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**LABOUR COMMISSIONER
DELHI ADMINISTRATION
DELHI.**

**REPLIES TO QUESTIONNAIRE
OF THE
NATIONAL COMMISSION ON LABOUR**

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NATIONAL COMMISSION ON LABOUR

Section One

QUESTIONAIRE

1. Name and address of the respondent. Labour Commissioner,
Delhi Administration,
15-Rajpur Road, Delhi.
2. The name of the Central Organisation of employers/workers to which you are affiliated. Does not apply.
3. If union, please give the number of members, when was the Union formed? Does not apply.
4. If an undertaking/establishment, please give:
 - (a) Commodity produced/nature of activity. Does not apply.
 - (b) Number of employees as on 1.1.67.
 - (i) Workers.
 - (ii) Others.
 - (c) When was the undertaking established?

I. RECRUITMENT AND INDUCTION.

Recruitment

1. (a) In most of the bigger industrial establishments, such as, D.C.M. group, recruitment is made through personnel departments assisted by the departmental heads or their assistants. The technical competence is assessed by the latter. The influence of the jobbers is now not such a strong one as it used to be in the past. There have been practically few complaints regarding corruption and exploitation in recruitment by jobbers. At the same time it cannot be said that the jobbers have no influence at all. The jobbers do introduce the operatives to the personnel department. However, the final selection ultimately rests with the personnel department. Sometimes new workers are introduced to the personnel department by the co-workers also. Preference is also given to the sons/near relations of the existing workers in some concerns particularly in D.C.M. Recruitment for senior jobs is done through advertisements in the leading newspapers.

Although the employers are required to notify to the Employment Exchange the vacancies, under the Compulsory Notification Act, it seems the employers prefer to tap other source of recruitment as mentioned earlier. Sometimes the selection is made from the existing Badli or temporary employees. Particularly with regard to technical personnel, the selection is made from amongst the existing apprentice or trainees. In most of the public sector undertakings also, there are properly organised personnel departments and they are responsible for carrying out the selection of new personnel with the assistance of departmental heads. Some of the employers also lay down certain standards of physical fitness as well as literacy. Some of the large employers also insist on medical examination of the employee both at the time of recruitment as well as at the time of confirmation. Recruitment of workers through contractors is limited to only certain types of casual labour required intermitently.

1. (b) Although the present recruitment arrangements are considered to be satisfactory for different types of employees and different levels of skills, there is considerable scope for improvement. It is felt that the over all recruitment policy is not based on scientific tests adopted in highly industrialised countries so as to obtain optimum utilization of talent. For instance, there are no vocational guidance clinics. The employers do not also carry out the aptitude test with a view to find out whether the selection of a particular employee for a particular type of job is satisfactory or not. The result is sometimes wrong selection with its adverse effect not only on the employees but also on the employers. Quite a sizeable section of the workers come from neighbouring rural background and their sudden induction into the complex factory life creates problems of psychological adjustment. As has been aptly remarked by some one "the Villager is pushed into the city rather than pulled into it". It therefore requires a high degree of flexibility to switch on from a rural to an urban setting. The problem of psychological adjustment therefore, requires to be earnestly studied in order to obtain better results. In short, although lot of improvement has been made during the last decade in

management techniques, it is felt that there is vast scope for streamlining the existing procedures in respect of recruitment and induction. This is very necessary at present juncture particularly when our industries are faced with keen competition both internally as well as externally. With a scientific policy of recruitment and induction, it may be possible to cut down costs of production as well as avoid wastage of man power.

2. There is shortage of employment particularly of highly skilled labour for certain periods both in public as well as in private sector. Although the various programmes of technical training are turning out a large number of trained personnel, it is felt that they take their own time in specialising in particular lines of work. Due to disparities in the emoluments between the private and public sectors, there is tendency among certain categories of technical personnel to show marked preference for employment in the private sector. It would therefore be desirable to modify the wage structure of public sector employment, so as to attract the best talent available in the market. In certain commercial establishments as well as undertakings complaints are heard about non-availability of stenographers. It is felt that proper in-plant training of existing personnel would go a long way in improving the situation.

