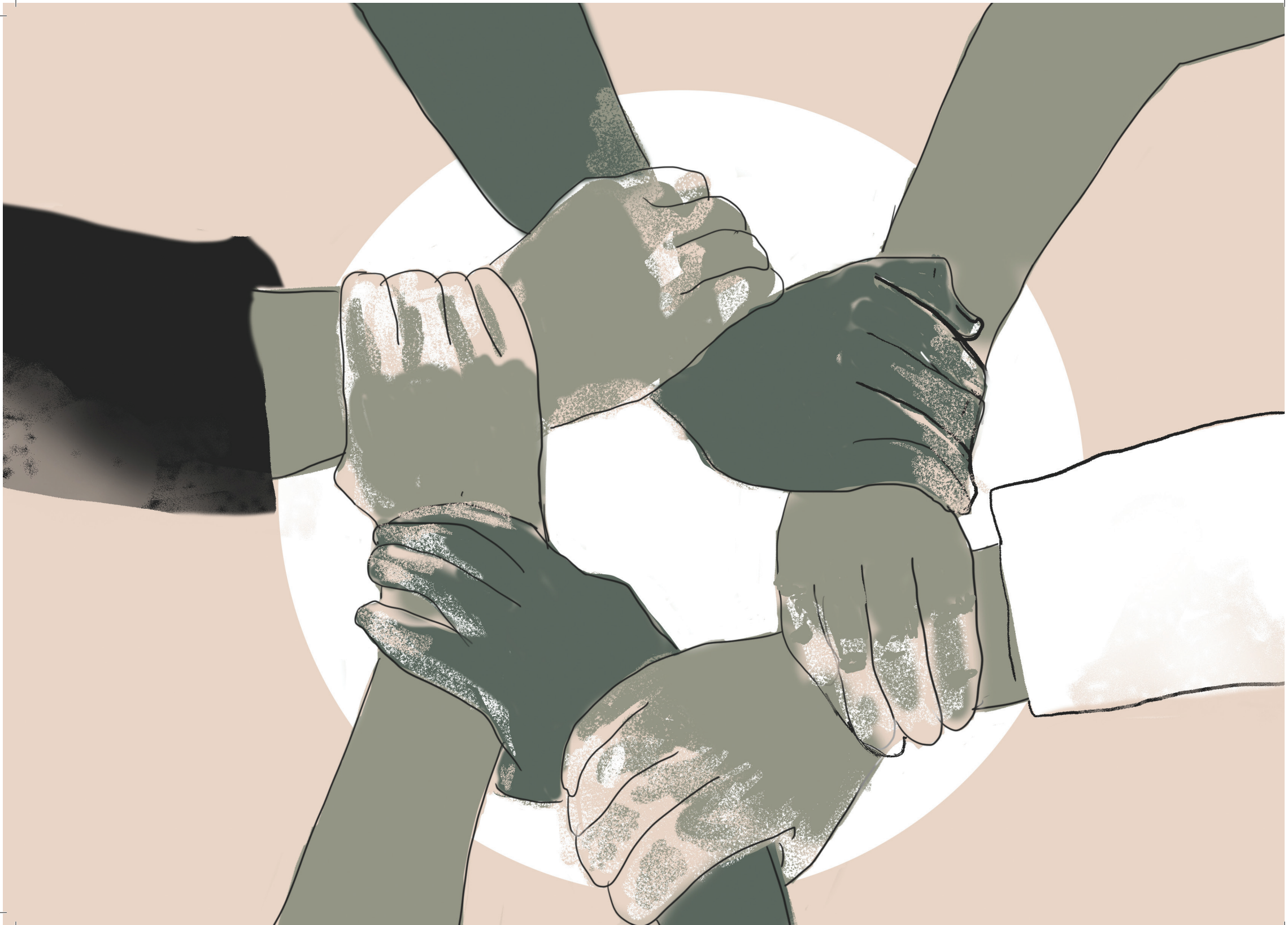
Added to this, right to live with human dignity is enshrined in the Constitution of

India as well as recognized by the Supreme Court in various cases.

