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No. 1(24)/68-NCL(C)
Government of India
National Commission on Labour
D-27, South Extension, Part II
New Delhi



Dated the 15th November, 1968.

To

The Chairman and Members of the
National Commission on Labour.

Subject:- Meeting of the National Commission on Labour
with Central Organisations of Employers and
Workers at Bombay from 9th to 11th September, 1968
- Record of discussions.

Sir,

I am directed to forward a copy of the Record
of discussions which the Commission had with Central
Organisations of Workers and Employers and some other
Organisations at Bombay from 9th to 11th September, 1968,
as approved by the Chairman.

Yours faithfully,

(P.D. Gaiha)
Deputy Secretary

NATIONAL COMMISSION ON CENTRAL LABOUR
INFORMATION DOCUMENTATION
V.V. GIRI N.L.I.
NOIDA

ACC. No. L-117
DATE

25-1-68

NATIONAL COMMISSION ON LABOUR

(CAMP : BOMBAY)

Date: 9.9.1968.

Time: 2.30 P.M. to 4.30 P.M.

Record of discussions with the All India Manufacturers' Organisation, represented by:- (NCL. Ref. No. MR-V.74)

1. Mr. Y.A. Fazalbhoy
2. Mr. Ram Agrawal
3. ~~Mr. B.D. Sorani~~
4. Mr. H.P. Merchant
5. Mr. Hemant Kumar Vaidya
6. Mr. P.L. Badami
7. Mr. G.L. Kothari
8. Mr. K.S. James

The programmes for training in labour matters organised from time to time by the AIMO has been found useful. Persons selected for training are executives at different levels in different industries.

2. The word 'anarchy' has been used (p.7) only to emphasise that 'gheraos' and other coercive and agitational methods usually lead to anarchical conditions.

3. The organisation's view is that politics should be kept out of the regular functioning of the undertakings. AIMO does not suggest that trade union leaders should have nothing at all to do with politics.

4. The differential between the industrial and agricultural wages should not be allowed to increase further. There is a constant migration of workers from agriculture to industry and vice versa, in certain areas. In such cases, a wide gap between the wages in industry and agriculture is likely to be felt keenly by the workers. The AIMO will consider the matter further and send a note on "Disparity between industrial and agricultural wages".

5. Labour laws should be simplified and codified as far as possible. The AIMO favours the adoption of a common labour code. Changes in the labour laws should not be frequent.

6. The law relating to trade unions needs to be revised in certain important directions to discourage multiplicity of unions. Two important changes should be:

- (a) Registration of unions should be allowed only to unions which have a membership of 100 or 10 per cent of the employees of the undertaking whichever is more.
- (b) Recognition should be given only to the majority union and no rights should be given to minority unions.

7. An employer should not be compelled to recognise a union. Where relations are not good compulsory recognition will serve no purpose.

8. Collective bargaining should be encouraged. Collective bargaining can function successfully only when the relations between the management and the employees are cordial.

9. A collective bargaining cannot be enforced by law. The same applies to union recognition also.

10. The AIMO has an open mind on the basis of recognition of the majority union. The present system has worked well but there can be no serious objection if secret ballot were to be adopted as a basis for recognition. Secret ballot, however, may create complications and vitiate the atmosphere. A fair method of verification holds more promise. It would be better if the verification is entrusted to an independent authority.

11. For recognition, a representative union for an industry should have a membership of at least 25 per cent as under the BIR Act. In the case of individual units the union should have at least 50 per cent membership to get recognition.

12. There should also be a common pattern of labour judiciary; the judges should be appointed by the High Court.

13. LAT (Labour Appellate Tribunal) should be revived. At present, the High Courts are loaded with too much work and cases got unduly delayed.

14. Expeditious disposal of disputes is needed and in so far as this is achieved, the AIMO has no objection whether the appellate authority should be in the form of a special Bench of the High Court or the LAT. LAT would, however, help to settle the law and lay down healthy conventions. A separate Bench in each High Court would make uniformity in decisions difficult.

15. Collective bargaining should be encouraged even if it means occasional strife and strikes. The tendency for the parties to look to a third person for settling disputes should be discouraged. The AIMO would prefer the elimination of third party intervention altogether.

16. Collective bargaining should be unit-wise. It can be tried on a selective basis in certain industries/units to start with.

17. The AIMO prefers collective bargaining with a built-in provision for voluntary arbitration i.e. collective agreements should have a provision for reference of disputed issues to a mutually agreed arbitrator.

18. When the parties do not agree to arbitration, the matter could go to a Court or adjudication if the two parties jointly so desire, instead of a reference to arbitration, or where the Government deems it in public interest to refer the matter to a Court or adjudication machinery.

19. The present policies in regard to disciplinary procedures have damaged discipline and affected productivity.

20. The alternative procedure under which the employer frames a charge and the matter goes to an arbitrator whose decision is binding, was not considered satisfactory because it imposes a permanent restraint on the management's right to take independent disciplinary action. The AIMO will, however, consider this alternative and give its views shortly.
21. Conciliation machinery has not been successful for various reasons. It is a Government machinery; on occasions conciliation officers are not generally qualified; often they are more anxious to settle a dispute somehow. The AIMO feels that the conciliation machinery needs to be strengthened qualitatively and quantitatively.
22. If adjudication remains, where conciliation fails, Government should have the discretion to refer the dispute to adjudication. The parties to a dispute should not be given the privilege of taking an issue unilaterally to a tribunal direct otherwise tribunals are likely to be flooded with frivolous complaints.
23. National minimum wage is not practicable in view of the vastness of the country and the diverse conditions that exist between different regions and different industries.
24. Agricultural labour is unorganised. It is essentially seasonal; wages that the labour gets vary from season to season depending on the demand for labour. In such a situation, the fixation of minimum wages will not help. In such a situation provision of continuous employment is more important.
25. Need based minimum wage is necessary but not immediately. When a wage is fixed on the basis of needs, it should also be related to efficiency and productivity. Both these aspects should be connected closely.
26. The minimum wage as per the Minimum Wages Act need not be linked with productivity; but the need based minimum should be; it should be fixed at a level which is also sustained and justified by increased efficiency and productivity. Where the test of productivity cannot be applied, if the target of 100% efficiency is reached today, they would pay the need based minimum immediately.
27. If productivity increases, the capacity to pay also increases and the industry will be able to pay the need based minimum wage.
28. If the present system of Dearness Allowance is continued, 100% neutralisation should be allowed only where a minimum subsistence wage is given as per Minimum Wages Act.
29. The compilation of the cost of living indices needs improvement in certain directions.
30. The present labour unrest can be mainly attributed to the absence of a clear-cut definition and appreciation of the objectives of Government management and workers and the consequent lack of common purpose in their endeavour. The erosion of the workers' real wages is both a cause and a consequence of the labour unrest.