3. With a view to encouraging greater mobility in different categories of labour, it is suggested that the following facilities may be made available to industrial labour in liberal measure.

- (a) Housing,
- (b) Educational facilities,
- (c) Reimbursement of travelling expenses once in a year from the native place to the place of work,
- (d) Free medical aid.
- (e) Attractive remuneration.

4. Industrial labour is migratory in character to a considerable extent. Most of the workers in the factory come from rural areas both far as well as near. As such a number of problems are created both in recruitment as well as retention of industrial labour. The industrial worker is not so far committed to city life or to the goals laid down for him under

planned development. The thought upper most in his mind is that he belongs to a particular village to which he would always go back at any time. He thinks that his employment in a factory is only an interlude between frequent visits to the village, he hails from. The city life with all complex problems of housing and sanitation is frequently regarded by him to be something alien. In a crowded city he sometimes feels lonely and bewildered due to lack of proper adjustment. He considers himself to be the son of the soil where he was born and he is ever longing to return to the same on all occasions of joy as well as sorrow. Every effort should, therefore, be made to cut this nexus between him and his rural environment. This could be done by giving him an ample measure of amenities of city life. At the same time, it would also require considerable orientation in his out-look. This could be done by giving him facilities for training in social education centres. In short the conditions of city life should be vastly improved with the result that he no longer considers himself an alien in the city where he earns his livelihood.

5. It is felt that employment of women in factories in the private sector has gone down. This applies particularly to married women as some of the employers would not like to incur additional expenditure on payment of Maternity Benefit, maintenance of creches etc. as provided under the Maternity Benefit Act. It is also felt that due to abundance of men available for jobs due to rapidly rising population, the employment of women has been adversely affected. Some of the employers also consider that employment of women labour is not economic as their out put is less than that of men.

Although the above factors tend to affect adversely the employment position of women, there are certain types of jobs where their position seems to have improved considerably in post independence period. This is particularly so in respect of employment in public service. Nevertheless, their total share in employment opportunities appears to fall a short of their numerical strength or even educational qualifications. With a view to promoting greater employment of

women, it is not necessary to curtail the facilities granted so far to them. Greater facilities for education of women would undoubtedly create greater employment opportunities. At the same time change of outlook on the part of employers also is necessary in this connection.

6. No specific study has been made by us regarding advantages and disadvantages of casual labour. In any case, this is not a serious problem in our region and no measures are necessary in our opinion for decasualization of labour.

7. It is not considered desirable at present to make statutory provision for reserving a portion of vacancies to physically handicapped persons, particularly in the context of the present un-employment position even of able bodied persons. A statutory provision will create conflict between disabled workers of the factory who may be out of employment on payment of compensation or pension following employment injury and outsiders. At the same time it is reported that physically handicapped persons are sometimes able to work even better than able bodied persons in particular jobs requiring concentration and there is no reason why they cannot be utilised in the over all national interest. For instance, blind persons are reportedly able to give better out put than able bodied persons in jobs requiring concentration of mind on a single operational process. A proper study will, therefore, have to be made to find out what particular skill each handicapped person has developed or is capable of developing. It would be advisable, if a certain nominal amount from the profits of an industrial undertaking are earmarked for subsidising institutions employing handicapped labour wholly or in part. A proper scheme can be worked out by social welfare institutions and representatives of employers paying contributions may be given some control in the administration of such institutions.

8. Although the employers would not formally acknowledge any element of discrimination in the matter of recruitment on ground of caste, community, region, language etc. In practice, these influences are undoubtedly at work in an indirect manner. Such a discrimination is not at all justified under any circumstances. However, there is nothing

that could be done by legislative action in this regard. It will have to depend on inculcation of a strong sense of patriotism and national integration.

9. Although some of the bigger managements have already introduced programmes for 'on-the-job' training of workers, it is felt that the same fall far short of actual requirements. Improvement is suggested both in the quality as well as quantity of such programmes. If necessary certain amount may be earmarked from the profits of the company for these types of programmes. For instance, an amount of about half per cent the net profit of the company may be earmarked for such training programmes so as to enable full scope to the training of existing employees. Sometimes, it is noticed that outside personnel are preferred in employment without fully investigating the possibility of utilising local talent in the plant itself. This situation creates a sort of de-moralising influence on the existing personnel and their initiative is sapped. It also causes heart burning upon them which sometimes leads to major trouble when it is accumulated over the years.