The Trade Unions Act, 1926 provides for creation and registration of trade unions and according to the Act a Trade Union can be established.

The Trade Union Act provides for the registration of trade unions with the Registrar of Trade Unions in the concerned region but such registration is not compulsory.

It is important to note that employers cannot stop the formation of a trade union, as it is a fundamental right of the workers. They cannot prevent the registration of such a Union under the Trade Union Act as well. Restricting or interfering with a worker from joining a union amounts to unfair labour practice.



STRUCTURES OF TRADE UNION ORGANISATION

Basis of organization at the primary level can be where:

Workers may be organised on the basis of identity of 'crafts' or 'occupations' or 'clearly defined skills'. These are called the Craft Unions;
or

On the basis of employment in a particular industry or trade. These are known as Industrial Unions;
or

On the basis of employment under a common employer owning more than one establishment. These are called Common Employment Unions;
or

Membership may be open to all workers irrespective of the craft or industry in which they are employed. These are known as General Unions.

Organisation of Union at centre level:

Federation of Unions: The constituent elements may be united in a federation thereby retaining their independent status except for certain common purposes and ends. These are federal organization with affiliated unions. The federating body has powers and responsibilities only with regard to the matters of common concern. They are the largest federations representing labourers at the national level. These are known as Central Trade Union Organisations in India. There are currently 12 such organizations in the country.

Local/ firm-level/industry level trade unions: These are small trade unions which are generally affiliated to larger federations. These unions have specific concerns and are composed of members working in similar industries/occupation.



HOW TO FORM A UNION

The Trade Union Act provides for formation of a trade union which may be temporary or permanent. It may be formed for purpose of dealing with the relations between workers and employers, or between workers, or between employers, or between workers and government.

It is important to note that workers can either decide to join an already existing Trade Union or may decide to form a new Union.

Registration of a Trade Union requires that at least seven members subscribe to the union rules provided under section 6 of the Trade Union Act, 1926.

These rules contain the objectives and mandate of the Union.

In addition, at least 10% of the workforce or 100 workers, whichever is less, engaged or employed in the establishment, must be members of the trade union connected with such establishment at the time of application.

Registration of a trade union is subject to the Registrar's satisfaction that all primary requirements of the Act have been

complied with. The following steps are to be followed for registration of a trade union:

Application to be filed with the Registrar of Trade Unions in the concerned region shall be accompanied by a copy of the rules of the Trade Union and a statement of the following particulars namely-

1. The names, occupations and addresses of the members making the application;
2. The name of the trade union and the address of its head office, and
3. The titles, names, ages, addresses and occupations of the office-bearers of the trade union.

In order to form a strong union and a collective one should ensure that all the workers engaged in any work in the establishment where the union is being formed are involved, irrespective of their status or employment period.

All workers – pathers, jalaiwalas, bhairaiwalas, nikasis – men and women should be involved in the union.



POINTS TO NOTE

There are two important processes involved with regards to unions, i.e. of recognition and registration.

Recognition is the process through which the employer accepts a particular trade union as having a representative character and hence, will be willing to engage in discussions with the union with respect to the interests of the workers. It ensures smoothness in collective bargaining and maintaining of employer-employee relationship.