31. Politicians exploit the situation but they succeed mainly where the labour-management relations are already unsatisfactory. Where the labour-management relations are good, chances of political exploitation are minimised.

32. Government should create an atmosphere wherein employees and employers will come together and have collective bargaining. Government should give a lead in the matter. It is true that there is something lacking on the management side also.

33. Government has a positive role to play in bringing about improvement in the present situation. Ours being a planned economy, the State has to play a positive role. The general atmosphere of lawlessness and the success of agitational methods in the political and social spheres appears to have helped generate unrest among labour also.

34. Labour Department has issued a circular regarding employment of local labour for all unskilled-jobs in an industry. This is a matter which should be left to the good sense of the employer and there should be no compulsion whatsoever. While it is necessary that local labour should be given an opportunity to the maximum possible extent, it has also to be kept in mind that this is not always possible. For certain types of jobs such as jobs in the construction industry, in hospitals and some public utilities, local labour may not be suitable and it may be necessary to employ outside labour.

35. Another factor which has got to be considered in this regard is the close links that local unskilled labour will continue to have with agriculture, which, in turn, would lead to seasonal absenteeism, turnover, etc.

36. 'Go Slow' should be discouraged. The tendency of carrying on subversive activities and sabotage should be corrected. 'Go-Slow' should not be treated as strike. It is more serious and damaging than a strike and should be banned.

37. AIMO will supply a note on "Discipline and Workers' right to justice."

National Commission on Labour

(CAMP : BOMBAY)

Date: 9.9.1968

Time: 4.30 P.M. to 5.30 P.M.

Record of discussion with Indian Cotton Mills Federation, represented by:- NCL.Ref.No.MR.-V-40

1. Mr. Madanmohan Mangaldas,
Chairman, Indian Cotton Mills Federation.
2. Mr. M.K. Mohata, M.P.,
Chairman, Delhi Punjab Textile Mills, Asson.
3. Mr. Bhaskar G. Kakatkar,
Secretary General,
Indian Cotton Mills Federation.
4. Mr. R.L.N. Vijayanagar,
Secretary, Millowners' Association, Bombay
5. Mr. H.G. Acharya,
Secretary, Millowners' Association, Ahmedabad.
6. Mr. S. Bhattacharya,
Secretary, Millowners' Association, Calcutta.
7. Mr. M.K. Agarwal.

There was an expression of concern about variations in labour laws in different parts of the country. It was considered desirable to have a common labour code; and as a corollary to it a common pattern of labour judiciary. The Judges should be appointed by the Chief Justice of the local High Court.

2. Where B.I.R. Act (or other similar State legislation) was working satisfactorily, the LAT should not be revived. In case an appellate authority was needed LAT could be preferred to the constitution of a labour bench at the Supreme Court or High Court like the one for income-tax. During the life of the L.A.T. there was uniformity in judgements delivered by industrial tribunals. If a labour bench is constituted at the High Court, there will be multiplicity of decisions from different parts of the country. This may not happen if LAT was revived. Ultimately, coordination will be done by the Supreme Court.

3. Problems of indiscipline are created by re-instatement of dismissed employees. Discipline will be a casualty if the Bill passed by the Rajya Sabha is finally enacted. The suggestion regarding the constitution of a panel of arbitrators to decide cases of indiscipline at the unit level had some merit. This will no doubt curtail delays.

4. The most important problem facing cotton textile industry at the moment is the cost of labour which is going up day by day machinery is also becoming expensive. D.A. is mounting up. Neutralisation is of the order of 90 to 100 per cent but this rate is confined to the

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employees drawing the minimum. In individual cases it may be more than cent per cent. When D.A. was fixed in the forties workers did not enjoy fringe benefits. Some components of wages are today taken into account by fringe benefits which include subsidised rates of food in canteens, foodgrains distributed through fair price shops, health benefits and other facilities.

5. The off-take from fair price shops is satisfactory. As many as 47 per cent of employees in Bombay Cotton Mills take their provisions from these shops. Secondly D.A. neutralised only a part of price rise. It did neutralise the effect of indirect taxes but such taxes accounted for 200 crores then but now they amount to Rs.2500 crores. This means that units which are paying D.A. linked to C.P.I., numbers (which are worked out after adding the indirect tax element to prices) are sharing a part of this increased burden.

6. In 1963 labour cost was 24 per cent of the cost of cloth. Today it is 28 per cent. Thus cost of labour has gone up. The price of cloth is not going up in the same proportion as the cost of living. There is difference in the D.A. rates prevailing in Calcutta on the one hand and Bombay and Ahmedabad on the other hand. D.A. depends on basic wages which prevailed before the Second World War. At that time the cost of living in Bengal was low. Prices of foodgrains were low. Fish could be had at 6 annas a seer and rice for Rs.2 a maund. The percentage of neutralisation in Bengal is 96 per cent today. The rate of D.A. in Bengal is Rs.105 against Rs.160 to 165 in Bombay and Ahmedabad. The low rate is due to low basic wage.

7. In 1963 wholesale price index stood at 125.3 as against cloth which was 139.9. In May 1966 wholesale price index rose to 205 as against cloth which rose only to 154. In terms of price rise and cost, cloth ~~which rose only to 154.~~ ~~In terms of price rise and cost, cloth~~ has fallen far behind. Therefore, mills are closing. To this is added the fact that about a quarter of the total cloth production is controlled.

8. For the purpose of determination of representative character of a union the existing verification method was preferred to election by secret ballot. Election by secret ballot may bring into play temporary sentiments. These may determine the results of ballot. During the agitation for a separate Maharashtra State a mushroom union came into existence and it claimed 65 per cent membership. It took the verification machinery some time to verify its claim, and by that time the union had disappeared. Besides a non-recognised union may call a strike. On such occasions ballot will play an important role and make stable industrial relations difficult.

