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NATIONAL COMMISSION ON LABOUR

NCL. REF. NO. WB-V.105

Replies to the Questionnaire received from the
Bengal National Chamber of Commerce & Industry

<u>Sl.No.</u>	<u>Qn.No.</u>	<u>Page No.</u>	<u>Points for elucidation</u>
1.	28	22	Can you give the percentage of cases where 'Cheros' were resorted to because of non-implementation of the recommendations of the Wage Boards and awards of Tribunals?
2.	51	31-33	(i) Will you consider the ex-employees who have given up the job to take to trade union activities as full time workers as outsiders? (ii) Often a point has been raised that already the percentage of outsiders is sufficiently lower than permissible limit. In such circumstances will mere reduction in percentage improve the situation? (iii) Will you give suggestions to improve the syllabus?
3.	52	33	Will you agree that once in a fair and impartial manner majority union is determined, it alone should have the rights to raise disputes?
4.	58	34	Considering the extent of unionisation ^{in India} is not 30% criterion for Registration and 50% for recognition too high?
5.	61	36	In reply to Qn.58 (page 35) you seem to prefer verification method while in reply to this question the preference shown is for secret ballot. Will you reconsider your replies?
6.	85	45	Will the conferment of the right of sole bargaining agent on the majority union facilitate collective bargaining and improve industrial relations?

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<u>S.No.</u>	<u>Q.No.</u>	<u>Page No.</u>	<u>Points for Elucidation</u>
7.	139		Can the national minimum wage not be fixed in quantitative terms even though the money value may differ from region to region ?
8.	154	66	Can you give some instances where independent members have not taken an impartial view and have sided with the employees ?

BENGAL NATIONAL CHAMBER OF COMMERCE & INDUSTRY

REPLIES TO THE
QUESTIONNAIRE
ISSUED BY
THE NATIONAL COMMISSION ON LABOUR

(PART - I)

MAY, 1968

Replies to the Questionnaire issued by
the National Labour Commission.

I. RECRUITMENT AND INDUCTION

Recruitment :

Q.1 : (a) How is labour recruited at present in industrial establishment? Is recruitment effected through (i) jobbers (ii) contractors (iii) advertisements (iv) introduction by existing employees (v) employment exchanges or (vi) any other method?

(b) How far are the present recruitment arrangement satisfactory for different types of employees and different levels of skill?

(a) Recruitment through jobbers is not very much prevalent in West Bengal and recruitment through contractors is also confined mostly to those jobs which are performed by contract labour.

Under the Employment Exchanges (Compulsory Notification of vacancies) Act, all employers employing more than 25 workers are required to notify all their vacancies, except in a few cases, to the Employment Exchanges.

It has, however, been reported by a large number of the constituents of the Chamber that this method of recruitment is not very satisfactory as the candidates sponsored by the Employment Exchanges are not often found suitable to the jobs to fill up which they are deputed. The Employment Exchanges also on their part have so far been able to place only a small percentage of those who are registered with them.

There are a few factories where, either by agreements with the trade unions or in accordance with the awards of Tribunal, vacancies have to be filled up by candidates sponsored by the Unions or the existing workers. A report prepared sometime ago by the Directorate of National Employment Services, West Bengal, refers to 19 factories which fill up vacancies either on the recommendations of the Unions or gave preference either to the

dependants of the workers or to the retrenched employees.

The methods referred to above relate to the recruitment of unskilled, semi-skilled and also skilled personnel but, in regard to the highly skilled workers and technical and administrative personnel, employers generally get much better response from advertisements inserted in local and outside newspapers than from the Employment Exchanges.

(b) Subject to the observations made in reply to Question No.2, and also the deficiencies of the Employment Exchanges referred to above the present system may be considered to be fairly satisfactory.

Q.2 : In what categories of employment is labour in short supply ? What steps should be taken to minimise the effects of such shortages ?

Generally speaking, labour is in short supply particularly in regard to skilled and highly skilled jobs. This is due mostly to the lack of balance between the pace of industrial development and the supply of adequate number of technical personnel. The Chamber is not aware whether any regular survey of technical manpower is being made on an all-India basis, but it would like to refer to the Quarterly Reports on Shortage Occupation issued by the Directorate of National Employment Services, West Bengal. The report for the quarter ended March, 1967 and reveals an analysis of the shortages experienced by employers both in the private and the public sectors in recruiting suitable candidates. There were altogether 1520 vacancies in both the sectors (employing 10 persons or more except in the Calcutta area where it related to establishments employing 25 persons and above) which remained unfilled at the end of March, 1967. The corresponding figure at the end of the previous quarter was 1561.

This report further points out that in some cases the vacancies remained unfilled, despite availability of applicants

in the Live Register at the Employment Exchanges. This was due to the fact that the requirements by the employers of qualifications and experience were higher than those possessed by the applicants. In certain cases the terms and conditions of services offered by the employers were not acceptable to the candidates in the live registers of the Employment Exchanges.

An earlier survey of engineers seeking work through the Employment Exchanges in West Bengal, undertaken by the above-mentioned Directorate, has also revealed that out of 175 graduate engineers who were selected for the sample survey, 57 remained unemployed and of them 14% remained unemployed for more than a year. The main reasons for unemployment were the lack of experience, limited scope of employment opportunities for fresh engineers, hard competition, need for special training etc. These unemployed graduate engineers had also tried and applied for jobs through various other means but failed.

This imbalance between demand and supply is a matter of serious concern both because of the inability of the industries (and also commercial establishments) to procure suitable personnel for their work and also because of the rapid increase in the number of the unemployed in the country.

The remedy lies, in the first place, in extending the existing facilities for technical education which are extremely inadequate and making proper arrangements for training draftsmen in skilled and highly skilled jobs. Provisions made in the Apprenticeship Act will serve the purpose of such training to some extent. The Act has already been enforced; the experience of its working during the last few years suggests that some of its provisions may have to be changed to suit the requirements both of the industries and of the apprentices taken in.

The Chamber, however, feels that the application of the Apprenticeship Act, even with changes made therein, will not be enough ... (p.4)

enough to meet the situation caused by the shortage of crafts.
What is necessary is to give both professional and technical
bias to education comparatively early, so as to allow some
persons showing special aptitude to opt for a particular course
at an early stage of their educational career. Also, libera-
tion of students to various technical courses after the High
Final or the Higher Secondary stage and the establishment of
more technical institutions, particularly at the diploma level
may also help in increasing the supply of skilled personnel
work in various industries.

In the second place, the standard of general education
also requires to be considerably improved. Complaints are
times received from employers about the lack of adequate know-
ledge of both spoken and written English among employees.

In the third place, the requirement of personnel in the
various fields should be correctly assessed. Technical, vocational,
commercial and general education should be directed accordingly.
The need for different types of technical hands in different
requirements of changing technology should be correctly assessed
and the ratio of engineering diploma holders and other technical
staff for different types of jobs should be so adjusted as to
eliminate chances of wrong assessment of the need for different
grades of technical hands. Steps should also be taken suffi-
ciently ahead to train young people for job requirements through
skilled training. It is hardly necessary to emphasize that the
gap which now exists between the requirements of technical per-
sonnel and their supply, even in the context of the current
and volume of industrial development, will further widen in
future with the introduction of more sophisticated machinery.

Q.3: Does lack of mobility affect supply of
different categories of labour? If so,
what remedial measures could be taken?

The Chamber would, however, like to draw attention to the fact that lack of mobility sometimes results from the inability of employers to adequately compensate the workers concerned for the lack of facilities which are available at home, where workers live with their families.

Q.4 : To what extent is industrial labour migratory in character? What problems does such labour pose in recruitment and retention?

There are a few industries in West Bengal where a certain percentage of unskilled and semi-skilled workers, not belonging to the State, take long leave from the factories, particularly during agricultural season, much in excess of the period due under the Factories Act. The resulting absenteeism causes considerable dislocation to the work in the factories.

This does not, however, apply to the case of the workers who have strong local ties and do not have occasion to leave their native villages.

Q.5 : How do the existing statutory provisions with regard to employment of women affect recruitment of women labour? Consistent with international conventions on conditions of work for women, what modifications would be necessary in the existing provisions for promoting employment of women?

It appears from the Calcutta Employment Market Reports issued quarterly by the Directorate of National Employment, Bengal, that women are mainly employed in West Bengal in industries under Jute Spinning & Weaving, manufacture of electronic equipments such as radio, microphones, etc., and in administrative offices in the public and private sectors and in educational, medical and health services.

The total number of women employed constituted, according to these Reports, less than 4% of the total employment in West Bengal.

the extent of women labour in industries other than coal and tea.

As far as the tea industry is concerned, the proportion of women workers is, according to reports available to the Chamber, about 59%. The Tea Industry in general, particularly in the North-East India, provides employment to women as a matter of custom and the general practice is that both husband and wife are given employment in the same factory. As generally employment is on a family basis and as the industry has to provide free family quarters of specifications approved by the Chief Inspector of Plantations, a woman worker has the opportunity to reside inside the Estate with her husband and children. They are reported to be happy about their conditions of employment and place of work.

Generally, the wages paid to women workers in the Tea Industry are slightly lower than those paid to male workers, though equal pay has to be paid, in accordance with the ILO Convention, to both the male and female workers for same or similar work, the payment of which is on piece basis.

The requirement to pay equal wages for male and female workers has, however, resulted in a reduction of the number of women workers employed in the coal industry from 14% in 1954 to less than 8% in 1965. It is the experience of the industry that the output of a woman worker is appreciably lower than that of a male worker, particularly in a coal mine where the work is arduous and hazardous. On the other hand, the consumption unit of a woman worker is not the same as that of a male worker and, as stated in the Deshapandey Report, the majority of female workers are family women who look only to supplement the earnings of their husbands or their male relations. The consumption unit was, therefore, taken as 2.25 units in the case of a female worker employed in manual work as against 3 for a male worker. On this basis and considering the fact that special amenities are enjoyed by women in the form of maternity benefits ... (p.7)

benefits, provision of creches etc., the Majumder Tribunal had awarded 75% of a man's wage to a woman worker doing the same work. This decision was, however, subsequently reversed by the Labour Appellate Tribunal mainly on ideological considerations. The result has been that employers are being gradually discouraged from employing women workers in the coal industry where male workers are found more suitable for arduous and strenuous job than women workers. This tendency will continue with increased mechanisation, deeper mining and the need to instal mechanised loading and sand gathering arrangements at workings and sources of supply.

Restrictions on employment of women workers during the night may also be another factor for the gradual reduction in the number of women workers, particularly in the coal industry.

The other most important impediment to the employment of women in larger number is the liability of the employers to provide maternity benefits and the provision of creches to the children of women workers. While almost every ten garden maintains well-equipped hospitals under qualified medical officers, thus ensuring adequate facility for proper treatment during the pre-natal and post-natal periods, the grant of maternity benefit is not limited to any ceiling in the number of children born to a woman worker. This, together with the cost of providing creches etc. (to which a reference is being made later), entails considerable burden on the industry. The Chamber would, in this connection, refer to a question included in the Questionnaire recently issued by the Small Family Norm Committee about the desirability of stopping maternity benefits when the number of living children exceeds a prescribed number. The Chamber generally supports this proposal. For, apart from helping in the promotion of the Family Planning Programme, this will also reduce the financial burden on employers of women workers. This would incidentally also encourage other industries to employ more women.