10. At present the facilities in the industrial undertakings in respect of encouraging an employee to avail the facilities outside the place of work for improving his skill are very scanty, if at all, including the facilities for grant of study leave. It has been noticed that the rank and file of workers in an industrial undertakings invariably possesses a lot of latent talent and skill. But the same dies out because of lack of promotional opportunities. Given proper encouragement and training, the workers are capable of far exceeding the targets of production. Training facilities should, therefore, be liberalised and every worker who has put in a minimum period of say 5 years should be encouraged to join training programmes in his particular field of job so as to enable the country to reap benefit of his latent talent.

11(a) and (b). Some of the salient features national promotional policy should be as follows:-

i) Recruitment should be done after thorough screening and after proper aptitude and psychological tests. A proper promotional policy can be successful only after ensuring that there has been proper selection. There should also be intelli-

gence tests as well as medical check up particularly in jobs requiring higher responsibilities.

ii) Normally there are four types of jobs at the operational level, namely, unskilled, semi-skilled, skilled and highly skilled. It should be ensured that there would be no stagnation of talent at any level. All jobs in the semi-skilled category should be filled in by 100% promotion from unskilled jobs. In skilled jobs there should be 75% recruitment from semi-skilled jobs and 25% by direct recruitment. In highly skilled jobs there may be 25% promotion from skilled jobs 75% from outside. The proportion between the insiders and outsiders would depend upon a number of factors such as, the type of industry, the location of the industry, the past recruitment policy etc. For instance in an aircraft or a Rayon factory, it may be desirable to have greater percentage of outsiders in view of the high degree of skilled required for the same. But in an engineering factory or textile mill, it may be possible for a worker with about 5 to 10 years experience to reach a higher degree of skilled than a fresh outsider.

iii) So far as the managerial staff is concerned, the above policy may be adopted with suitable modifications. If necessary the insider may be sent for training outside in order that he may be better equipped so far as academic qualifications are concerned.

iv) It would be necessary to hold a trade test before a person is promoted to a higher job. Upto the category of skilled job, the minimum educational qualifications should be sufficiently long period of service in the factory, say 5 or 10 years, proven ability to achieve better results etc.

v) With a view to providing adequate opportunities to outsiders having first class qualification and/or outstanding performance in the positions held by them earlier, it would be advisable to give them opportunity to compete with the insiders for all jobs above the category of semi-skilled. This would mean utilisation of outside talent to the advantage of the industry. It would also create a healthy spirit of competition between the insiders and the outsiders and the result would be advantage of all concerned.

vi) There is an impression that the sons of the soil are not given any special consideration for employment in a particular region. This impression can be eliminated by recruitment at least of 50% of the jobs in the un-skilled category from persons domiciled in the particular region. An unskilled job is defined as one requiring very little training or experience. It should, therefore, be not difficult to comply with this requirement. This will engender a spirit of harmony and contentment in the local population. This should apply particularly to new plants.

vii) There is a feeling that several extraneous influences are brought into play more indirectly than directly at the time of the recruitment as well as promotion. As such it would be advisable to make specific and clear cut rules for recruitment as well as promotion. These rules should be strictly adhered to and there should be provision for appealing to a judicial authority so that all malpractices can be exposed or eliminated.

viii) It has been aptly stated by some one that there are no bad men or bad plants, there are only bad cultivators. It would be advantageous to keep this observation in mind while ignoring the claims of inside staff for promotion. This principle should be kept thoroughly in mind for recruitment at the lowest level and proper promotional opportunities should be provided for every one.

ix) It is difficult to lay down any precise formula in respect of assigning the role to be played by seniority, merit and trade test in the formulation of National Promotional Policy as the same would depend upon a number of factors.