9. Verification may be done by an independent agency.

10. A feature of cotton textile industry is that mills close down because they make losses. Mills cannot afford to pay high wages because there is just no money for the purpose. At the same time, sick mills are increasing rapidly. Mills are not allowed to close down. One solution to this difficulty is

that a mill should be allowed to be scrapped if it works uneconomically over a period. It is no longer the question of a mill run by a good management or one indifferently run. Today the whole industry is affected.

11. Time is not far off when man-made fibres will be welcomed; manufacture of such fibres will become a part of the textile industry.

12. The problem of rationalisation varies from centre to centre, plant to plant. Some union leaders appreciate rationalisation as the only means to reduce cost of labour per industrial unit. But rationalisation is expensive, and there is at present no wherewithal with industry for it. There are many unions in which workers have expressed 'no objection' to rationalisation, but the cost of introducing it is prohibitive. For instance, for seeking separation one worker costs as much as rupees five thousand, and no unit can afford this at the moment. In Bombay/Ahmedabad it is possible to introduce further rationalisation but it is not effected because of its financial implications. In West Bengal, there is a stiff opposition to rationalisation, though there are some mills where it has been introduced.

13. Cotton textile started as a labour-intensive industry; now it requires capital intensively. The change over is becoming difficult because in India there is more labour per unit than in England or Japan. There is also the problem of capital for modernising plants and introducing rationalisation. A note on this will be sent to the Commission.

14. Some mills in Gujarat are getting loans from provident funds. It should be examined if such a scheme should be extended elsewhere.

15. The controversy regarding powerloom versus handlooms is an old and complex one. Everyone recognises that there is an imbalance between powerloom and handloom. The last Budget imposed excise duty on yarn. On representation by the industry, it was revised. By a process of trial and error, it should be possible to evolve a solution to this problem.

16. There are too many holidays in Bengal. In Bombay, the number of working days is 306 to 308 per year, while in Bengal working days never exceed 300. The industry at Ahmedabad is paying full pay for five to six extra holidays which cannot be substituted. There is a case for introducing uniformity in the number of working days for the entire country. Though the Factory Act provides for a minimum number of holidays, tribunal awards have given different holidays for different centres.

17. Employers are facing some peculiar difficulties. They have to pay lay off compensation under circumstances which are not of their making. For instance, there is failure of power, there was shortage of cotton some time ago. Workers also suffer in the process because they get only 50 per cent of their wages, but employers suffer much more because they have to pay when their industry is idle.

NATIONAL COMMISSION ON LABOUR

(CAMP : BOMBAY)

Date: 10th September, 1968.

Time: 10.00 A.M. to 10.45 A.M.

Record of discussions with the Indian National Textile Workers' Federation, Ahmedabad, represented by:-

1. Mr. N.S. Deshpande (N.C.L.Ref.No.GR-VI-194)
2. Mr. A.N. Buch
3. Mr. N.M. Barot
4. Mr. A.T. Bhonsale
5. Mr. S.N. Undalkar
6. Mr. V.B. Arolkar
7. Mr. M.P. Thorat
8. Miss.E.D'Souza
9. Mr. P.N. Inamdar

The Federation does not support the recommendation made by the Study Group that Factories Act should be suitably amended, in regard to working hours, shifts, etc. so as to enable more women workers to be employed.

2. Women's employment which was even earlier confined to certain departments like reeling and winding, has been dwindling for some time. This is because of modernisation, but not due to prohibition of night shifts for women workers under Factories Act. While efforts should be made to facilitate the employment of more women, the Federation does not recommend any reduction in their wages or introduction of night work for them.

3. Need-based minimum should be achieved through a phased programme. The gap between the present wage and the need-based wage, which is the objective to be achieved, has to be filled in by stages. It cannot be done at once because the industry position as well as the state of the national economy have to be taken into account.

4. The minimum wage should be increased from year to year so that in five years the need-based minimum wage is achieved. This is preferable to the present periodical revision of wages. It is important that this increase in the need-based minimum wage and the programme of achieving it are related closely to the improvements in the national economy as also to productivity of the industry.

5. There should be a close connection between the need-based minimum wage and productivity; even now wages of more than 65 per cent of workers in the textile industry are related to productivity.

6. In recent years, workers' earnings in the industry have increased side-by-side with increase in productivity.

7. The Federation has a constructive policy in regard to rationalisation, modernisation and increase in productivity. Its advocacy of a need-based minimum wage is not divorced from considerations of general economic growth, etc.

8. Several Committees have gone into the question of closures of textile mills from time to time and have made

useful recommendations; but these have largely remained un-implementd. Government should implement these recommendations, without any further delay. The Joshi Committee had recommended modernisation and replacement of equipment and setting up of a Corporation.

9. Private sector is not coming forward to invest money in the textile industry; so also the cooperative sector. It is, therefore, essential that the State has to step in and fill this gap.

10. A fall in textile production will lead to rise in prices and will have an adverse effect on the economy of the country as a whole.

11. Non-profitability of textile mills though emphasised by employers on many occasions, is not always proved. Often, the mills which show losses turn out to be profitable concerns with change in the management. This means that bad management is often the cause of losses and closures. In one case, two sick mills were taken over by a good management and these yielded a profit of 6 lacs during last two years. In Bombay mills have ploughed back their profits into moder-nising their plants and made further profits.

12. Modernisation of the textile industry is an immediate need. This requires considerable financial help which should come mainly from the Government. Government's aid can take the form of a rebate in the excise duties paid by the cotton mills with the stipulation that the money should be used for modernisation.

13. Rationalisation of the industry should not mean increase in work-load or unemployment for the workers. "No rationalisation without socialisation" is merely a political thesis. In North and Eastern India, textile industry is not in a dominant position and trade union movement is weak. This has affected the conditions of workers rather badly.

14. The gains of rationalisation should be shared between the employer, labour and the community. In fairness, labour should get 40 percent while 60 percent may go to all other parties.