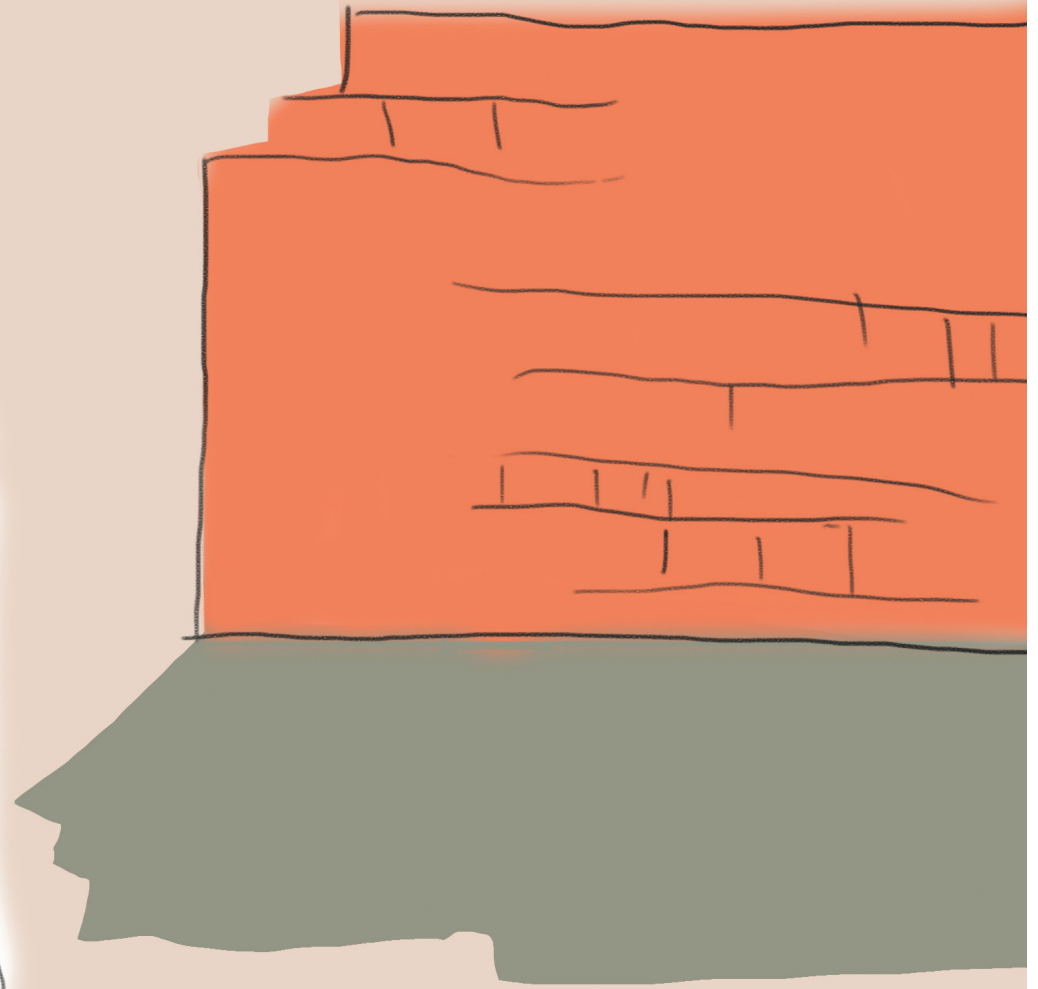
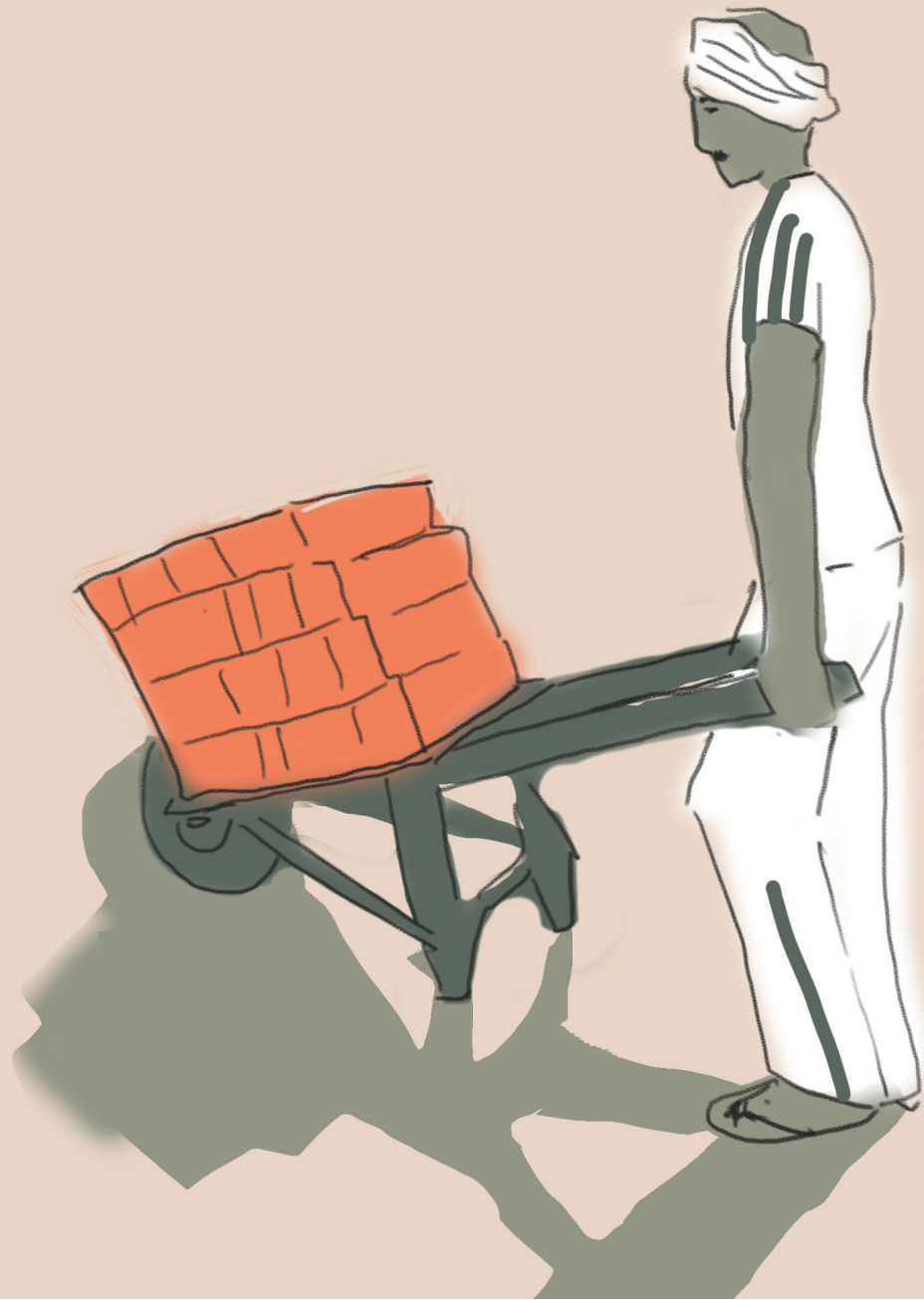
Registration of trade unions under the TU Act does not automatically imply that a particular trade union has gained recognition status granted by the employer.