As regards the provision of creches to children of women workers, attention has been drawn to the difficulty in providing this facility in the Plantation areas where by the very nature of the work performed, it is not possible to provide separate rooms as in factories, for the care of children. What the Tea Industry has to do in this respect is to provide mobile creches with adequate cover to protect against sun and rain which means an additional expense. Besides, they have to supply free milk to the children up to two years and cereals, according to a prescribed scale, to children between 2 years and 16 years. This is a burden which many tea gardens are not in a position to bear.

The Tea Industry has also to provide for free primary education to the children of their workers, but it has been reported that attendance at such schools is very poor as the parents do not want their children to attend schools by neglecting their household duties. Trade Unions may perhaps play a useful role in encouraging the workers to attend the schools.

Q.6 : What are the advantages and disadvantages of recruitment of casual labour? If employment of casual labour is a disadvantage, what steps should be taken to decasualise such labour?

There are many industries where, because of the nature of operations, it is necessary to employ a certain number of casual workers. While normally all industrial concerns are in a position to anticipate the volume of work to be handled by them in the foreseeable future and they plan their employment policy accordingly, there are occasions when some extra pressure of work makes recruitment of temporary workers unavoidable. Occasionally, the temporary absence of regular workers also requires the vacancies to be filled up by casual workers. There are also certain operations which are not connected with the regular work of the particular industrial concern and for which it is not necessary to maintain a regular and permanent staff because of their intermittent character. Except in the case of the Tea Industry ... (p.9)

Industry in North East India, the percentage of such casual workers is, however, very small when compared with the total number of persons employed in any concern, though the proportion varies from one case to another. In the Tea Industry, the percentage varies from 10% to as much as 80%. There are certain Tea areas, where the plucking season is confined only to a few weeks, when the number of workers has to be increased considerably. It is not, however, possible for the management to give all these workers a permanent employment and they are recruited on a temporary basis.

Subject to observations made below, industries do not find it disadvantageous to employ casual labour. By and large, many workers, who secure such jobs also find it to their advantage. Apart from these who are currently unemployed and are able to secure temporary jobs, instances have been reported of even those who are in the permanent rolls of other factories absenting themselves from their parent factories and taking up casual jobs in other concerns. The facilities granted by the E.S.I. Scheme in regard to leave encourage this system of casual employment.

In the circumstances now prevailing in the country, it is very difficult to contemplate a complete decasualisation of labour or a total abolition of casual labour.

The Chamber has, in this connection, also been informed that the Government of West Bengal had sometime ago proposed that the number of permanent workers, in Tea Gardens should be in the ratio of 1.1 to 1.3 per acre of plantations and that the percentage of casual workers to the total labour strength, should not exceed 20 at any time of the year. This suggestion is admittedly unworkable, and the Chamber would suggest that any limitation on the number of casual workers should not be enforced without due regard to the peculiar condition of each particular industry.

As far as the Chamber is aware, the only major sphere where any scheme of decasualisation has been in operation is in regard to Dock Workers. The experience of the working of the Scheme has not, however, been very happy, in so far as stevedores, who are responsible for the payment of wages and such levy as may be imposed from time to time by the Dock Labour Board, have to enlist workers for any particular job through the Board by making necessary requisitions whenever a vessel has to be loaded or unloaded. But, partly as a result of this procedure, stevedores have no command over the workers employed by them as they have no disciplinary power over them.

The Chamber is, therefore, very strongly of opinion that if the principle of decasualisation under this Scheme is extended to the industry also, the result would be that employers will cease to have any disciplinary action over their workers and will not be able to take any step for removing causes of inefficiency and for eliminating wastage at each stage.

Q.7 : In view of the present unemployment situation, what place should be given to the absorption of 'physically handicapped' in recruitment policy? Should there be a statutory provision for reserving a portion of the vacancies to physically handicapped persons?

Every encouragement should be given for the employment of 'physically handicapped' persons. Though the scope for employment of such persons in many industries is very much limited because of the nature of operations carried on them, many employers are reported to have given employment to such persons where found suitable. There are also special Employment Exchanges where such people can get themselves registered and arrangements also exist, though on a limited scale, to give them vocational guidance as well as training. There is no doubt that 'physically handicapped' persons, if otherwise employable and

trained for particular types of jobs, may be given some preference by a few employers. Government may also directly help such persons by debarring the limitations of entry age in Government services for the "Physically handicapped" persons, and Government Departments may be given more power to directly recruit the "physically handicapped" persons.

Q.8 : In establishments within your knowledge, is there any discrimination in the matter of recruitment on grounds of caste, community, region, language, etc. ? Under what circumstances is such discrimination justified ?

Left to themselves, employers would naturally prefer giving employment to the best persons available. They are, not however, always free agents in this respect and, subject to the observations made in reply to Q.1(a), it has been reported to the Chamber that pressures, both official and informal, are often exercised by Governments on employers to confine their recruitments only to the people of particular States.

This is undesirable from the broad socio-political point of view. Undoubtedly, people of a State possessing requisite qualifications should get preference in employment within their respective States, but the Chamber is generally of opinion that there should not be any discrimination in the matter of recruitment on grounds of caste, community, region, language, etc. except that some preference has to be given to the employment of persons displaced in a particular area as a result of the setting up of a factory in the locality. This qualification is necessary both because of the need for giving some compensation to the people whose land may have been acquisitioned and also to the establishment of some sort of local identification of the industry concerned with the people of the area.

I N D U C T I O N

Q.9 : Are the existing programmes for "on-the-spot" training of workers adequate? What are the directions in which improvement should be sought?

There is considerable scope for training workers while on the job. Fresh recruits and untrained labour may be trained. Semi-skilled workers can become skilled if proper arrangements can be made for providing "on-the-job" training.

Before the Apprenticeship Act was passed, and even now many workers had indeed obtained their training from within the Industry, but the Chamber is not aware whether arrangements which already exist in many factories for providing "on-the-job" training to their regular workers are adequate and whether, apart from the provisions of the Apprentices Act 1961, employers as a rule provide facilities for giving training to their workers while on the job.

Q.10 : What steps should be taken to encourage an employee to avail of the facilities outside the place of work for improving his skill? Is there any system of granting study leave to the employees in your establishment? If yes, please give details.

It is in the interest of industrial concerns themselves to make arrangements for training employees to improve their skill, so long as the supply of such technically trained personnel is not adequate. Apart from such facilities as may be provided in respect of "on-the-job" training, employees should also be encouraged to secure training outside the place of work in spite of the temporary loss of production which may be caused as a result of the release of employees from their regular jobs.

There are a number of Poly Technique Institutions and also Degree Colleges where skilled workers and technical personnel, already employed in factories, admit themselves to part-time Degree and Diploma courses in the evening. Similar facilities

are also available for employees in mercantile firms for Commercial Education.

Rules for eligibility for admission to such courses include age limit, minimum educational qualifications and in the case of technical training also certificates of employment in recognised factories.

Facilities which at present exist in this regard are admittedly very much limited, and there is clearly a need for further expansion.

Q. 11 : (a) What should be the outline of a rational promotion policy? What place would you assign in this policy to seniority, merit and trade test?

(b) Should recruitment to positions at higher levels be made from among the existing employees only? If so, upto what level?

(a) There cannot be any hard and fast rule about a rational promotion policy. Seniority should be given proper emphasis, though due attention should also be given to merit and trade tests.

In many industries, untrained workers are trained on the job and are promoted to higher ranks as and when they acquire more skill.

(b) In regard to vacancies at higher levels also, employers often give an opportunity to literate and highly efficient workers to fill up vacancies, though the scope for such promotion is limited and the extent varies from factories to factories. There are many positions where recruitment has to be made directly according to the employment policy followed by the management, as mentioned in reply to Q. 1.

II. CONDITIONS OF WORK

- Q. 12 : (a) Conditions of work in factories, mines and plantations, etc. are presently regulated by the Factories Act, 1948, the Plantations Labour Act, 1951 and the Mines Act, 1952 etc. The main provisions of such acts inter alia relate to (i) safety and welfare, (ii) hours of work, rest interval, weekly off, etc., (iii) employment of young persons and women, (iv) annual leave with wages, (v) occupational diseases and (vi) overtime payment. What changes are necessary in these provisions? How should the implementation of these acts be improved?
- (b) What other steps are needed to ensure proper working conditions?

The provisions in the various Acts relating to conditions of work in factories, mines and plantations are quite adequate. They are not, however, always strictly enforced and the Chamber feels that arrangements should be made for the proper implementation of the provisions.

The Chamber would like to emphasise that there are many factories, particularly among the small scale ones, where infringement occurs because either of the ignorance of the management about the provisions of the law or of marginal adjustments.

The position in this regard may be considerably improved if the administrative machinery concerned approaches the problem in a sympathetic manner and tries to understand the difficulties of the small scale units in implementing the provisions of the Act.

What is necessary is that the function of the Labour Department should not be punitive in nature, and the setting up of an Advisory Body attached to the Department may be considerable assistance to such units.

- Q. 13 : In the matter of national and festival holidays, what is the extent of difference in the total number of holidays from region to region? Is this difference justified? If not, is it possible to bring about uniformity in the total number of holidays in different regions?

The number of National and Festival Holidays is very much excessive in India. In addition to the three National Holidays, namely the 26th January, the 15th August and the 2nd October, when workers are given paid holidays, different factories observe a few other days as Festival Holidays in terms of agreements with the workers and award of Tribunals. State Governments also often declare other paid holidays. As instances may be mentioned that last year there were two such holidays in West Bengal, one on the 1st May and the other on the 9th August. This year, again, the Government of West Bengal, besides declaring the 1st May as a holiday under the Negotiable Instruments Act, suggested to employers the declaration of a paid holiday both to industrial workers and to those employed in the shops. In addition, there are unofficial holidays also such as those caused by General Strikes and Hartals when, however, no wage is paid. The result of all this is that the number of working days in the year is very much reduced.

It is desirable that the number of Festival holidays should be uniform all over the country, though the particular days when such holidays should be declared may vary from region to region or from units to units according to the different conditions existing in different regions or the circumstances of each individual unit.

Q. 14 : What changes are necessary in the existing arrangements for regulating conditions of work in employments other than in factories, mines and plantations ?

Conditions of work in Shops and Establishments are regulated in West Bengal by the West Bengal Shops & Establishments Act of 1963. The provisions of this Act are in many cases more liberal than that of the Central Acts regulating employment in factories, mines and plantations. As instances may be mentioned the fact that every employer is required to observe one and a half days as holidays every week, as against only one day in industrial establishments ... (p. 16)

establishments. Though the number of working hours in shops are more as compared to those in the latter, the nature of work is less arduous. The period upto which a worker in shops and commercial establishments may be required to work overtime is also limited to 120 hours in a year, though no such restriction is imposed by the Central Acts.

Q. 16 : How have the existing arrangements regarding regulation of conditions of work of contract labour and labour employed by contractors worked? In what directions are improvements necessary?

There are certain types of work in many factories which are not of a permanent or regular nature or related to the main lines of production but of a casual nature. All such work is performed in some cases by casual labour directly employed by the industries, or entrusted to contractors depending on the nature of the work. This type of work is more or less of an ad hoc nature, and not being of a permanent character requiring employment of wholetime workers, employers some times find it more convenient to entrust an outside agency to supply such labour. They naturally do not like to assume responsibility for providing permanent employment to such labour in view of their inability to provide full time work to them throughout the year.

It is, therefore, neither possible nor desirable to prohibit the employment of contract labour. At the same time, the Chamber recognises the fairness of regulating the conditions of work of such labour with a view to ensure payment of wages and provision of essential amenities.

Q. 17 : What are the statutory benefits/provisions, in the implementation of which trade unions and employers' organisations can jointly play a useful role? How should such arrangements be made effective at the plant level? Should there be any standing arrangements for this purpose?