15. Rationalisation often means different and difficult working conditions involving changes in the work pattern and needing adjustments and sometime even re-training on the part of workers. There may be, apparently, less physical effort, but mental strains may be more.

16. At present gratuity is paid only on basic pay. It should be computed in terms of total pay; i.e., including pay, dearness allowance and other components of the workers' earnings. 60% of D.A. is merged with basic pay; but at present, this merger is only on paper. The computation of gratuity on this basis will not entail any great financial burden on the industry.

17. Direct recruitment should be at the lowest grade only. Seniority-cum-merit in each section should be the basis for promotion. There should be injection of new blood in industry at every level but merely for this purpose chances of promotion to workers of proved merit should not be denied. Though the textile industry is 100 years old, there is no provision for training of workers at any level.

18. In some textile units in some areas of the country, (and which are outside the purview of the B.I.R. Act or similar legislation), items of regular and routine work are given on contract. Work is done in the same compound and the workers are paid low wages. This type of exploitation should be eliminated. Where the B.I.R. Act is in force, contract and non-contract labour are treated on a par. The magnitude of contract labour is not appreciable in this area.

19. Closure of units is a pressing problem. It is also an explosive problem and care should be taken to see that the workers' interests are protected and they are not forced to resort to agitational methods.

20. In several cases of closures, workers have not got any payments, even those which are due under Labour Laws. It is only when a section or a department of a mill is closed that the employer pays the compensation. In cases of total closure, however, the employer often prefers to go to Court and keep payments pending. This puts the workers to great hardship.

21. All cases of closure should be carefully gone into by a Technical Expert Committee. Closures should be effected only on the recommendation of such a Committee. Even in such cases, workers affected by the closure should be guaranteed alternative employment. There should be an organised effort by Government, employer and employees themselves to find such employment. Payment of salaries for 2 or 3 months in advance to retrenched employees will not do.

22. A special pool of employees thus retrenched may be created. They should be given priority in employment even over the normal substitute workers.

23. If the employer and the representative union come to an agreement on rationalisation and the consequential arrangements, it should be implemented.

24. Provisions in the B.I.R. Act regarding recognition of representative union, have helped to promote and maintain a healthy growth in industrial relations. This should be extended elsewhere.

25. Trade Unions have a constructive role to play. They should not thrive only on strikes.

26. (The organisation requested the Commission to visit a few centres to see the working of verification procedure and assess its effectiveness).

NATIONAL COMMISSION ON LABOUR

(Camp : Bombay)

Date : 10th September, 1968

Time: 10.45 A.M. to 11.30 A.M.

Record of discussions with the Indian National Cement Workers' Federation, Bombay, represented by:-

1. Mr. H.N. Trivedi . (NCL. Ref. No. MR-VI.111)
2. Mr. C.L. Dudhia
3. Mr. D.M. Tulpule
4. Mr. V.H. Joshi
5. Mr. A Lokhande
6. Mr. R.P. Mishra

2. Five-day week is the objective to be aimed at though it is apparently not capable of immediate achievement. Reply to Question No. 12 in the Federation's Memorandum should read "children below 16 should not be employed".

3. The provisions of B.I.R. Act have helped the growth of trade unions and also in maintaining good industrial relations.

4. The Federation does not advocate resort to "gheraos". Gheraos are often the result of frustration born out of non-implementation of agreements, awards, etc. On occasions political leaders have exploited such frustrations.

5. Employers have often supported or encouraged rival unions when they did not like the existing unions. They have, thus, often been responsible for the creation of multiple rival unions. This is particularly true of the cement industry.

6. The present position under which industrial relations in the cement factories are in the jurisdiction of State Government and those in the quarries are in the jurisdiction of the Central Government is not quite satisfactory. The State Governments should generally deal with these matters both in regard to factories and quarries. Wages in the two should also be fixed by the same Wage Board.

7. The introduction of a check-off system would help improve the finances of the trade unions. The Act should be amended to revise the rates of subscription.

8. The closed-shop or union-shop, was not favoured. Workers may, however, be required to become members of any union of their choice. Minority unions may have some rights.

9. Labour officers, today, are subservient to the employers and always work to further the interests of the employers. If this position is to change for the better, the labour officers should be appointed by the Government and paid by employers.

10. The federation favours arbitration in regard to disciplinary procedure and dismissals. In the alternative, the labour court, acting as an arbitrator whose decision will be binding on the parties, may be considered.

11. Both parties should be free to take a dispute to the labour court. This right should be given to the representative union only as under the B.I.R. Act. Where the Act is not in force, direct reference of disputes may be preferred by all unions, both majority and minority. If these references are common, the Court could hear them together.

12. In the cement industry, the employment of contract labour and casual labour still prevails and should be abolished.

SA/-

NATIONAL COMMISSION ON LABOUR

(Camp : Bombay)

Date: 10th September, 1968.

Time: 11.30 A.M. to 11.55 A.M.

Record of discussions with the Coordinating Committee of Independent Trade Unions, Bombay, represented by:-

(NCL Ref. No. MR-VI-208)

1. Mr. G.B. Sukhee
 2. Mr. S.T. Pendse
 3. Mr. A.H. Muranjan
2. The Coordinating Committee was started in 1964.
3. It has 382 unions with a membership of 400,000 in all its associates.

All unions, whose leadership is non-political and non-outsider, are eligible to be members of the 'Coordinating Committee.'

4. When this Committee was started, the intention was not to form another central trade union organisation but to create an independent forum in which all democratic trade unions in the country should come together. Its membership includes some unions controlled by H.M.S. and U.T.U.C., but not A.I.T.U.C. because of its political affiliation abroad. Other unions have been affiliated because they have no 'working political leadership.'

5. This organisation is industrially and not politically oriented. Any non-worker is an outsider. An outsider may, however, become an adviser to a union (Mr. Sukhee was himself an employee of Western Railway for 25 years).

6. Trade unions may take part in politics but not in party-oriented politics.

7. A majority of the posts should be filled by promotion of existing employees on the basis of seniority-cum-merit. Persons with practical experience are often better than fresh direct recruits from outside.

8. Recruitment should be done by a joint Committee representing employers and the workers.

9. Close-shop or union-shop is not favoured.

10. The tripartite machinery needs considerable improvement in regard to its composition, functioning, etc. At present, the discussions held and decisions taken in these meetings are influenced by politics. The representatives whether of Government or labour are 'politically' motivated, and have no labour experience.