The ideal situation is that a trade union must obtain legitimacy through registration under the TU Act and then seek recognition as a sole bargaining agent, either under the appropriate law or an employer-employee agreement.



RIGHTS AND BENEFITS AVAILABLE TO A REGISTERED TRADE UNION

1. A registered trade union is a separate legal entity.
2. A trade union can represent the employees in any industrial dispute and in case of individual dispute, with the written authorization of the employee. With such authorization, a trade union can represent before any conciliation officer, industrial tribunal, labour courts etc.
3. It can enter into agreements and contracts on its own name as well as open bank accounts in its name.
4. It can purchase and own movable and immovable property in its own name.
5. A trade union is a juristic person. It can sue, argue before any labour courts, authorities and other courts on behalf of itself, and on behalf of its members.
6. According to Section 24 of the Trade Unions Act, 1926, two or more registered trade unions may amalgamate as one trade union with or without dissolution or division of funds of such unions.
7. It can claim recognition from the employer.
8. It has the right to establish a general fund.



IMPORTANCE OF TRADE UNIONS

Ensures right of representation of the interests of the workers.

Provides information and suggestions with regards to the issues faced by the workers.

Ensures that workers are aware of their rights as well as social welfare schemes they are entitled to.

Provides training to the workers with regards to the occupation as well any sort of legal assistance.

Discusses and negotiates the terms and conditions of employment and working conditions for the workers.