Employers' Organisation can themselves hardly play any useful role in providing all these benefits to workers on the plant level. This is a matter which can best be settled by employers and their workers by mutual discussions either in meetings of the Works Committees, where existent, or at special meetings of the representatives of both parties.

III. TRADE UNIONS AND EMPLOYERS ORGANISATIONS

Federation of Employers & Workers' Organisation.

Q. 26 : What are the factors which have influenced the development and organisation pattern of trade unions/employers' Organisations since Independence ?

A. Employers Organisations

Employers Organisations envisaged in this Question are generally of two kinds : Chambers of Commerce and Industrial Associations. While dealing with the various types of problems of their constituents, they also advise their members about all matters relating to industrial relations.

Some of them have been performing this function from even before Independence and their representative character in this regard has been recognised by Governments, both at the Centre and at the State level. A few such organisations have been set up subsequently, simultaneously with the development of new industries and expansion of commercial activities in the post-Independence period.

The Bengal National Chamber of Commerce & Industry was established in 1887, and it has all along tried to project the views of its members in particular and of the commercial and industrial community in general as much as in protecting the rights of industrial employers, while not being oblivious of the legitimate interests of workers. Besides having a large number of industrial concerns as its members, the Chamber has also affiliated to it a number of Sectional Associations of specific industrial groups, some of which have been formed after Independence.

In the Central sphere, the All India Organisation of Industrial Employers, of which this Chamber is a constituent body, has been exclusively engaged in looking after the labour problems in all its aspects, leaving all other matters in which

industrial and commercial concerns are interested being looked after by the Federation of Indian Chambers of Commerce & Industry.

There is no doubt that, simultaneously with the increase in the intensity of labour troubles, often fomented by militant trade unionism, particularly after Independence (as mentioned in reply to Q.67), the Employers Organisations also have felt it necessary to strengthen their organisations. The need for this has also been felt more increasingly because of the actions taken by Central and State Governments in enacting a spate of labour legislations and the various measures adopted by them for administering the same.

A number of Chambers of Commerce & Industrial Associations has found it necessary to organise Labour Departments mainly with the object of assisting their members to meet all situation created by the action of industrial workers and by giving them suitable advice.

This is in addition to their normal function of

(a) communicating the views of their members to the authorities concerned on the various proposals for new Labour Legislation and the administration of the existing laws ;

and

(b) informing their members of any change in the existing law, enactment of new laws and the various administrative actions taken by Government and the appropriate Departments in this connection.

As already mentioned, these Employers Organisations (including leading Chambers) have been given due recognition by Central and State Governments and, besides being consulted on all labour matters, have also been given representation on a number of Committees concerned with the implementation of the various measures and also handling general labour problems.

The various Chambers and Associations which are members of the All India Organisation of Industrial Employers are also

consulted by the latter in the matter of selection of Employers Representatives for attending meetings of the International Labour Organisation, Indian Labour Conference and its Standing Committee and also on other Public Bodies.

It is necessary to make it clear that, except in the case of specialised bodies like the All India Organisation of Industrial Employers, the handling of labour matters forms only one among the many other functions of Employers' Organisations. While they try to promote and protect the interests of their members in all respects, they do not confine their activities only to the difficulties and requirements of their members, but take a great interest in the general economic development of the country. They are freely consulted by Government not merely in regard to labour matters but also on all questions of general economic policy. It is because of this very wide context in which Employers' Organisations work that they can take a balanced view on all labour matters as on other questions.

B. TRADE UNIONS

One significant point about the Trade Unions to which the Chamber would like to invite attention is the fact that while there was only one Central Union before Independence, the number has since increased to as many as four. The reason for this increase is the desire of the leading political parties to dominate the Trade Union Movement. The provision in the Indian Trade Union Act of 1927 (referred to in reply to Q.27) permitting "outsiders" to become Office-bearers of the Unions has considerably facilitated this process.

Q.27 : What has been the effect of legislative provisions on the growth of trade union/employers' organisations ?

Legislative provisions have affected the growth of Employers Organisations only in so far as the enactment of the Companies Act has enabled non-profit making organisations to

constitute themselves into corporate entities.

The law in respect of Trade Unions is, however, as old as 1927, since when no material change has been effected in the Act. The provisions made in the Act for outsiders being eligible for election as Office-bearers of the Unions and the power given to Unions to raise funds for holding political meetings, sponsoring candidates for election to Legislature, and maintaining any person who has been elected have helped in giving a political character to their activities. In fact, the predominance of the leaders of the various political parties in the Trade Union movement has also led to the formation of a number of Trade Unions, both at the plant level and in particular industries by different political parties. One of the direct consequences of this has been the Inter-Union rivalry, the intensity of which has recently very much increased.

The provision of the Industrial Disputes Act, 1947 permitting an industrial dispute being raised by any registered Union, even though a minority Union, has also encouraged the formation of a number of Trade Unions in the same industrial unit. The existence of a number of Central Trade Unions belonging to different political parties, to any one of which such minority Union may affiliate is a further point to be considered in this connection.

Q.28 : Do you think that the modus operandi of trade unions/employers' organisations have changed during the last decade? If so, what are the characteristics of this change?

A. As mentioned in reply to Q.26, the Employers Organisations have found it necessary to set up special machineries to assist their members both to appreciate their responsibilities in a democratic society and to defend them against actions, sometimes illegal, of their workers.

B. Trade Unions, on the other hand, have become more and more militant during the last decade.

While strikes are undoubtedly a legitimate weapon in the hands of workers, and though the various Labour Laws lay down the procedure for enforcing their provisions, there is a growing tendency among a sizeable proportion of workers to defy all disciplinary actions and to resort to such tactics as sit-in, go-slow, etc. While this has been going on for quite a long time, the situation turned far worse particularly after the General Election in 1967, as a result of which various Left political parties had formed United Fronts which came to power in some of the States. In West Bengal, in particular, industrial peace was last year very greatly disturbed by the coercive tactics resorted to by workers in extorting their demands from their employers. Such tactics included not merely Ghernos, involving the wrongful confinement of managerial personnel for hours together (sometimes even in the residential quarters of the latter) and forcible prevention of ingress and egress of both men and materials from factory premises, but also physical torture like beating, exposure in sun and rain etc. While in a few cases the provocation might have been caused by lay-off or retrenchment, and in some cases by the inability or the failure of the management to implement the recommendations of the Wage Board or the awards of Tribunals, in the large majority of cases, such coercive tactics were resorted to on the flimsiest ground such as taking disciplinary action or the inability of the Industry to pay Bonus on the scale demanded by the workers far in excess of the provisions made in the Payment of Bonus Act.

The statement made by the then Labour Minister of West Bengal that Ghernos were legitimate upto a point and the direction given to the police not to interfere in such cases without the prior approval of the Ministry further aggravated the situation, and the Chamber does not consider it to be at all a healthy sign that the matter had ultimately to be taken to the High Court for an authoritative interpretation of the legality of such action.

There is a growing feeling that such tactics by the workers are being motivated not by any genuine grievances by workers but by a pre-meditated plan of their leaders to take political advantage of the situation brought about by the results of the last General Election.

C. It must be emphasised in this connection that there is a fundamental difference in the nature of work of Trade Unions and of Employers' Organisations. The former often take up a militant attitude, but the latter always prefer to follow the procedure laid down by law.

Q.29 : Do you think that the attitudes of trade unions and employers' organisations towards (a) each other and (b) Government have undergone any change during the last decade? If so, state the direction of this change.

Joint participation in tripartite meetings organised under the auspices of Government has made it possible for the representatives of Trade Unions and Employers Organisations to come into close contact with each other. There have been a number of occasions when agreed decisions have been taken in the meetings, though a few meetings have also ended inconclusively.

Representatives of both sets of organisations also meet in a number of ad hoc committees and it is likely that all these have enabled them to appreciate one another's points of view.

An opportunity has undoubtedly been offered by such meetings at common platforms for the settlement of disputes, though results so far achieved have not been very satisfactory.

Q.30 : The traditional role of trade unions/employers' organisations has been to secure protection to advance the interests of their members. In view of the national objectives of establishing a socialist society and achieving planned economic development : (a) What should be the changes in the nature and scope of activities of the trade unions/employers' organisations? (b) What are the changes needed in their organisational pattern and attitudes? (c) What are

the fields of activity in which they have an independent role to play? - (d) In what others should they function in co-operation (i) between themselves and (ii) jointly with Government?

As mentioned above, industrial relations form only a part, though undoubtedly a very important part, of the functions of Employers' Organisations, including both Chambers of Commerce and Industrial Associations. They have to attend to various other problems - manufacturing, marketing, financial and otherwise - of their members, and they take very great interest in all matters affecting the economic development of the country. Some of them maintain well-equipped Research Departments for studying the economic problems of the country and occasionally also organise Seminars and Symposia for focussing attention on particular problems. They often forward their considered views on various questions to Government and also circulate important information to their members.

The Chambers of Commerce, in particular, have long realised that their Role has considerably changed in the Post-Independence period, and some of them are making necessary changes in their organisational pattern.

Q.31 : How have trade unions/employers' organisations helped in the evolution of a better society? How do they represent their views and discuss their affairs with Government and other public authorities and agencies? Does this system of communication need improvement? If so, in what direction?

Employers organisations do not generally confine their activities only to the particular interests of the members. An important part of their work relates to matters concerning the general economic condition of the country. To this extent they may be said to have helped in the evolution of a better society.

They have fairly satisfactory method of communication with Government and other public authorities. Apart from sending written representations, they often take the opportunity of meeting Ministers and responsible Government Officials either
in the ... (p.25)

in the offices of the latter or at their own premises for discussion of important matters relating either to individual problems or concerning general economic issues.

The representatives of the Employers Organisations also serve in a number of public bodies where important questions are discussed.

Q. 32 : How can trade unions/employers' organisations contribute towards maintaining a high level of employment? Or is this solely the concern of Government?

While, as mentioned below, trade unions and employers' organisations may make some contributions towards maintaining a high level of employment, the matter depends to a large extent on the economic and social policies which Government may follow from time to time. It is necessary to emphasise that employment in industries and commercial houses forms only a small proportion of total employment in the country, and business houses as such are not directly concerned with employment in such social services as education, sanitation, medical relief, etc. There are also the established professions like law and medicines of which due notice should be taken.

The problem of employment has indeed to be tackled by Government in so far as the size and nature of employment in any country, whether directly in factories and commercial establishments or otherwise, depends on the volume of economic activity in the country. The maintenance of any standard of social services is also not possible unless the community pays for it either through taxes or public or private endowment which again, in its turn, depends on the wealth generated by the economic activity in the country.

Subject to these observations, trade unions and employers organisations can play a limited role in the opening up of avenues of employment. It is the businessmen who by their own enterprise, sometimes undoubtedly assisted by policies adopted by Government,

create opportunities for new employment. The employers' organisations, of which they are members, also have generally arrangements for studying possibilities of new investments and some of them also carry on market research and explore possibilities of export. They always try to help their members to expand their activities either by representing their difficulties in this respect to the Government with a view to the removal thereof or by acting as storehouse of information of possibilities that exist for development of industries. They are also interested in the improvement of the technique of productivity and management and carry on research in these spheres. Even though employers are generally in favour of adopting scientific methods of production and of the introduction of automation wherever possible, they do so not merely with a view to improve the quality of their products and cheaper the cost but also because they believe that a phased programme of automation will ultimately increase prosperity resulting in the expansion of the scope of employment:

The Chamber is not very sure whether trade unions on their part are very much interested in maintaining a high level of employment apart from protecting the interests of their existing members. The various tactics often adopted by them are not such as to encourage industries being set up in particular areas. This has been particularly so since the various leftist parties forming United Front have come into power in many of the State in India. By the peculiar methods which they have adopted, they have created a feeling of insecurity and lawlessness. On the other hand, Trade Unions can definitely help in creating a proper atmosphere for development of industries and, if they adopt a more constructive and realistic policy towards industrial relations, they can certainly promote employment in the country.