11. Only unions which are keen to increase production and contribute to the prosperity of the industry should be eligible for recognition.

12. Verification of membership as the basis for recognition has not proved satisfactory. Union accounts can often be ~~manoeuvred~~ *manoeuvred*

to suit particular interest. The membership figures are so inflated that verification of a small percentage does not help. Also, most workers have a "dual membership." General elections have shown that in a predominantly trade union constituency, leaders of union with a majority following on the basis of verification do not get elected.

13. The basis for recognition of a representative union should be secret ballot confined to union members only. A preparatory period of six months or so may be given to the unions to enroll members before the elections take place.

MA/

NATIONAL COMMISSION ON LABOUR

(CAMP : BOMBAY)

Date: 10th September, 1968.

Time: 11.55 A.M. to 12.30 P.M.

Record of discussion with the National Institute of Labour Management represented by:- (NCL Ref. No. MR-VIII.14)

1. Mr. V.G. Karnik
2. Mr. R.G. Gokhale
3. Mr. S.V. Uttamsingh
4. Mr. N.K. Khare
5. Mr. M.L. Gore

1. The Institute claims a membership of 900. It was started on 26th January 1950 and was registered as a society.

2. Casual labour contributes to such insurance schemes but it cannot get the benefits there under. Chances are that they will be in a position to take advantage of the benefit of these schemes if they are ultimately absorbed. In many cases this may not happen and the workers pay contributions without getting benefit. E.S.I. should not therefore apply to them.

3. There should be no compulsion through legislation to provide for employment to physically handicapped persons in industry. In principle, physically handicapped should be given employment. This is being done voluntarily in some sectors. The Institute would suggest selection of some jobs in consultation with Chief Inspector of Factories where employment could be provided to the handicapped.

4. Merit should be the main criterion in the matter of promotion and it should be properly assessed. Today in many other sectors it is seniority-cum-merit which is emphasised, and in the process seniority gains upper-hand and merit recedes to the background. In some industries a Selection Board consisting of an outsider as the Chairman and two knowledgeable experts and also some representatives of the concern select and promote officers.

5. Overtime should be settled not by law but by bilateral arrangements between management and labour. At present prior permission is necessary for overtime. There are certain areas : such as folding department in textiles where overtime is unavoidable.

6. There are many cases when workers have agreed to work on Sunday or holiday, and there are agreements to this effect with trade unions. There is, however, a room for malpractices in this regard in spite of the legal provision. This should be minimised.

7. Code of Discipline is not observed by both parties. It is not that employers are more to be blamed for this.

8. An exclusive bargaining agent should be settled first and this body alone should be given the benefit of 'check-off' Minority unions should have no place in this matter.

9. The representative union or sole bargaining agent should be given a free and unfettered role to play. If there are minority unions at all, their role may be confined to drawing attention to the failure of the majority union. If these minority unions are given further scope, they will indulge in irresponsible activities and will become a plaything of politics. The best course for them will be to merge with the majority union and to throw a challenge to its leadership or change its policy by working from within. Small trade unions will not build a strong union.

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At the present stage of the close link between political parties and trade unions it should be possible to effect such a merger of unions provided there is a clear understanding or stipulation that no other union except majority union will be given a role or that minority unions will not be encouraged to look to a third party or thrive on Government patronage. If this is done, it may be possible to depoliticalise trade unions and effect merger of unions.

10. The criteria for recognition should include verified membership, stability in membership and a sizeable proportion of membership which should be of the order of 30% of total work-force. In case of conflicting claims, further steps for verification may be taken by means of sample test. (No clear indication was available as to how the fact of 30% membership was to be determined).

11. There should be no pre-condition of 'good behaviour' to recognition of a union. There should be qualitative criteria for derecognition and for continued recognition. Good behaviour is a subsequent condition. As soon as majority union is recognised on this understanding other unions will wither away. Even if a recognised union is derecognised for misbehaviour, the vacuum will not last for long and other organisations may emerge.

12. The Government may be assigned the role of an interested observer or that of an agency which assists, but it should not interfere with the day to day industrial relations.

Government may undertake verification of membership or it may enforce implementation of agreements, but it should not interfere with collective bargaining, bilateral negotiations and reference of disputes to adjudication.

13. Need based minimum is an ideal, a dynamic concept, which will always recede as values change and economy develops. It has to be achieved in stages.

Zonal variations in wages have to be taken into account. Of particular interest is the fact that wages in Western India have been 'historically high' compared to those in the East. Therefore, need based minimum wage has to be based on a regional rather than national perspective. It has also to be co-related to productivity and to the capacity of industry to pay.

Unfortunately, there has been an undue emphasis in the country on consumption rather than productivity. Even while there has been a talk of productivity, there has been no actual decision about the measures to implement it. It is a complex task to work out criteria of productivity in all sectors and particularly in respect of such jobs as handled by peons in offices. (A note on the subject will be sent and a list of literature on work measurement will be furnished).

14. When Government cannot implement need based wage how can industry do it?

Productivity is also a changing and 'advancing' concept. There should be a rock bottom minimum. Minimum Wages Act has laid down the minimum wages in unorganised sectors. Organised sectors must pay something more.

India has been caught up in woolly ideas about the welfare state. We are obsessed with considerations of employees as against teeming non-employees or un-employed in the country. Similarly, there are two stand-points, one which emphasises efficiency but ignores social justice and the other which does vice versa. An artificial attempt to promote wages for a section of the community at the cost of the

community cannot succeed.

Industrial worker is only a small section of the population. There is the vast majority of agricultural labour to be taken care of. In one case it was found that while worker engaged in cement industry was recommended by a wage board a wage of Rs.200 a month agricultural labour was getting Re.1 per alternate day. A disparity in their wages has to be reduced not by lowering the wages of industrial labour but by levelling up the wages of agricultural labour.

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NATIONAL COMMISSION ON LABOUR

(CAMP : BOMBAY)

Date : 10th September, 1968

Time : 12.30 P.M. to 1.00 P.M.