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in a
technical

Broadly speaking, for a given job, trade test should be assigned 50% marks and seniority as well as merit 25% each. At the same time certain general observations may be made. In the first place, trade tests should be considered very essential for any job requiring technical skill, irrespective of the consideration whether he is insider or outsider. Technical ability should be given a paramount consideration if the programme for industrialising the country is to make rapid headway as is envisaged by all. Where-ever it is not possible for an employee to be successful in a trade test in one

opportunity, he should be given atleast three more opportunities so that he may not have any cause for frustration. This policy should apply in so far as operational staff is concerned. So far as the administrative and supervisory personnel are concerned sometimes much is made of what is called seniority-cum-merit. In this respect certain significant observations have been made by some judicial authority. According to him, seniority like maternity is a matter of fact whereas merit like paternity is at best a matter of guess work. Although these observations are somewhat of an over-simplification, the fact cannot be denied that there is an element of truth in so far as one hears frequently about various extraneous influences at work both at the time of recruitment and promotion. It would be advisable in so far as possible to give due consideration to seniority and unless there is very much amiss with a particular employee over a long period of time, he should normally be not denied any opportunity for promotion. As mentioned earlier, there should be provision for a judicial review in respect of any complaint in this connection. It has been observed that promotion is mainly a management function. However, any unfettered exercise of this power, many a time, given rise to discontentment, often resulting in serious disturbances of industrial peace. Behind every strike, or go-slow or stoppage of work, there is invariably a dis-gruntelled person or group. Although such a group would be numerically small, it often acts as an agent provocature in major disturbances of industrial peace. These aspects of the matter may, therefore, be kept in mind while framing the National Promotional Policy. The overall objective of the same should be to bring out the best in every employee.

II-CONDITIONS OF WORK

WORKING CONDITIONS:

12(a and b) There are no plantations in the Delhi Union

Territory. As such the question of implementation does not arise. There are not many mines either. So far as the factories are concerned the following suggestions are made for improvement in implementation.

1) In order to minimise occurrence of accidents in Factories, it would be helpful to appoint Safety Officers in factories employing 250 or more workers. To ensure effective control, the appointment of the Safety Officers may be regulated by State Government and those officers should be placed under administrative control of State Labour Commissioner. Pay and allowances of these Safety Officers may however be borne by management, because their appointments would increase, production. The following provision may be incorporated in the Welfare Section of the Factories Act, 1948:-

" In every factory wherein 250 or more workers are employed the occupier shall employ such number of Safety Officers as may be prescribed.

" The State Government may prescribe the duties, qualifications and conditions of the service of the officers employed under sub-section (i)".

2) The appointment of Welfare Officers in factories employing 500 or more workers is regulated by the management. The Welfare Officers so appointed are unable to do full justice with their work. To achieve better control, the Welfare Officers may also be appointed by appropriate Government and placed under the Administrative control of the Labour Commissioner. The management should continue to bear expenses on their pay and allowances etc.

3) Working conditions in factories need to be improved from the health point of view of the workers. Majority of the establishments engaged in the manufacturing processes are located in congested areas. Such establishments, in their initial stages, employ less number of workers, to avoid coverage under the provisions of Factories Act. From day to day experience it has been observed that such factories

lack in providing facilities provided in the Health Section of Factories Act. This is many because they are not having sufficient working place. After these establishments have got standing, they try to come under the provisions of Factories Act. The difficulties experienced are at the stage of registration of the establishment as a factory, because the provisions for ventilation, disposal of waste and effluents, over crowding, drinking water facilities, Urinal and latrins and cleanliness, are not complied with satisfactorily by the management. If the factories are to be refused coverage of Factories Act, then workers working in such establishments would be deprived of the beneficial provisions of the Factories Act. And if such establishments are registered under the Factories Act, then Factory Inspectorate finds it difficult to get compliance from the management regarding the above said provisions. So to improve the working conditions in the factories, the location of the factory needs special consideration with a view to ban starting of the establishment engaged in manufacturing processes in the non-conforming and congested areas. In Delhi, a few industrial belts have been developed recently and some of the factories have been allowed alternative sites for shifting them. But still most of the factories are existing in the congested areas and they need early shifting. This situation has arisen mainly because under Section 416 of the Delhi Municipal Corporation Act, 1957. The Delhi Municipal Corporation gives licence to the occupier soon after the latter intends to undertake production and he applies for registration only when the establishment becomes registrable under Factories Act etc. Provisions like these should be deleted.