It is necessary to state, in this connection, that the provisions made in the Industrial Disputes Act for compensation in case ... (a.27)

in case of mass lay-off and mass-retrenchment and the proposal which the Government of India had recently made for providing Unemployment Insurance serve only to protect the interests of existing employees and do not have any relevance to the provision of employment to those who are at present unemployed.

Q. 33 : Bipartite consultations being one of the effective means of reducing the areas of conflict between employers and their employees, what steps should trade unions/employers' organisations take for promoting such consultations?

Employers generally prefer bipartite consultations with their workers. There are, however, a number of difficulties in this respect.

In the first place, in a number of industrial units, the existence of more than one Union, belonging to different groups, often leads to a confusion about the particular Union with which talks should be conducted. It also happens in a number of cases that agreement with one Union is repudiated by another.

In the second place, the provision of the Industrial Disputes Act permitting an individual employee to raise disputes has made it difficult for the management to initiate talks with any particular Union.

In the third place, the recent cases of Gheraos in West Bengal had engendered a feeling among employers that the negotiations at the bipartite level were to be held at the point of gun. It had actually happened that the failure and/or the inability of employers to accede to the demands of workers had led to harassments, intimidation, physical assaults and Gheraos by the latter of the management personnel.

The Chamber has no doubt that, in the interest of industrial peace and speedy settlement of disputes, all these difficulties should be removed and that a proper atmosphere should be created for facilitating such consultations.

Q.34 : What are the existing arrangements for communication between the central organisations of employers and workers and their constituents? How should these arrangements be improved?

A. Employers Organisations are in close contact with their constituents. They maintain such contacts by means of circulars, correspondence and periodical meetings.

B. The Chamber has no information about the manner in which Trade Unions maintain contacts with their members.

Q.35 : Are there occasions when central organisations of employers and workers refuse to affiliate employing units/unions at the plant level? If so, on what grounds.

The Central Organisations of Employers do not refuse to affiliate units, if the latter satisfy the conditions laid down in this regard.

The Chamber has no information about the Central Organisation of workers.

Q.36 : To what extent are the obligations undertaken by the organisations of employers and workers at the national level implemented by their constituents? Are there any effective sanctions for non-compliance with these obligations? How far have they been used in recent years? How could these sanctions be made more effective?

Q.37 : Do difficulties arise in reconciling the actions of the unions/employers at the plant level with national policies evolved jointly by trade unions/employers' organisations? Could you cite instance of such difficulties? How are such difficulties resolved?

Generally speaking, the obligations undertaken by Central Organisations of Employers are implemented by their constituents, except in very rare cases due to

(a) the difficulty in regard to the correct interpretation of the commitments made?

and

(b) the difficulties peculiar to particular units.

Even in most of these exceptional cases, the obligations are ultimately implemented, though after some time lag.

It may be added that there is at present no sanction for enforcing the compliance of the obligations undertaken by Central Organisations of Employers or of workers. The Chamber is of opinion that, in a democratic society, the compliance should be on a voluntary basis.

Q. 38 : What should be the responsibility of all-India organisations of employers and workers towards
(i) promoting the interest of their constituents in all matters affecting industrial relations
(ii) implementation of laws, voluntary agreements, etc. (iii) training of management personnel
(iv) providing guidance to constituent units
(v) settling of industrial disputes in constituent units and (vi) improving the efficiency of industry? How should they be equipped for discharging these responsibilities?

The Central Organisations of Employers are specially equipped to discharge the various responsibilities referred to in the Question. Apart from communicating to their constituent Associations the contents of Government's policy on different problems affecting industrial relations and decisions taken either by Government themselves or at tripartite concerns, they also try to assist them by providing expert assessments of the current position. Occasionally they also organise seminars and symposia on different aspects of employer-employee relations to which experts are invited to participate.

While the present system is fairly satisfactory, there is scope for improvement in this regard.

While matters relating to training of management personnel and improving the efficiency of industry are normally the functions of individual units, Employers Organisations, including Chambers of Commerce, take direct interest in this regard by their close association with a number of Institutions where such training is imparted. In fact, a number of such Institutions has been set up with the active co-operation and patronage of leading members of the business community and the Employers Organisations.

Trade Unions - Constitution
and Finance.

- Q.39 : How are trade unions constituted at the plant level ? What are the different forms of constitution ? Are there any common objectives mentioned under the rules of different trade unions, ? What are these common objectives ?
- Q.40 : How are the Officers who ~~man~~ the trade unions appointed ? How many of them are paid ?
- Q.41 : How does a trade union get new members ? Are all membership applications accepted ? If not, by what criterion are applicants accepted or rejected ? In what ways do unions compete for membership ?
- Q.42 : What steps do trade unions take to encourage members to interest themselves in the conduct of unions' affairs ? How effective are such steps ?
- Q.43 : How are the activities of a trade union conducted ? How is the policy decided ? Who is responsible for implementing the policy once it is decided ? To what extent does the rank and file influence the formulation of the policy ?

The points referred in these questions relate to the internal organisation of Trade Unions, and the Chamber would not like to offer any comment, except stating that —

- (a) the Trade Unions Act permit at least 50% of the Office-bearers being elected from non-members.
It is not known how many of them in any Trade Union are paid out of Trade Union Funds ;
- (b) the formation of a number of Unions in the same unit or industry suggests that there is keen competition among them for recruitment of members.

The manner in which inter-Union rivalry has been allowed to grow suggests that the competition for membership is not always carried on along healthy lines.

The Chamber would, in this connection, also refer to the experience of many employers that long term arrangements arrived at between them and the Unions, after due consultations, are often violated by workers without any action taken by the Union.

- Q.44 : What in your opinion is the extent of prevalence of the system of "closed shop" or "union shop" ? State its merits and demerits in Indian conditions.

While the Chamber is fully conscious of the evils of multiplicity of Trade Unions in any industrial unit, it is not in favour of any curtailment of the right of any worker to join any particular Union or if he so chooses not to join any Union at all.

The introduction of the system of either the "closed shop" or the "union shop" is, therefore, not desirable in India.

The system of "closed Union" has the further disadvantage in so far as it also restricts the right of the employer to recruit workers only from among the nominees of the Union.

Trade Union - Leadership
and Multiplicity.

Q.49 : What has been the impact of political parties on the pattern of trade union development in India ?

The different political parties exercise considerable influence on the Trade Unions, whether at unit level or industry level or region wise. Almost all the Unions are led by persons belonging to one or other political parties and naturally the policies pursued by the different Unions have not always been the same even though fundamentally the interests of workers should be more or less similar irrespective of the ideological difference among the leaders of the rival unions. This perhaps explains why the Trade Union Movement has not always helped the workers to obtain the best advantage of their membership.

Q.50 : Reference is often made to the influence of outsiders in trade unions. Please define the term "outsider" and state what the influence of outsiders has been on trade unions.

Q.51 : How should internal leadership in a union be built up and strengthened ?

An 'outsider' is one who is not a worker.

The Chamber appreciates that in the early stages of the Trade Union Movement about half a century ago it was necessary and ... (p.32)

and desirable for outsiders to direct the movement of the unions in the manner best suited to the interest of the workers. The level of education at that time in the country as a whole and among industrial workers in particular was very low and the general body of workers could not always be expected to be conversant with their rights and the manner in which their activities should be conducted.

In the peculiar condition then prevailing, the All India Trade Union Congress was also under constant guidance of the then political leaders of the country who were closely identified with the Freedom Movement, and it is undeniable that trade union leaders of those days successfully mobilised the opinion and activities of industrial workers in the national cause, namely in the struggle for emancipation of the country from foreign yoke.

In course of time, however, with the formation of different political parties, particularly after Independence, the latter considered it desirable in their own interest to extend the sphere of their influence over industrial and even white-coloured workers by forming their own respective groups and different trade unions, both central and others.

While the Chamber feels that there should not be any curtailment of the democratic right of any particular worker to belong individually to a political party of his own choice, it is nevertheless strongly of opinion that trade unions as such should not have any political affiliation and should be concerned solely with the protection and promotion of the rights and interests of members and that the trade union movement as such should not be permitted to have any direct link with any political party.

The Chamber is further of opinion that with the spread of education in the country and the growth of political consciousness among all sections of people, both urban and rural, workers,

whether ... (p.33)

whether in industry or in other establishments, should have been by this time in a position to formulate their lines of action without interference from the political leaders to whichever party they may belong. In view, however, of the existing condition in the country, the Chamber would not press this point at this stage, but it is definitely of opinion that the number of "outsiders" should not exceed ten per cent of the total number of members of the office-bearers of a Trade Union. The Indian Trade Union Act should be modified accordingly.

The Chamber also feels that if the syllabus of the Workers Education Scheme is properly framed and if also the co-operation of both the existing Trade Union leaders (who are mostly outsiders) and top management officials of industries is obtained, workers of all establishments may be properly trained in the correct trade union methods and it may not be very difficult to ensure the building up of internal leadership from among the workers among whom the number of competent persons is quite considerable. The framing of the syllabus may be entrusted to a separate Committee.

Q.52 : Does the existing legislation encourage multiplicity of trade unions? If so, what are the remedial measures?

As mentioned in reply to a previous question, the provisions of the Industrial Disputes Act permitting any Union to raise any industrial dispute is a direct encouragement to the multiplicity of Trade Unions in the country.

The provisions of the Trade Unions Act permitting the formation of Unions by anybody of seven persons also encourage the formation of more than one Union in a particular unit.

These two Acts should accordingly be suitably amended.

Q.53 : How far has the Inter-union Code of Conduct (Appendix IX) adopted by the four central labour organisations in 1958 been effective in regulating inter-union relations and avoiding inter-union rivalries? How could the Code be made more effective.

The inter-Union Code of Conduct has not at all been effective. There is a very large degree of competition among the various political parties to increase the membership of the Unions belonging to each group, not merely by recruiting the hitherto unattached workers but also by offering inducements to the members of other existing Unions and some times even exercising intimidating tactics.

Trade Union Recognition

- Q.54: What are the advantages and disadvantages of a union registration? Are there any aspects in which the powers of the Registrar of Trade Unions could be altered or enlarged with advantage?
- Q. 55: Has there been a change in the attitude of employers towards trade unions, particularly in the matter of recognition of unions? If yes, what have been the contributory factors?
- Q.56: Has the Code of Discipline in Industry contributed towards securing recognition for trade unions?
- Q.57: Do the existing provisions under the Code of Discipline in regard to recognition of unions provide a satisfactory arrangement in this regard? Specifically, are the provisions regarding (i) the procedure for verification (ii) the procedure for grant and withdrawal of recognition (iii) the period of recognition and (iv) the rights of the recognised unions satisfactory? If not, what improvements would you suggest in them?
- Q.58: Would you suggest giving effect to the provision of the Indian Trade Unions Amendment Act, 1947 in the matter of recognition of unions? Or, should provisions similar to the Bombay Industrial Relations Act 1948 or similar Act elsewhere in India for recognition of unions be written into the Indian Trade Unions Act 1926? Are there any other suggestions in this regard?