Ensures issues like bonded labour, child labour and minimum wages is discussed with the owners as well as local authorities.

Enabling workers get access to entitlements– PF, gratuity, ESIC, workmen's compensation etc.



IMPORTANCE OF UNIONIZATION FOR BRICK KILN WORKERS

The majority of the workers employed in the brick kilns belong to the marginalized section of the society. Therefore there exists an inherited unequal power relation between the workers and the owners of the brick kilns.

This power struggle is further increased by the fact that most of the workers in brick kilns are migrant workers due to which they are less organized and easily controllable. These are some of the reasons why it is essential that there has to be some form of representation from the worker's end in order to put forth their grievances to the owners/contractors.

This is where an association or union plays an important role for the workers.

The Union protects the interest of the work-

ers as a collective and presents the demands of the workers to the owners/to the government.

As a consequence of formation of a union the workers are able to have a formal representation which provides them with a collective bargaining power to voice their concerns at the appropriate level.

Trade Unions have regular meetings and training sessions. The concerns of workers are discussed at these meetings and possible solutions are also provided.

Workers attending the meetings of the Union are better able to understand the issues faced by them and side by side are able to place their own problems in front of the Union.



IMPORTANCE OF UNIONIZATION FOR BRICK KILN WORKERS

Enhanced engagement with the trade union also helps workers in understanding about the kind of product they are making and what is it being used for.

It also helps:

- in getting information on your rights at work - labour laws and your legal rights and entitlements– PF, Gratuity, ESIC, workmen's compensation etc.
- In getting information on rights of women.
- In understanding the technological changes taking place in your industry and how to adapt to them.
- In getting information on other government schemes – PDS, Anganwadi, NCLP schools etc and how to access them.



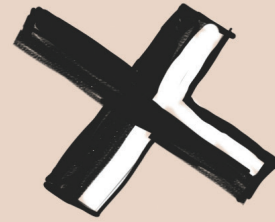
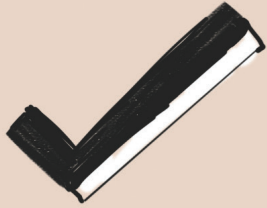
ENGAGING IN COLLECTIVE BARGAINING

Collective Bargaining is a technique used to resolve issues of conditions of employment through amicable agreement and not force. It is a process of discussion and negotiation between employers and union representing workers regarding conditions and terms of employment.

This is considered to be an effective mechanism as employers usually end up listening to demands made by the workers and working towards the issues of employment. The Supreme Court has very aptly defined collective bargaining as “the technique by which dispute as to conditions of employment is resolved amicably by agreement rather than coercion” It is process of negotiating terms and conditions of employment and work between the workers and the employers.

STAGES OF COLLECTIVE BARGAINING IN INDIA

1. Notice/Charter of demands- generally the trade union notifies the employer of the call for collective bargaining discussions. The notice contains issues related to working conditions, wages and safety mechanisms for workers, education of children etc.
2. Negotiations- After the submission of the notice of demands, the negotiations begin between the employer and the union. These negotiations are basically discussions and debates which happen between the two parties in relation to the demands made by the union.
3. Collective Bargaining Agreement- In order to legally capture the negotiating terms and discussions, it is generally seen that parties enter into bipartite agreement or memorandums.
4. Strike- If the negotiations don't end up positively for the union and the charter of demands is ignored by the management then the workers can protest in the form of a strike from work.



TAKING UP CASES OF BONDED LABOUR

Trade Union takes up cases of debt bondage in front of labour commissioner as well as employers in order to ensure that legally such workers are freed from this cycle of debt.

It also trains and educates the workers on the issues of debt bondage and steps which can be taken in order to avoid such debts.

ENSURING NO CHILD LABOUR

Trade Union assists in reporting cases of child labour to the labour commissioner as well as the local police.

Also, educates workers about the evils of child labour and how it should not be promoted.



POINTS TO NOTE

Contract labourers can form part of trade union. Supreme Court has stated that whether a labourer is a permanent worker or not he/shall be eligible to participate in union activities. Seasonal workers at brick kilns can also participate in union activities.