Record of discussion with the Bombay Labour Institute Association represented by:- (NCL. Ref. No. MR-VIII.7)

1. Mr. B.S. Bhir
2. Mr. V.G. Mhetras
3. Mr. P.P. Kulkarni
4. Mr. M.L. Gore
5. Mr. G.L. Hardikar
6. Mr. J.R. Nageshkar
7. Prof. R.D. Joshi
8. Dr. Smt. S.A. Vaidya

1. There should be a labour university of an all-India character. In the U.S.A. there are universities for workers. (A note on this will be sent).

/a 2. A non-worker is an outsider but an outsider may include a person who has completely devoted or dedicated himself to trade union activity. An outsider is /part-time worker but not one who has taken up trade union activity as a profession.

3. Workers' Education Scheme run by the Institute has made some impact. 2400 workers have been trained since the scheme was launched in 1958. Four follow-up studies have also been conducted. These have revealed that the impact has been appreciable though not to the extent expected. The emphasis is more on incentives which will accrue to a worker after he has completed training rather than on the ideals of training itself. There is no information about how many of the trained workers have been able to take to trade union leadership.

4. While the scheme is run ^{by} /the Government, industry is providing all facilities and encouraging workers to take advantage of it. Employers appear to be happy about the scheme.

5. The scheme is building up a cadre of inside worker leadership and it may replace outside leadership in about 10 years.

6. Recognition of a union is a must and such a union must have at least 30% of membership. In the first instance, there should be verification. In case of 'manipulating margin' of 10% between two unions claiming recognition there should be an election by secret ballot by an autonomous organisation. (No clear reply could be given to the query ~~as~~ to what would happen if there were a number of unions with less than 30% membership).

7. A union must have at least 30% membership at the unit level.

But where industrial unions have already been in existence such as in Bombay and Ahmedabad, there may be a union industry wise. But the same percentage of membership may apply to these.

8. Adjudication should be minimised by encouraging collective bargaining. In case of difference about the mode of settlement of disputes, reference may be made to industrial tribunal or wage boards and decisions of wage boards should be unanimous. If parties do not agree to any course of action such as arbitration or adjudication they should be left to fight it out. (At this point one representative said that there should be collective bargaining even in public utility, defence and essential services, but this view was strongly contested by another representative. The latter was of the view that there should be no collective bargaining in these sectors. He pointed out that the trend in all Asian countries except Phillipines has been towards development of arbitration and away from adjudication).

A study of strikes in Maharashtra under-taken by the Institute came to the conclusion that even the strikes led by militant and strong trade unions have not succeeded beyond 16%. Collective bargaining is a myth. It does not involve any principle; it is only a gamble. Moreover, it is not in tune with 'Indian thinking or tradition.' (A note on this will be sent to the Commission).

SA/-

NATIONAL COMMISSION ON LABOUR

(CAMP : BOMBAY)

Date: 11th September, 1968

10.00 A.M. to 1.00 P.M.

Record of discussion with H.M.S. represented by:-
(NCL.Ref.No.MR-VI-176)

1. Mr. S.B. Giri
2. Mr. Mahesh Desai
3. Mr. S.C.C. Anthoni Pillai
4. Dr. Shanti Patel
5. Mr. Bagaram Tulpule
6. Mr. Brajkishore Shastri
7. Mr. Tara Chand Sethi
8. Mr. Vimal Malhotra

1. Women workers need protection; there is legislation for it. The ILO convention is also there. But all these are likely to lead to contraction of employment of women. Signs of it have appeared already. While there should be no statutory obstacle to employment of women, there should not, at the same time, be over-protection.

2. Employment of women should not expand at the cost of social privileges available to women. Expansion of employment opportunities for them is thus largely a question of social conscience of the community. Women should not be deprived of employment on the ground that it costs more. Women's representatives should be taken into confidence in planning additional employment opportunities, for them.

3. The approach to this question has been negative so far. A more constructive approach will be to explore job opportunities for women and identify occupations specially suited to them.

4. Present training facilities are more oriented to the needs of male workers. Training of women workers should also be given adequate attention.

5. In some parts of the country, tradition is still an inhibiting factor in employment of women. The first step therefore should be, even prior to providing training facilities, to conduct a survey to assess the areas of work suitable for women.

6. There is no provision for industrial housing for single and independent women. The problems of these women is especially difficult in coal mines.

7. Employer has a responsibility of providing employment to persons who are disabled or handicapped while in employment. Some thought should be given to the rehabilitation of other physically handicapped persons also.

Contd.....

8. Although greater weightage should be given to seniority, seniority-cum-merit should be the basis of promotion. Promotion to the top should be open to an employee. It so happens that seniority is reckoned with in case of promotion of administrative officers and ignored in case of operatives.

9. Present employees should be given a chance along with outsiders in the matter of recruitment to higher posts. There should be an objective test conducted by a selection board which should include trade union representatives. Unless the board finds that a worker claiming a senior post because of his seniority is found incompetent or inadequately qualified, he should be given an opportunity.

10. Trade unions should be given a more active role in the formulation of national policies. There should be an organised and continuing dialogue between trade unions and official bodies at all levels - plant, industry and at the national level.

11. Some institutional mechanism is there currently but the approach is formal. Development Councils, tripartite bodies, industrial committees meet at long intervals or never at all. Planning Commission calls union leaders for short discussions. Thus the mechanism which is there is not purposefully used. It does not give satisfaction to unions.

12. Trade unions should have representation in the Planning Commission and in the formulation of plans. This would be difficult in the present planning set up. But representation to union leaders in their capacity as union leaders is essential.

13. Existing machinery can at best serve as a medium of consultation, but not for representation and participation. With all its infirmities even the existing machinery can be made more useful, if effectively harnessed.

14. The framing of development policies necessarily involves choices. There is no mathematical formula which in a given situation can yield the answers about the strategy to be followed, priorities to be accepted, etc. Certain choices and priorities are inherent. Which choices Government makes and which priorities it adopts will ultimately determine how far the different social groups will get satisfaction under the developmental process. Labour as a distinct social group is anxious that it should get an equitable treatment in the process. It can secure this only if as a group, it has the opportunity of influencing the decisions regarding priorities, the choices to be made and regarding the strategy to be followed in development. It can make this contribution if it has the opportunity and if it formulates its own proposals in this respect as a distinct social group and does not accept readymade choices and priorities handed down by an outside agency. Today trade unions do not have this opportunity; they feel that the Governmental thinking is not geared to the larger interests of labour. Secondly, whatever strategy the trade union movement feels desirable, and has been able to secure acceptance by Government as desirable, it does not have an effective voice in influencing its implementation. Because of this there is a certain stultification and that in turn gives rise to internal dissensions within the movement.