At present any seven persons, of whom three may be outsiders, can get any trade union registered. In other words, irrespective of the number of workers employed in any industrial unit, any four of them can join with three outsiders and form a union. This naturally encourages the formation of a number of unions in any particular unit and the Chamber is definitely of opinion that no union should be registered unless it is proved to the satisfaction of the Registrar that at least 30% of the workers in the union have formally joined it.

Employers are in favour of recognising those Trade Unions which are fairly representative of the workers in the particular establishment.

Difficulties, however, arise as to the criterion about the representative character of the Union. The percentage (15%) fixed by the Code of Discipline is definitely very much on the low side. In line with the suggestion made above, the Chamber considers that it should be obligatory on the part of an Employer to recognise a

Union only when at least 50% of the workers have joined it.

The Code also requires membership to be counted on the basis of payment of subscription for at least three months during the period of six months immediately preceding the reckoning. This period should be increased, in the case both of registration and recognition, to six months during the previous year, and one of the conditions of continuity of both registration and recognition should be a check up of membership on this basis at the end of every two years.

This verification should be made by the Registrar of Trade Unions.

It should also be laid down that the recognition should always be subject to the observance of the Code by the Union.

The Chamber considers the existing rights of recognised Unions as stipulated in the Code to be fairly satisfactory.

Q.59: What are the advantages of industrywise unions? What will be difficulties in their recognition? How should the subjects to be dealt with by unions at the plant level and by the industry union be demarcated?

The Chamber is generally opposed to the recognition of an industry-wise Union. For, even if such a Union has at least 25% of the workers of the industry in a local area as its members, (as stipulated in the Code of Discipline); it may happen that workers in particular units of the industry may not be members of the Union or only a small percentage may be such members.

It is, therefore, necessary that, in addition to the existing condition, an industry-wise Union must have a minimum percentage of workers of all the units of the industry as its members, before being entitled to recognition.

As already stated in reply to a previous Question, one of the essential criteria for the recognition of a Union should be a membership strength of at least 50% of the total members of workers employed in a unit. An industry-wise Union should, on this basis, must obtain 50% of the workers of all the units in the industry in the area as its members, before it can ask for recognition by the industry.

Q.60: What are the advantages and disadvantages of naming a Union as the sole bargaining agent in an industrial unit ?

If a Union enjoying the confidence of at least 50% of the workers of the particular unit is selected as the sole bargaining agent, any settlement arrived at with this Union will have a much better chance of acceptance by the other workers in the Union. Employers will in that event feel assured that any attempt by the non-members to repudiate the settlement will not succeed.

If, however, such settlements are arrived at with minority unions, chances for fresh disputes on points already settled will increase.

Q.61: For determining the representative character of a trade union for purposes of grant of recognition should the method of election by secret ballot be adopted? If so, explain the details of the method and the administrative arrangements necessary for the purpose.

The answer to the first part of the question is in the affirmative.

The Registrar of Trade Unions, or some other appropriate authority, should make the necessary administrative arrangements.

The result of the election may be subject to appeal to the Labour Court.

Q.62: If a union is elected as the sole bargaining agent in an establishment, what should be the rights and responsibilities of other unions in the establishment?

Unions, other than the one selected as the sole bargaining agent, should have no rights and obligations, except to abide by the settlement in issues of general nature involving the interests of all workers. But, in cases of disputes of individual workers or individual groups of workers, the registered Union -- though not recognised -- may take up such cases with the management for settlement.

Q.63: Considering that categorywise unions, particularly of technicians, are assuming greater importance in relation to (a) the employer and (b) unions of other categories of employees ?

General staff, other than workers of any industrial unit should be encouraged to form the respective Unions.

Q.64: What facilities should an employer extend at the workplace for the activities of unions ?

This question should be decided by the management in consultation with the Union.

IV. Industrial Relations.

Introductory.

- Q. 66. What should be the criteria for determining the effectiveness or otherwise of Government's industrial relations policy? In terms of these criteria, give your assessment of the working of the policy since Independence, with special reference to the legislative and other arrangements for prevention and settlement of industrial disputes.

The effectiveness or otherwise of the Government's industrial relations policy should be determined by the extent to which industrial disputes are satisfactorily solved and peace is maintained in the industrial front. In more concrete terms, the criteria should be the number of mandays lost, and the loss of production caused not merely by strikes but by go-slow tactics.

Judged from this standpoint, the various legislative measures, such as the Industrial Disputes Act, the Industrial Employment Standing Orders Act, the Payment of Bonus Act etc. have not attained their objectives in full in the speedy settlement of disputes.

In the circumstances, the directions in which amendments should be made in the various Acts in the light of the changed outlook and the experience gained during the last few years should be carefully examined.

In particular, the Chamber would suggest that Government should seriously consider the feasibility of encouraging bipartite settlement.

- Q. 67. Are the patterns of industrial conflict changing since Independence? In particular, how have the social, economic and political factors affected the intensity of industrial conflict?

Several factors have affected the intensity of industrial conflict since Independence. The adoption by the Country of a Constitution with provision for Adult Franchise coupled with

expectations held out during the period of Freedom Struggle has resulted in the awakening of a consciousness among all citizens about their rights and privileges. Industrial workers, living in or near cities and new townships and being in constant touch with political leaders, have shared in this awakening to a much larger extent than the rural population. Though, for some years past, attempts are being made by the Workers Educational Centre to instill a feeling of responsibility among industrial workers in general, the influence of political leaders has, on the other hand, been much more effective and the sense of responsibility has not grown among industrial workers in general to the extent expected.

To some extent the fact that the standard of literacy is not very high among the industrial workers - in the background of a high degree of illiteracy in the country as a whole - has also contributed to this state of affairs.

In fairness, it should be mentioned that the condition of living in the country has been growing from bad to worse as a result of the large outlay of public funds, both for Plan and non-Plan expenditure, which has led to a high degree of inflation in the country. The inability of food production within the country to cope with the increase in population has further accentuated the difficulties of the people and has to that extent contributed to political discontent among all sections of people, particularly the industrial workers.

The emphasis simultaneously laid on the objective of raising the standard of living, without due regard to other relevant considerations, has also raised expectations among workers, such as may not be realised in the existing condition.

The growth of trade unionism in the country with a large element of outside personnel, mostly from political parties, and rivalry among different unions dominated by different parties has often resulted in irresponsible and unrealistic demands being

made by workers.

The situation in this regard was further complicated last year, particularly in West Bengal after the United Front came into power in the State. All political parties forming the Front were in opposition up to the time of the last General Election and some of these parties which were actively associated with labour movement had considered it their duty to utilise Government machinery to advance the causes which they had upheld while in the Opposition. A few parties had also openly expressed their inability to do much for the workers in view of the limitations imposed by the Constitution on the powers of the constituent States and speeches and statements made in this regard also generated a feeling of hostility among the workers to establish law and order and encouraged them to resort to such unlawful activities as gherao and forcible occupation of factory premises and also prevention, by force, of ingress and egress of men and materials into and from factory premises.

- Q. 68. Is it possible to pick out some significant factors in units within your knowledge which in recent years have helped in improving industrial relations at the plant level? Will these factors continue to be of significance in future?

There have been a few cases where Bipartite negotiations based on mutual understanding and backed by long-term agreement have yielded fruitful results.

- Q. 69. What have been the causes of industrial unrest since Independence? Have there been any special circumstances which have contributed to industrial unrest? How could their effect be minimised in future?

In addition to the factors mentioned earlier, disputes arising out of the quantum of wages (including dearness allowances) payment of Bonus, arrangements for supply of food from Canteens, lay-off and retrenchment, disciplinary action taken by management etc. have been the causes of industrial unrest in recent years.

An effective policy on Price Stabilisation and restoration of a feeling of respect for Law and Order may help in restoring normalcy to the situation.

Q. 70. What has been the impact of inter-union rivalry on industrial relations?

Inter-union rivalry is often a source of trouble and constantly disturbs industrial peace.

There have been many cases where agreements made by the management with one Union have been repudiated by other Unions in the unit and matters which have been settled with the former are reopened by the latter, thereby embittering industrial relations.

The inter-union rivalry must be stopped. This question has been dealt with in full earlier.

Q. 71. What improvement are necessary in the present arrangements for prevention of industrial disputes? What would be the role of mediation service in the prevention of disputes?

The following measures may help in the prevention of industrial disputes :

1. Recognition by Employers of Unions on the lines indicated earlier;
2. Initiation of bipartite negotiations;
3. In case such negotiations do not succeed, reference of the dispute to the Conciliation machinery, which should be adequately strengthened and which should be asked to submit its report within a time limit.
4. Parties may also, if they so agree, refer the matter for settlement to voluntary arbitration.
5. In case all these efforts fail, the dispute has to be referred for adjudication to the Tribunal, which must be asked to dispose of the matter expeditiously.

The Chamber does not feel that there is a very great likelihood of a mediation service being successful in settling disputes.

- Q. 73. How is the state of industrial relations in a unit affected by the existence of trade unions? What difference, if any, exists in the climate of industrial relations where the relevant trade union organisation is (a) strong (b) weak (c) non-existence?

The Chamber is of opinion that only responsible and sound trade unionism, not under the influence of political leaders, can improve the climate of industrial relations. The present defect of Trade Unions is the legacy which has been handed over to them historically. Employers will always prefer to deal with strong Unions, if they are representative in the sense indicated in answers to previous questions and if they are led by responsible leaders.

- Q. 74. What has been the contribution of factors like (a) recognition of union (b) arrangements for dealing with individual and collective grievances and (c) strengthening bipartite consultative arrangements, in promoting industrial harmony?

If Unions are registered and recognised on the lines indicated in answers to previous questions, it will help in strengthening bipartite consultative arrangements and promote industrial harmony.

- Q. 75. In maintaining and promoting harmonious employer-employee relationship, what should be the respective obligations of (i) Central Organisation of employers and workers (ii) local management (iii) local union and (iv) the Government - Central or State?

A system of proper communication between the Central Organisations of employers and workers and also between the management and the union at the unit level will help in maintaining and promoting harmonious employer-employee relationship. Government should always take a fair and impartial attitude in all disputes.

- Q. 76. What role have labour/personnel officers played in preventing disputes and maintaining harmonious employer-employee relationship? How far have they been effective? Suggest measures to improve their effectiveness.

It should be the duty of labour/personnel officers to try

to remove all causes of bitterness between management and workers. They have indeed a vital role to play in resolving disputes. There are many factories where this objective has been achieved.

Q. 77. What should be the arrangements for proper communication between workers and management at the plant level ?

Regular meetings between managements and workers at the plant level and announcements through written notices, house magazines and mikes may serve as satisfactory means of communication between two groups. Labour Officers should in this respect be the "eyes and ears" of both Managements and workers.

Q. 78. To whom do managements delegate their authority in dealing with employees ? To what extent do managements include specialists for dealing with personnel matters ?

Managements generally delegate their authority in dealing with employees to Works Managers and Labour Officers. In so far as the latter have specialised knowledge of industrial relations, their services should be utilised to a larger extent.

Q. 79. To what extent are the standing orders subject to agreement between employees and managements ? In how many cases are they drawn up by management alone?

Q. 80. To what extent do the Employment Standing Orders Act, 1946 and the Model Standing Orders formulated under that Act serve the purpose for which the Act was framed. 2

Q. 81. What are the disciplinary rules imposed by management ? Do the procedure prescribed under the Model Standing Orders in dealing with disciplinary cases require modification, and if so, on what lines ?