Trade Unions encourage womens' participation.

One of the major target areas of unions is of securing fair wages for the working and improving working conditions at workplace

Existing Central Trade Union Organisations in India

- All India Trade Union Congress (AITUC)
- Bharatiya Mazdoor Sangh (BMS)
- Centre of Indian Trade Unions (CITU)
- Hind Mazdoor Kisan Panchayat (HMKP)
- Hind Mazdoor Sabha (HMS)
- Indian Federation of Free Trade Unions (IFFTU)
- Indian National Trade Union Congress (INTUC)
- National Front of Indian Trade Unions (NFITU)
- National Labor Organization (NLO)
- Trade Unions Co-ordination Centre (TUCC)
- United Trade Union Congress (UTUC)
- United Trade Union Congress- Lenin Sarani (UTUC-LS)



COMPLAINT PROCEDURES

Complaints in relation to brick kiln workers can be addressed to the Labour Inspector of the respective jurisdiction who handles and resolves the disputes between the workers and the employers. They can be on specific issues like health and safety conditions of a unit, PF coverage, ESI Coverage etc

The Labour Inspector has the power to enter and investigate premises at all reasonable hours along with such personnel as he may deem fit. Request can be made to the labour inspectors/other concerned offices to make a visit.

Written complaint can be filed with the labour department. Case can be filed against the employer in case of any illegal activities by the employers.



DIVERSITY OF PARTICIPATION IN TRADE UNIONS

Women workers have the same right as their fellow men workers with regards to the forming of or joining a trade union. Women workers at the brick kilns need to become more than just passive members in the trade unions and play an important role in representing issues faced by them at trade union meetings.

Absence of representation of women in the trade unions is a significant reason why women problems at brick kilns are not raised in front of the employers.

Specific issues related to working women-like maternity benefits, equal wages, crèche and day care facilities, increasing casu-

alisation of women workers, have rarely figured, in the demands put up by trade unions before employers.

There are many factors which have contributed to the ineffective role played by women in trade union activity. They include: male dominated setup of the unions; lack of attention to the issues which are specific to women; the double role played by women at work and at home.

Male workers can involve themselves in trying to achieve such a status for the women workers by encouraging them to raise their voice in the trade union meetings.



CHALLENGES IN ORGANIZING WORKERS OF BRICK KILNS

A majority of the workers at brick kilns are migrant workers. After the end of the season of brick making they go back to their home villages. They may not come back again to the same kiln for work. Such a pattern goes against the whole idea of a union and its membership.

Lack of women leadership in the trade unions can prevent women from joining.
Lack of education and awareness creates problems for workers. They end up taking loans and being in debt, thus restarting the cycle of debt.

Lack of belief in the spirit of trade union causes workers to be hesitant in becoming a member.

POINTS TO REMEMBER

Trade Union is an organisation composed of labourers catering to the interests of its members.

Trade Unions protect the interests of the workers through the use of the mechanism of collective bargaining.

Workers can either decide to join an already existing Trade Union or may decide to form a new Union.

Formation of Trade Union requires that at least seven members subscribe to the union rules provided under section 6 of the Trade Union Act, 1926

The Constitution of India through Article 19(1)(c) provides for freedom to form associations and unions which includes trade unions.

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Collective Bargaining is a process of discussion and negotiation between employers and union representing workers regarding conditions and terms of employment.

Recognition is the process through which the employer accepts a particular trade union as having a representative character and hence, will be willing to engage in discussions with the union with respect to the interests of the workers.

Registration of a trade union provides it status of a legal entity and also provides protection.

Formation of a union allows the workers to have a formal representation which provides them with a collective bargaining power to voice their concerns at the appropriate level

Trade Union helps in discussing and negotiating the terms and conditions of employment and working conditions for the workers.

Discussions and training sessions conducted by the Union helps workers in understanding the general concerns of all the workers at brick kilns.

It also helps in freeing workers from debt bondage as well as ensuring child labour practice is abolished at kilns..

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