15. India is committed to a planned economy. That commitment should be more explicit and the consequences of that commitment (both rights and responsibilities), should be made clear to labour. This alone will make its commitment stronger.

16. Certain aspirations were raised in the minds of labour by the declaration of objectives and policy statements in the three plans. But, after each plan, the statements have tended to become vague, less sharp, less precise. And whatever commitments were made in the plans, the general economic policy and the labour policy did not seem to be related to those commitments.

17. Labour represents a vast mass of underprivileged in the country. It may be that over a period of years it might have secured some marginal gains. But we cannot rest content till the workers' position in the society or their status is unreservedly accepted. The purpose of national policy is to see that there is more for every-body and particularly more for those who have been neglected so far. Talking in terms of past experience one may ask what priority has been given to industrial housing. Although the plan documents state that we are for reducing inequalities and providing a higher standard to the have-nots, when the question of minimum wage comes, the plea of lack of capacity to pay is put forward. This is because labour's place is not recognised as crucial to planning and for securing benefits of the plans to it.

18. Though lip service is paid to arousing the sense of participation by labour, there is in practice no sense of participation even in the public sector projects. Workers are not associated with and given a pride of place in the development of the projects. Their voice is never heard. Bold schemes are formulated which together account for development but there is no participation by the workers in that process. The worker is not allowed to feel that there will be recognition of his participation and, that his conditions of service will be improved.

19. Our plans have a tendency of getting revised by the people who made the plans and the first casualty in revision is the small benefit to the labour which the plan had originally envisaged.

20. H.M.S. favours secret ballot to verification as a method of granting recognition.

21. The approach of the H.M.S. in this matter is not inflexible. There are certain infirmities in the verification procedure which, if corrected, may make verification less objectionable from the H.M.S.'s angle. Firstly, verification should be by an authority independent of the administration which can be politically motivated. Secondly the authority should move speedily; it should membership and the real following of a union. Thirdly mere membership cannot be taken as an indication of the workers' preference. There are often those who figure in the list of membership of a union but who really prefer to be with another union. There are also workers with dual loyalties. The verifying authority should enquire not only about the union to which subscription is paid but also about the union to which a worker would prefer to belong. Secret ballot is preferable and desirable, but it may not be resorted to every occasion.

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22. There should be in fact a high-powered independent body, such as an Industrial Relations Commission, which should exercise discretion as to the applicability of secret ballot or verification under any given circumstances.

23. If election is decided upon all workers should have the right to vote. (one representative pointed out that secret ballot was the only democratic method of ascertaining labour's choice.)

24. In view of historical developments, different bargaining agencies have emerged. It is industrial unit in the engineering industry in Bombay but in textiles and coal mining bargaining agent is industrywise. Where such bargaining agencies have emerged their reality should be recognised. Encouragement and preference should, however, be given to larger bargaining agents.

25. The word 'outsider' is inappropriate. The leadership of a union should be the choice of the working class. 'Outsider' should be there as long as employers do not treat workers on equal footing and Government do not treat employers and workers on a par. There are some sectors such as, banking and insurance and where inside leadership has come up from the cadre of its trained and educated personnel. But where workers are illiterate and in the unorganised sectors of industry, leadership has still to come from outside. A person who has worked in an industry but has resigned later and does full time trade union work, cannot be regarded as an outsider.

26. There should be no compulsion for registering trade unions.

27. There are still a very large number of employers especially in the new industries and in medium and small scale industries whose attitude towards trade unions continues to be arrogant and intolerant. This attitude is also common to some public sector undertakings. Employers are still resistant if not intolerant of trade unions.

28. The organisation is irrevocably and ^{inflexibly} ~~inflexibly~~ committed to collective bargaining. Compulsory adjudication should be at the instance of workers and not the Government. At best, the Industrial Relations Commission, the formation of which has been recommended by the H.M.S. may come into the picture and refer such cases to adjudication as it considers appropriate. The organisation is strongly of the view that only collective bargaining can make trade union movement self-reliant, strong and viable. The adjudication process and involvement of a third party have stunted the growth of trade union movement. There is need for a total change in our attitude to and approach towards industrial relations. At present a strike is considered unpatriotic, violent and even illegal in some areas and this puts a limit to collective bargaining. A trade union must be fully exposed to the dangers and to the challenges of confrontation with management. In fact, a trade union will have to pass through this phase before it attains adulthood and maturity.

29. Adjudication machinery perpetuates paternalism and makes trade union movement weak. Because of it strike is not allowed to take its course and come to its logical end.

30. It is not correct to say that strikes will affect national economy. In case a strike is considered prejudicial to national interest the Industrial Relations Commission may intervene, as perhaps in a strike in an industry like electricity generation which threatens to disrupt the life of the community.

31. It should not be for the Government to arbitrarily define public utility services. It should be based on some clear-cut and well-defined criteria which are made known to all concerned. The interest of community will, no doubt, weigh with the working class, as it has been on many occasions in the past.

32. A study of conflict rates during the last 15 years shows that these tend to fluctuate. These have gone up to as high as 1.25 crores mandays lost/as low as 0.3 crores. Therefore the assumption that compulsory adjudication minimises conflict is itself open to question. Severity rates i.e. mandays lost/mandays worked are higher than those prevailing in many countries where adjudication machinery does not exist.

33. In England certain constraints have been evolved on the management's absolute right to hire and fire. British trade union organisation have recently worked out a dismissal procedure in agreement with British Employers Federations.

34. Trade union organisations in many countries are opposed to adjudication and conciliation. In Australia. the working class is dissatisfied with the much talked about adjudication machinery. On the other hand in Britain where collective bargaining has reigned supreme so far, they are working out some restraints on free collective bargaining and providing for third party intervention. There should be no scope therefore for absolute rigidity in this matter. A trade union will have to take a stand in the light of the national situation.