Standing orders are normally prepared by the management, but they are finalised only after the certifying officer is satisfied about the reasonableness of different orders after a mutual discussion with the representatives of the managements and the workers. Model Standing Orders serve only as a guide to the managements in the preparation of the Orders before they are sent to the certifying officers.

- Q. 82. Has the Model Grievance Procedure evolved under the Code of Discipline served its purpose? If not, is there need for statutory provision for the formulation of an effective grievance procedure? What should be the main elements of such a provision? How could it affect existing bipartite arrangements?

The answer to the first part of the question is generally in the negative. The effectiveness of the Model Grievance Procedure depends upon the acceptance of the principle by both sides. The Unions should consider it their duty to educate their workers and make them conscious of the procedure to be adopted in this regard.

- Q. 83. What is the attitude of trade unions and employers' organisations to the introduction, either by voluntary agreement or statutorily, of a system of grievance arbitration? Would such a system help in improving labour-management relations?

The Chamber does not approve of the proposal to give statutory recognition to the system of Grievance Procedure. It will not improve labour-management relations, as all petty grievances will then become a dispute.

- Q. 84. What are the existing facilities for training management and trade union personnel in industrial relations? To what extent are they used?

There are a number of institutions which impart training both to management and trade union personnel in industrial relations. Mention may, in particular, be made of the institutions of Management, Productivity Council, Administrative Staff College and also of the Workers' Education Scheme. Enlightened employers generally co-operate with these institutions and permit both their supervisory personnel as well as workers to undergo training in these institutions.

Collective Bargaining.

- Q. 85. What is the extent of prevalence of the system of collective bargaining in this country? How far has it succeeded? What has been the effect of legislation on the growth of collective bargaining?

According to the information of the Chamber, a system of collective bargaining has been resorted to in a number of cases, though there had been a few instances where the settlement arrived at as a result of such bargaining was subsequently repudiated by workers claiming to belong to Unions which were parties to such agreements.

In fact, the existence of a number of Unions in a Unit or an industry is a bar to any scheme of collective bargaining.

The existing legislation also does not encourage collective bargaining, as disputes are referred to Tribunals or Adjudication immediately after the failure to come to a settlement through conciliation.

- Q. 86. If collective bargaining has to be encouraged at the industry level, how should the representative character of the bargaining agent for workers be determined?

Collective bargaining at the industry level can be successful only if bargaining is done with the Industry-wise Union recognised on the lines indicated in reply to a previous question.

- Q. 87. Do you agree with the statement that (a) collective bargaining has its uses when unions have sufficiently built up their strength and even for strengthening unions and (b) adjudication system provides an arrangement by which satisfaction can be given parties without open industrial conflict as also for protecting the weaker party?

- Q. 88. What should be the rôle of (a) collective bargaining and (b) adjudication as methods for safeguarding industrial peace in the years to come?

The Chamber is in favour of collective bargaining only with a recognised Union, but it is also of opinion that adjudication system has to be resorted to in the ultimate stage, if collective bargaining fails. There is no question of an adjudication system giving satisfaction to any party, whether weak or strong.

Q. 89. In disputes arising over a charter of demands, is it feasible to separate areas of difference between the employer and the union into those where collective bargaining could exclusively operate and others which could be left to adjudication ?

Q. 90. What should be limits of collective bargaining under conditions imposed by planned development?

It is not possible to demarcate the areas of difference between the employer and the Union into those where collective bargaining could exclusively operate and others which could be left to adjudication. In all cases where collective bargaining fails, the dispute has to be referred either to conciliation or to adjudication.

Joint Consultation.

Q. 91. Do trade unions, through collective bargaining and joint consultation, provide an effective form of democracy within the enterprise ?

The answer is in the affirmative, if collective bargaining and joint consultation are carried on with Trade Unions which have been recognised because of having at least 50% of the workers in a union or an industry as their members.

Q. 92. The Industrial Disputes Act, 1947, provides for the setting up of works committees "to promote measures for securing and preserving amity and good relations between the employer and the workmen". Have they been functioning satisfactorily wherever they have been set up? If not, what factors have militated against their setting up and proper functioning ?

Q. 93. To meet the criticism that works Committees have been languishing for want of definition of their specific functions, an illustrative list of functions of works committees was evolved by the Indian Labour Conference. Assuming that there can be a clash of functions between the trade union and works committee, can this list be the basis for demarcation/definition of works Committees' functions?

Q. 94. Suggest measures for improving the utility of the works committees with particular reference to their composition and functions.

The institution of Works Committees has not so far met with great success mostly because of the opposition of Trade

Unions to the system. The Chamber, however, feels that opportunity should be given for the proper functioning of the Works Committees on the lines suggested by the Indian Labour Conference. This, however, will depend on the co-operation which the Trade Unions may offer in the matter.

- Q. 97. (a) Is it feasible to introduce a scheme of workers' participation in management by making the workers shareholders?
- (b) If it is considered feasible what steps should be taken to facilitate the introduction of such a scheme?
- (c) Does such shareholding give adequate voice to workers in running of the establishment?
- (d) Are there any other methods by which workers can participate in management?

The Chamber does not consider that a scheme of workers' participation in management by making them shareholders will serve any purpose in fostering a sense of participation in the undertaking among workers. The few experiments have been made in this regard have also not been very successful.

On the other hand, this has caused some difficulties because, as has happened in certain cases, the worker shareholders do not personally attend the meetings but depute Trade Union leaders to attend as their proxies. These leaders utilise the forum of the shareholders meetings to propage their particular points of view which are not strictly relevant to the points for discussions at such meetings.

The position is not better even when worker shareholders choose to attend the meetings in persons. Shareholders of many companies, particularly larger ones, are spread over many parts of the country and many of them do not find it possible to attend meetings in person, though they send their proxies. The worker shareholders, on the other hand, being generally resident in the same city or town do not have any difficulty in attending meetings either in person or through proxies. This has often resulted in the annual meetings of shareholders ending in rowdiness and other disturbances.

As the objective of sharing the profits of all companies with the workers has been fulfilled by the enactment of the Payment of Bonus Act and as, further, workers may have some voice in the working of the industries through Works Committees and also Joint Management Councils where possible, the Chamber is of opinion that the question of making workers shareholders of a company may be dropped.

Q. 98. To what extent has the conciliation machinery given satisfaction to the parties to a dispute ?

Q. 99. Statistics of settlement of industrial disputes show that conciliation machinery has played a pivotal role in maintaining industrial peace. At the same time, many major disputes may not be amenable to settlement through conciliation machinery. Do you agree with this assessment of the functioning and utility of the machinery ?

Q. 100. What changes in the organisation and staffing of the machinery and powers of conciliation officers would you advocate ? Please indicate the specific changes / improvements which will make for a more expeditious and effective disposal of conciliation work ?

Q. 101. Should conciliators be named arbitrators in disputes handled by their colleagues ?

Generally speaking, the conciliation machinery has not given satisfaction because of a number of factors. In the first place, the present machinery is not adequate enough to handle the large number of cases which are referred for conciliation. The number of officers is comparatively small, while properly qualified persons with necessary training are not always available to handle complicated cases. In the second place, the time taken is also rather very long. In the third place, as the conciliation officers generally do not like to displease workers, they always ask the management to give more concessions than what they agree to do.

Employers have necessarily to resort to conciliation when bipartite negotiations fail, and the question of conciliation machinery giving satisfaction to the parties does not generally arise in such cases.

What is necessary is that the machinery should be adequately equipped, both in quality and in quantity, and a definite time limit should be laid down for the disposal of conciliation work.

The Chamber is opposed to conciliators being named 'arbitrators' in disputes handled by their colleagues.

ADJUCIATION.

Q. 102. What are the criteria for assessing the suitability or otherwise of the present system of adjudication? Do you think the system has played an important role in maintaining industrial peace? Should the system be retained?

While, as mentioned above, the Chamber feels that due emphasis should be given to settlement of disputes through collective bargaining, it is also of opinion that the system of adjudication should be retained in the industrial relations settlement machinery for dealing with all cases where bipartite negotiations fail.

By and large, the present system of adjudication has helped in maintaining industrial peace, but the Chamber is of opinion that, apart from expeditiously disposing of the cases referred to the Tribunals, it is also very necessary to consider the manner of constituting the Tribunals. The present system of appointing either retired judicial officers or those who are due to retire as members of the judiciary is not at all satisfactory; it should be replaced by a separate cadre of qualified persons. The appointing authority should be the High Courts and recruitment should be made from persons with adequate judicial experience qualified to be appointed as High Court Judges.

Q. 103. In case adjudication machinery is to be retained, what powers should it have in industrial disputes relating to discharge and dismissals?

In disposing of cases relating to discharge and dismissal, the Tribunals should be guided by the principles of natural justice and should guard against any worker being victimised.

Q. 104. Are the existing arrangements for reference of disputes to adjudication satisfactory? If not, how can the arrangements be improved?

There have been cases where disputes have been referred to Tribunals on flimsy grounds, and there should be some machinery for screening the cases before they are referred to Tribunals.

Q. 105. Should the authority for appointment of industrial tribunals be vested in the Labour Departments? If not, where should it lie?

As mentioned in reply to question No. 102, appointment of industrial tribunals should not be vested on the Labour Departments. They should be appointed by High Courts.

Q. 106. There is a section of opinion that the existing procedure and practices involving different stages like conciliation, adjudication, etc. in settlement of disputes take an unduly long time. What measures would you advocate for expeditious settlement of disputes?

Q. 107. Do you think the revival of the Labour Appellate Tribunal would help in the expeditious settlement of disputes?

As mentioned in answers to previous questions, an unusually long time is at present taken by both the conciliation officers and the Tribunals in the disposal of cases referred to them. The Conciliation Officers should be given a definite time limit within which they shall have to dispose of cases, while procedure followed by Tribunals should also be simplified.

The Chamber is in favour of the revival of the Labour Appellate Tribunal, as this would help in expeditious settlement of the disputes.

Q. 109. What measures should be taken to ensure full and speedy implementation of tribunal awards and agreements?

There is no question that the Tribunal awards should be fully implemented without any unnecessary loss of time. All cases of non-implementation should be referred, as is the case also at present, to the Evaluation and Implementation Committee for necessary action. There may be a few cases where parties may be unable to implement the award because of genuine difficulties but, subject to the appeal to the Labour Appellate Tribunal, all cases

of non-implementation should be dealt with strictly and penal provisions should be enforced.

- Q. 110. Has the Code of Discipline served its Purpose ?
- Q. 111. Which provisions, if any, of the Code of Discipline should be given a legal shape ?

The expectations aroused at the time the Code of Discipline was adopted have not been fully realised. Though it has codified the principles which both employers and workers should observe in their mutual relations and has to that extent served as a moral force, it has been honoured more by breaches than by observance.

The machineries set up under the Code should be activated and the Evaluation and the Implementation Committees should meet more frequently.

The Unions also should accept the Model Grievance Procedure.

- Q. 112. What is the role of voluntary arbitration in the achievement of good industrial relations? In what way can the Central Organisations of employers and workers promote voluntary arbitration? Should a provision for voluntary arbitration be incorporated in all collective agreements ?
- Q. 113. Please indicate the areas of industrial disputes where voluntary arbitration could be preferred to adjudication.
- Q. 114. Are you in favour of setting up standing arbitration boards? If so, indicate (a) their composition (b) procedure for setting up of such boards and (c) subjects to be referred to them.
- Q. 115. What professional group provides the best arbitrators? Civil servants? Lawyers? Academics? Businessmen? Trade unionists? Technicians? Others?
- Q. 116. What should be the arrangements for meeting the expenses of arbitration?

Voluntary arbitration, by its very nature, depends on the willingness of both the parties to the dispute to abide by the award of arbitrators. The Central Organisations, on their part, can do very little except giving advice to their respective members to refer their disputes to voluntary arbitration.

If both employers and employees, who are parties to a dispute, agree to such a cause, it will be for them to decide upon whoever may appear to them suitable.

It may, however, be pointed out that, in actual practice, difficulties will be experienced in finding suitable and experienced persons acceptable to both the parties.

There is, on principle, no objection to incorporate a provision for voluntary arbitration in all collective agreements if both the parties agree to such a procedure being adopted. It is not, however, possible to indicate the areas of industrial dispute when voluntary arbitration could be preferred to adjudication.

The Chamber does not favour the proposal to set up Standing Arbitration Boards.

The expenses of arbitration should be borne by the parties.

Q. 117. Do you consider that the existing restrictions on workers' right to strike and the employers' right to declare a lockout need to be modified in any way? If so, please indicate these modifications together with reasons in support of these modifications.

Subject to the observation made below, the existing restrictions are adequate. All that is necessary is that they should be strictly enforced.

The Chamber would, however, like to suggest that lockouts declared during an adjudication proceeding should be permitted if they are forced on employers as a precautionary measure against risk to life and property in their establishments caused by action taken by striking employees.

Q. 118. Do union rules provide for a procedure to be gone through before giving a call for strike? If so, to what extent is this procedure observed in practice?

The Chamber has no information on this point.

Q. 119. If a strike is called/lockout is declared, is prior notice always given to the other party? In what cases, if any, no such notice is given?

As far as the Chamber is aware, no prior notice is generally given of strikes in non-public utility concerns.

Q. 120. In how many cases within your knowledge have workers been able to secure wages for the strike period when the strike is declared legal? Are there cases where strike pay is given when the strike is illegal?

The question of payment of wages during an illegal strike does not arise.

Q. 122. Are there instances of workers going on strike without sanction of the Union?

Instances of workers going on strike without the sanction of the Union are not many, because in most cases Unions have become very strong.

In those cases where strikes are declared without the prior sanction of Unions, the latter do not in many cases, cannot repudiate such actions.

Q. 123. In what way in practice do trade unions and managements keep in touch with each other during a strike in order to facilitate a settlement? What is the role of Government machinery in such cases? Should Government intervene in cases where a strike is (i) legal (ii) illegal.

Contacts during the strike period are maintained by the parties through the conciliation machinery.

Government should play a fair and impartial role in all such cases.

General.

Q. 124. What has been the role of tripartite committees like the Indian Labour Conference, Standing Labour Committee, Industrial Committee, etc. in evolving through mutual discussions and agreements acceptable arrangements in the various fields of labour relations?

In the context of the provision of the Constitution regarding adult franchise and in the absence of representation in Parliament of special interests, the Indian Labour Conference

and the Standing Labour Committee provide a very useful forum for employers and employees to meet in a Tripartite Conference with the representatives of the Central and State Governments for a discussion of all matters relating to labour policy. Particularly also in view of the further provision of the Constitution making "Labour" a concurrent subject, and in view also of the near certainty of different political parties coming into power in different States, an Organisation on which, besides the Central Organisation of Employers and Employees, both the Central and the various State Governments are also represented should be increasingly utilised for a full and frank discussion of the labour policies to be pursued by the Central Government and in the States and for deciding upon the broad guidelines to be followed all over the country in regard to labour legislation.

The Tripartite Conciliation machinery has been fairly successful so far. But its usefulness will depend upon the extent to which the Central and State Governments agree to obtain prior approval of the Indian Labour Conference before sponsoring any new labour legislation or amendments of existing laws.

BENGAL NATIONAL CHAMBER OF COMMERCE & INDUSTRY

REPLIES TO THE
QUESTIONNAIRE
ISSUED BY
THE NATIONAL COMMISSION ON LABOUR
(PART - II)

MAY, 1968

V. W A G E S

Q.130 : How does the current availability of unskilled labour affect the level of wages ?

Contrary to the generally accepted impression, the law of demand and supply does not operate in the case of fixation of wages in the organised sector of the industry. While the paying capacity of the industry is an important factor to consider, wages in organised industries are fixed by awards given by the wage-fixing authorities, who are generally guided in this respect by the principles laid down by the Fair Wages Committee.

In some cases wages are also fixed by bipartite negotiations.

Q.131 : What has been the relationship between wages in agriculture and other unorganised sectors and wages in industry ?

Q.132 : Should wages in agriculture and unorganised industries be allowed to influence wages in industry ?

As a general rule, the level of wages in organised industry is very much higher than that paid to agricultural workers and those in other unorganised sectors. This has been brought about by several factors, mainly the bargaining strength of organised industrial labour, awards and recommendations of Tribunals and Wage Boards, actions taken by State Governments in pursuance of the policy to fix Minimum Wages and also because of the existence of escalation clauses in the Wage structure in proportion to the rise in the cost of living. Having regard further to the fact that workers in organised industries are entitled also to Bonus and to social welfare benefits conferred by the ESI and the Provident Fund Schemes and other fringe benefits, there is no doubt that they are in a much better financial position vis-a-vis workers in agriculture and unorganised industries.

The Chamber would, in this connection, state that while in its opinion, there should be a certain amount of difference between the wages paid to organised industries and those in unorganised sectors, ... (p.56)

sectors, particularly in agriculture, in order to offer an inducement to the surplus rural population to take up jobs in organised industry in urban areas, the existence of a great disparity in the wages in the two sectors is undesirable from a wider social point of view. It is not in the interest of the economic development and also stability that the level of wages (including other benefits) paid to industrial workers, who form only a small fraction of the total working force in the country, should be out of proportion to the level prevailing in the unorganised sector. The difference should, therefore be limited to a reasonable rate.

Q.133 : To what extent is the existing level of wages a result of the traditional mode of wage settlement, collective bargaining, awards, etc. ?

vide answer to Question No.130.

Minimum Wages

Q.134 : As set forth in the report of the Committee on Fair Wages, "The minimum wage must provide not merely for the bare sustenance of life, but for preservation of the health and efficiency of the worker. For this purpose, the minimum wage must also provide for some measure of education, medical requirements and amenities." Should this concept of minimum wage be modified in any way ?

Q.135 : The 15th Session of the Indian Labour Conference accepted certain norms in regard to the size of the worker's family and minimum requirements of the family relating to food, clothing, housing and other items of expenditure. Attempts made by some wage fixing authorities to qualify the minimum wage have brought out the difficulties in implementing the formula. In what respects do the standards require reconsideration ?

Q.136 : If it is not feasible to provide the minimum wage referred to above to the working class is it possible to suggest a phased programme for implementing the need-based minimum as recommended by the Indian Labour Conference ?

Workers should undoubtedly be assured a minimum wage and, to the extent that it is a subsistence wage, no employer can have any justification for refusing to pay the same.

The difficulty, however, arises in determining the proper concept of "minimum wage". The question of fixing minimum wages on the principle of "needs" has to be considered in the light of a number of considerations which are mentioned below.

In the first place, the norms fixed by the 15th Session of the Indian Labour Conference definitely appear to be unrealistic in the conditions prevailing in the country for many years in the past and likely to continue for yet some more years in the past and likely to continue for yet some more years in future. So far as food requirements are concerned, "a net intake of 2,700 calories, as recommended by Dr. Aykroyd for an average Indian adult of moderate activity" will remain an ideal the attainment of which in the near future is very much problematic. According to the Draft Fourth Five Year Plan, the per capita availability of calorific value of foodstuff was only 2,145 per day in 1964-65 when the production of foodgrains had reached the all-time record of 89 million tonnes, since when production came down very steeply. Though last year there was a fairly satisfactory crop, it did not come up to 95 million tonnes, the figure which had earlier been estimated for 1967, and it is very doubtful whether production during the next few years will rise to the extent qualifying a per capita intake of 2,700 calories, having regard to the increase in population meanwhile.

It may also be pointed out that while the per capita availability of cereals per day for the whole of India in 1967 was 359 grammes according to the Economic Survey for 1967-68 published by the Government of India, Ministry of Finance, the daily ration of cereals to heavy manual workers in the Calcutta Industrial Area under the scheme of Statutory Rationing was fixed in February 1966 at a much lower figure viz. 300 grammes. Even this low quota could not be maintained for long and, with the gradual deterioration of the food situation in West Bengal, this quota was subsequently reduced to about 235 grammes.

In the circumstances, the computation of "needs" of our industrial worker on the basis of 2,700 calories of food seems to be very much unrealistic, particularly also because the availability of other supplementary foodstuffs is equally unsatisfactory. It may be added that the industrial workers, residing mainly in the Statutorily Rationed Areas have also the advantage of securing their requirements at officially controlled prices, which are much lower than the open market prices prevailing elsewhere in the country.

As regards cloth, requirements were estimated by the Indian Labour Conference at a per capita consumption of 18 yards per annum equivalent to 16.35 metres, as against the availability of 15 metres per annum in 1964-65, according to the Draft Fourth Five Year Plan. As the production of cotton cloth (both in the mill and the decentralised sectors) came down to 7304 million metres in 1966-67 from 7436 million metres in 1965-66 and 7744 mm in the previous year (vide Economic Survey), it is not surprising that the per capita availability in 1966-67 was reduced to 13.8 metres per annum.

The point which the Chamber desires to emphasise is that in assessing the "needs" of a worker and his family, due attention has to be given to the fact that the ability of any individual to secure the minimum needs depends not merely on his financial resources but also on the physical availability of the consumption goods in the country during any period of time. The fixation of the minimum wage only on the basis of any theoretical assessment of the needs of a worker and his family, without taking into account the availability of the commodities, will on the other hand only lead to the accentuation of the inflationary trend - or the diversion of the additional income generated to what might be called unsocial consumption of liquors, unless simultaneously effective steps are taken for a steady rise in the standard of living of the workers by making available to them other items of consumption which may add to their comforts. It is very ... (p.59)

very likely that the payment of wages in excess of what may be spent for purchasing the comparatively small quantities of goods available - doubtless at prices, controlled or otherwise, current at a given time - will not in any way benefit the workers.

This aspect of the matter appears to have been overlooked by the Tribunals and Wage Boards in fixing the minimum wages of workers.

In the second place, the concept of minimum wages providing also for some measure of education and medical requirements (as recommended by the Fair Wages Committee) has to be considered in the light of the obligation which the State has in this regard. While many employers, particularly in the tea gardens and collieries and also in industrial townships, maintain schools for their employees and also provide for medical relief to their workers, the State should not shirk the responsibilities imposed on it by the constitution in providing from primary education to all school-going children, including the children of industrial workers, and also for setting up adequate number of hospitals in the country. A large number of employers are also making compulsory contributions to the Employees' State Insurance Corporation for providing medical benefits to their employees and to the members of their families. In considering this matter, the Chamber would once again emphasise that the provision of overall benefits depends on the availability of adequate number of teachers and medical practitioners in the country and also of medicines. The slow progress in providing medical benefits to the workers of establishments covered by the ESI Scheme because of the lack of Doctors, Nurses and Hospital accommodation is a pointer to this question.

The Chamber is anxious to make it clear that the observations made in the foregoing paragraphs should not convey the idea that it is against the payment of minimum wages to industrial and other workers. Employers should not, in any case,

refuse ... (p.60)

refuse to discharge this responsibility.

It is, however, necessary that the needs of the workers should be correlated to those of other sections of the community and should be determined in the context of the physical availability of the goods and services and also the extent to which the State - as distinguished from the employer - should have the responsibility to provide all these goods and services either from or at a subsidised rates. In other words, there should be a certain degree of flexibility in the concept of "need-based wages, and the obligation of the employer in this respect should be laid down according to a phased programme.