35. The most important limitation of adjudication machinery is that it has inhibited development of bilateral bipartite relationship which is basic to industrial democracy. If collective bargaining in absolute terms can not be recommended, important disputes should be referred to a Board consisting of representatives of trade unions and employers and a High Court Judge with a time limit fixed on the completion of the work of the Board.

36. H.M.S. does not favour the suggestion about introduction of collective bargaining in selected units or industries and about the phasing of the process of collective bargaining. Such selection, if there has to be one, will have to be tentative because conditions in the unit/industry so selected will be fluid.

37. Voluntary or compulsory arbitration is acceptable only as part of the process of collective bargaining. It cannot be an alternative to collective bargaining. In shipping industry where collective bargaining has been prevailing for over 4 years now industrial relations have been quite good and the unions of seamen have also become strong. No adjudication machinery or arbitration has been introduced.

38. In the foreseeable future H.M.S. cannot agree to any restriction of wages as a measure of economic policy particularly when there is no ceiling on incomes and profits. An aggrieved party whether it is an employer or an employee may directly go to Court. It should be for the court to decide which is the aggrieved party.

39. A national minimum wage should be prescribed first. Any person who is employed in any industry and who is selling his labour must be entitled to get this minimum remuneration for his labour. National minimum will represent the floor below which his wages would not fall at the national level. It should be equal to the per capita national income of four persons. (The process how the HMS wants the national minimum to be prescribed, has been described in para 21 of its reply).

40. Need based minimum wage will be higher than a national minimum wage.

41. The concept of need based minimum has come into vogue in the context of providing some guidelines to wage fixing authorities, adjudicators, etc. Attempts to move in this direction have backslided only when the economy started moving at a slower rate since 1960. Fair Wages Committee evolved the concept of fair wages. The Second Plan promised higher and still higher wages to labour. All these facts and the view points of trade unions on wage matters were concretised in the decision of the 15th Labour Conference about wages. During that period it was thought that the economy was in the upswing. However, backsliding started in 1960. Economy was not performing as it was anticipated. The proviso or the escape clause was pressed into service every time and the need based minimum for the worker became the first casualty. The objective of need based minimum laid down in the 15th I.L.C. should still continue to be the guide. There is no reason why need based minimum should not be given.

42. Wage costs vary from industry to industry. Workers' wage is a small percentage of the total income from industries and it forms on an average only a small percentage of total cost. A slight increase in wage cost is not likely, in most cases, to affect the capacity of the industry to any large extent. During the last 20 years in spite of whatever wage rise has taken place, the proportion of wage cost has not gone up in any industry.

43. Capacity of industry in today's context cannot be taken into account in determining the fixation of a need based minimum. It can be taken note of only when the entire industrial cost structure is brought under public scrutiny. It cannot be that only the wage cost becomes a factor for scrutiny and not others.

44. Further, so long as there is no ceiling on incomes in the country and when there is no relationship between minimum wages and what is paid to the employee at the top, capacity cannot be taken into consideration.

45. While national minimum wage is to be fixed by Government the need based minimum wage is for the trade unions to achieve through their own organised efforts.

46. It is the employers' argument that need based wage is not feasible at present because our national income is small and there is disparity in the wages for agricultural and industrial work. H.M.S. does not accept this argument. It should be seen to what extent it is possible to pursue wages policy in consonance with certain social objectives. Social policy should seek to lift wages above the minimum. In organised industry it is not only feasible but also desirable to fix need based minimum wage. The productivity of the worker is low because he is not paid the need based minimum. The work content fixed is high. When wages are fixed on an industry basis, capacity is a secondary consideration.

47. The productive capacity of our workers is no worse than workers in any country in the world. Even then the employers are heard to say that they cannot afford to pay the need based minimum. In the industrial sector, it is very necessary to fix the need based and no industrial unit will close down. The narrow concept of capacity to pay with regard to one unit is being applied to industry as a whole. That is not correct.

48. It may be possible to distinguish two different criteria for the fixation of need based minimum wage: (i) In cases where such fixation is a matter of policy and not dependent on capacity as in the case of Government. In this case, the need based minimum wage should be immediately implemented, (ii) in Industry, a distinction can be made between prime costs of the industry and other charges on the industry. Prime Costs (Cost of raw material, electric power, fuel, stores, etc.) are costs for the physical functioning of the unit. Depreciation is not a prime cost. After the prime costs are met, the first charge on the industry should be the need based wage. There should be no return for capital unless need based wage is first met. (Shri Tulpule will give a paper on the subject).

49. Level of wages has not been a determining factor in regard to location of industries. Other considerations play a greater role.

50. Such social security benefits as provision of E.S.I. provident fund and gratuity should be extended to employees in shops and establishments employing less than 20 persons.

51. Automation has to be viewed in the particular socio-economic context in which the community is living and in which the economy is being developed. The assumption that in other countries automation has led to speedier expansion of industry cannot be readily accepted in our country. There are many limiting factors, e.g. scarcity of capital, scarcity of purchasing power, scarcity of technical know-how, etc. Scarcity of purchasing power especially is limiting the growth of industries. Automation can reduce costs and bring about expansion if a spectacular growth in production is possible. Where that is not possible, it will add to costs, rather than reduce them.

52. The development strategy has to be based on the fuller utilisation of available resources. Automation makes demands on those resources which we do not have. It makes redundant that resource which we have in plenty, viz. man-power. Therefore, the main orientation in policy should be against automation. Exceptions are permissible in those cases where either the technology itself is such that it cannot be operated except through automation or certain decisions

have to be taken on the basis of proper interpretation of large mass of data which cannot be collated with human effort.

53. Merely a desire to reduce costs or increase profits cannot be construed as a compulsion. Compulsions will have to be of a different category altogether, and unless these are found out, the purpose of the policy will be defeated.

54. A top level body with representatives of Labour, Management and the Government should spell out what should be the permissible circumstances and where exceptions can be made to the main policy. The enforcement of these criteria should be entrusted to that body. Pending this, there should be a freeze on automation i.e. pending the formulation of specific conditions under which exceptions are permissible, automation should be frozen.

55. A note on Bonus will be sent by the H.M.S.

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