It is also necessary, in this connection, to pin-point the following factors to which the Fair Wages Committee had drawn attention.:

- (i) the productivity of labour ;
- (ii) the prevailing rates of wages in the same or similar occupations in the same or neighbouring localities ;
- (iii) the level of the national income and its distribution ; and
- (iv) the place of the industry in the economy of the country.

Unfortunately, however, the various wage-fixing authorities, including Tribunals and Wage Boards, do not often give due recognition to these factors, even though the representatives of Employers Organisations repeatedly draw their attention to these points.

Q.137 : The Committee on Fair Wage made its recommendations about minimum wage against the background of conditions in the industrial sector. Do these ideas require modification if they are to be relevant to non-industrial workers who predominate in the economy ?

Q.138 : If the idea of fixing a National Minimum Wage is to be accepted taking into account the replies to questions 134 to 137 above, how is it to be worked out in practice ?

Q.139 : As between different regions in the country it is not only that prices of consumption goods vary, but the content of the minimum needs themselves can be different. How are these variations to be provided for in arriving at the National Minimum ?

Supplementing the observations made above, the Chamber would point out that it is not possible in the existing condition of the country to fix a National Minimum Wage, whether for industrial workers only or for all the work force. A uniform scale will be unworkable mainly because of different conditions prevailing in different sectors of the economy, not to speak of the existing low volume of production of the various items of consumption and of services available.

Q.140 : Would you favour any change in the definition of 'minimum', 'fair' and 'living' wage given by the Committee on Fair Wages ? What in your opinion could have been the concept of 'living wage' referred to in the Constitution ?

The definitions given by the Fair Wages Committee are by and large satisfactory, subject to the observations made above.

The concept of living wage in the Constitution should be interpreted both in the light of the contribution already made by the employers to the various Social Welfare Fund and the responsibility of the State to provide certain minimum standards of education, medical help etc. to all citizens, including industrial workers.

Dearness Allowance

Q.141 : Considering the need for protecting real wage, how should one provide for revision of wages/wage rates for changes in price level ? Should this be by revision of the wage itself or by a provision of a separate component absorb price changes ?

Subject to the observations made in reply to Q.145, the Chamber would point out that the best method of compensating the workers for any increase in prices is to continue to pay a separate variable dearness allowance in addition to the basic wage. No change should be made in the existing practice.

Q.142 : In view of the prevalence of several methods to provide for the payment of a separate allowance to meet changes in cost of living, is it feasible to apply any one system on a uniform basis? Which system would be most appropriate?

Q.143 : If a system in which dearness allowance adjusted to changes in cost of living is favoured —

- (a) Which index number viz. (i) All India (ii) regional or (iii) local should be preferred?
- (b) What should be the frequency at which revision should be made - monthly/quarterly/half-yearly, etc.?
- (c) What should be the extent of change in the index which should warrant such revision in dearness allowance - each point/slab of 5 points/slab of 10 points, etc.? Give reasons.

The Chamber would prefer the All India Index Number.

The rate of dearness allowance should be changed at an interval of not less than one year.

The extent of change in the index to warrant revision should be a slab of 5 points.

Q.144 : In determining the quantum of dearness allowance, what should be the principles governing the rate of neutralisation of price rise?

Q.145 : Considering that payment of a cost of living allowance is meant to ensure that real wage of employees is not eroded by price increases, should the capacity to pay of an industry unit be a relevant consideration in fixing the rate of dearness allowance?

While conceding that the real wage of employees should not be eroded by price increases, the Chamber would point out that increase in prices caused by inflationary policies of Government affects all sections of the community - and not merely workers employed in commercial and industrial establishments - and it is not possible in all cases to compensate them fully against the erosion of their real income. There is no reason why employers in the private sector only should be asked to bear the burden entailed by the grant of additional allowances to their workers to compensate them against rise in prices

caused by the inflationary policies of Government, particularly also because many industrial units do not earn additional profits because of such rises in prices. The increase in prices of essential consumer goods, in fact, often causes a shrinkage to the volume of sales of other industries producing durables, apart from putting a check on any sympathetic rise in the prices thereof.

A point that should not be ignored in considering this matter is the chain effect of a rise in total wages in proportion to the rise in prices on further rise in prices. In order that this vicious circle may be broken, it is absolutely essential that Government should adopt a rational price policy and take effective steps for stabilisation of prices at a particular level.

Q. 146 : In areas/activities where part of the wages is in kind, what adjustments should be made in fixing the quantum of dearness allowance ?

In dealing with this question, the Chamber would refer to the peculiar case of the Tea Industry of North East India, where the employers have to supply a specified quantity of cereals to the workers and their dependents at 54 P. per kg. Even if the entire quantity required by them for this purpose had been supplied to them by Government, the financial loss entailed on them by the difference between the controlled price and the issue price would have been considerable. On these occasions when they have to obtain the whole or part of this requirements from the open market due to the shirking of the responsibility by Government in this regard, the loss is increased correspondingly.

There may be other instances of such subsidization by employers of the price of goods supplied to workers in kind, of which the Chamber has no information.

It is only fair that this should be taken into account while determining the rates of wages or dearness allowances paid to workers.

Fringe Benefits

Q. 147 : How should fringe benefits be defined ? What should be their scope and content ? To what extent do such benefits affect production costs ?

Q. 148 : How far can the fringe benefits be a substitute for higher money earnings ?

All these benefits given to workers which are not part of wages directly paid to them may be considered fringe benefits. These may confine the supply of food at subsidised rates from canteens, expenses incurred in providing housing and facilities for education and medical treatment. Some of these are statutory obligations, while a few others are voluntarily undertaken by some employers.

Though not part of wages, the monetary value of these benefits naturally increase production costs, and to the extent these help to reduce the cost of living of the workers, their incidence should be taken into account in determining the level of wages and dearness allowance.

Wage Differentials

Q. 149 : Do the existing wage differentials in the plants within your knowledge appropriately reflect the consideration mentioned in the report of the Committee on Fair Wages, viz., degree of skill, strain of work, length of work, training requirement, responsibility undertaken, mental and physical strain, disagreeableness of the task, hazards of work and fatigue ?

Q. 150 : What has been the effect of the existing systems of dearness allowance on wage differentials ? What steps would you suggest to rationalise present arrangements ?

Evolution of a scientific system of wage differentials would depend on a proper job evaluation. As, however, such evaluation has not made much progress in the country, there are many ... (p.65)

many cases where wage differentials do not take into account of the factors mentioned in the question except in so far as different scales of wages as fixed by wage fixing authorities for different broad categories of workers.

The existing system of dearness allowance does not very much change the differentials in those cases where dearness allowance is given on a slab quantum basis, and not on percentage basis.

Methods of Wage Fixation

Q.151 : As between different methods of wage fixation obtaining at present, namely, statutory wage fixation, wage fixation through collective bargaining, fixation through wage boards, and wage fixation resulting from adjudication etc., which method or methods would be more suitable for adoption in future? If one or the other arrangement is needed for different sectors, indicate sectorwise the arrangement needed.

As mentioned in reply to questions included in Section IV, the Chamber is generally in favour of all settlements through collective bargaining, wherever possible.

As, however, this may not suit all cases, even where strong representative Unions have been recognised, recourse has necessarily to be made to the statutory wage-fixing machinery and also in some cases to Wage Boards.

Q.153 : Tripartite wage boards came in vogue because it was felt that an arrangements by which parties themselves can have a hand in shaping the wage structure in an industry could be more enduring than the one where an award is handed down by a third party. Has this expectation been fulfilled?

- Q.154 :
- (a) In what respects should be operation of wage boards be modified to improve their working?
 - (b) Should wage board recommendations have legal sanction?

The experiment of Wage Board has not been much of a success so far mostly because of the manner in which they are constituted and the procedure which they follow in arriving at any findings.

The object of making both parties to come to a mutual agreement though this machinery has been frustrated because the Chairman and the "independent" members have not in many cases taken an impartial view and have generally sided with the employees whenever the employers have found it difficult to agree with the latter.

The Chamber feels that there is no need for appointing the so-called independent persons as members of the Board and that the representatives of employers and employees should meet under the Chairmanship of an independent Chairman whose duty should be to help the opposing parties to come to a mutually acceptable formula.

It has also been complained that the atmosphere in which deliberations are conducted in meetings of the Wage Boards often make any serious consideration of the points of issue extremely difficult, if not impossible, and further that a practice has developed, in the case of a few Boards, of what may be described as "horse trading".

The recommendations of the Board, therefore often suffer from the serious defect of ignoring the fixation of wages at a level linked with Productivity.

A further defect in the existing system is for a single Wage Board to settle the level of wages in an industry having units in different parts of the country where conditions are not the same.

The Chamber would further invite attention to the fact that, while, in the beginning it was expected that only the unanimous recommendation of the Wage Boards should be binding on all units, Government have for some time been pressing the industry to implement the majority recommendations in so far as these have been accepted by them.

It is necessary that only the unanimous recommendations

of the Wage Boards should be binding on all the units covered by the same. All points on which the parties are not able to come to any agreement should, as a matter of rule, be referred to adjudication.

Wage Policy

Q.155 : (a) How could the criteria of fairness to labour, development of industry, capital formation, return to entrepreneur, etc., be taken into account in wage fixation ?

(b) It is said that in the balance between fair wages to workers, fair profits to entrepreneurs and fair returns to treasury, the consumers are often left behind. How far is this criticism valid ? How best can the situation be remedied ?

(a) While fair wages should be paid, due consideration should at the same time be given to the other factors mentioned in the question.

(b) If fair wages are given to workers, fair profits are given to entrepreneurs and if also the Treasury gets fair returns it has to be presumed that fair prices are charged, and consumers should not have any grievance on account of prices that are charged.

Q.158 : Is there a need for sectional balance in wage structure between the public and private sectors ? If there is, how should it be achieved ?

There should not be any differences in the Wage structure of public and private sectors.

Mode of Wage Payment

Q.159 : What are the existing practices in regard to payment of wages in kind ? Would you suggest its extension to units where it is not obtaining at present ?

As already mentioned in reply to Question 146, Tea Industry in North East India has to supply cereals to the workers and their dependents at a very low rate, much lower than the Government controlled rates, not to speak of the market rates.

The Chamber is definitely opposed to this system of paying part of wages in kind.

Q.160 : To what extent is the method of paying unskilled workers on time scale of pay common? Would you favour its extension?

The Chamber is in favour of paying unskilled workers on time scale of pay.

Q.161 : Do you favour the suggestion that the total wage packet should consist of three components, namely, the basic wage, the other depending on price changes and the third which takes into account productivity changes? If so, how should this suggestion be made operative?

It is only reasonable to expect that workers should give a reasonable quantum of production in return for a given wage level (including both basic wage and dearness allowance). In case there is an additional production in excess of the norm that additional payment should be paid to workers.

General :

Q.163 : Is the scheme for payment of annual bonus embodied in the Payment of Bonus Act, 1965, satisfactory? If not, what are your suggestions? How does the latest decision of the Supreme Court affect the Scheme of the Act?

Q.164 : What should be the place of bonus payments in the future system of remuneration?

The Payment of Bonus Act provides for a minimum bonus of 4% even in the case of undertaking incurring losses.

The Chamber is definitely of opinion that this provision is not fair, in so far as it ignores the principle of profit sharing and it would suggest that the Act should be modified so as to all undertakings from the payment of bonus in any year when their working results reveal loss.