4) Another important point which needs consideration is lack of proper supervision and regular inspection. This is because of the shortage of the Inspecting Staff. The Factories Inspectorate needs to be adequately strengthened. In Delhi, the number of registered factories is nearly 1470, whereas, only posts of 1 Inspector of Factories (Medical) and 3 Inspectors of Factories have been sanctioned (excluding one part time Chief Inspector of Factories and one part time Chief Inspector of Boilers who is also an Inspector of

Factories). In practice, therefore, it has become difficult now for the Factory Inspectors to do full justice to their job. The Factories Inspectorate may, therefore, be strengthened in such a way that one Factory Inspector may have to inspect not more than 200 factories in a year.

5) It would be helpful for ensuring proper working conditions to hold frequent meetings between the representatives of the management, Factories Inspectorate and the Trade Union.

13) In Delhi there is no distinction in the matter of grant of national and festival holidays. National Holidays are given by occupiers on a request from Government and festival holiday according to agreement.

14) The employment of workers constitutes a major portion in the Shops and Commercial Establishments, other than in Factories. The interests of workers in the Shops and Commercial Establishments are safe-guarded by the Delhi Shops & Establishments Act.

15) The employment of child labour is not widely prevalent in Delhi, except in small scattered establishments and light industries, e.g. nickle and chromium. The existing statutory provisions governing the employment of child labour are quite satisfactory. But there is lack of implementation of statutory provisions mainly due to shortage of the field staff.

16) The present trend adopted by a majority of the managements to contract out some portion of manufacturing processes to one or more contractors. Labour employed by the contractors does not avail of the benefits accruing from Factory Legislation in full as are enjoyed by Workers employed directly by occupiers of factories. This tendency of contracting out on the part of the management, is to evade the liabilities under the Factories Act and the other labour laws. Although the abolition of the contract system does not seem to be possible, contract labour working in the industrial establishments needs coverage under the definition of the term 'Worker' as defined in Section (2). Proposals for suitable amendment in the existing provisions of the Factories Act are under consideration and if they are approved, there will be considerable improvement in the existing situation.

17) Setting up of a Committee at the plant level with representatives of employers and employees would help to a great extent by convening fortnightly or monthly meeting. In such meetings they can hear and decide the complaints of the workers regarding working conditions. They can also spread consciousness amongst the workers about the provisions relating to health and safety.

Trade Unions set up at the plant level can also do justice to labour by educating them about their rights e.g. payment of double the wages for over-time work performed by the workers, demanding safety equipments such as goggles, screens etc., while working on such processes evolving dust and fumes and light injurious to the eye. If the trade unions can educate workers about the safety provisions, very healthy working conditions can be ensured.

18) SAFETY AND HEALTH

The rate of accidents in Union Territory of Delhi is not particularly high. The following table would show the number of fatal and non-fatal accidents as well as frequency severity rate of accidents since 1958. It will be evident that the rate more or less approximates to all India rate of Accidents:-

<u>Year</u>	<u>Fatal</u>	<u>Non-fatal</u>	<u>Frequency of Accidents*</u>	<u>Severity rate of Accidents**</u>	<u>All India rate.</u>
1958	9	4,095	26.3	2.43	
1959	10	4,204	24.3	2.04	
1960	9	3,240	18.91	2.004	
1961	13	3,556	20.56	2.35	
1962	9	2,961	17.48	2.17	16.41
1963	6	3,586	19.30	2.39	20.07
1964	10	2,380	16.30	1.59	N.A.
1965	7	4,519	24.50	2.46	N.A.
1966	-	4,831	23.73	2.05	N.A.

*No. of accidents per 100,000 man-days worked.

**Man-days lost per 1,000 man-days worked.

Non-provision of the safety guards in power presses has created some problems as such guards in practice hamper production and the employers find it more convenient to dispense with the guards. It is considered that special investigation should be made for devising ways and means for providing better guarding in power presses. This can be undertaken when there is adequate strength of Factory Inspectors and Technical Qualified

persons to undertake the safety measures. Most of the accidents occurred due to negligence of the workers as they are not fully skilled to operate the machine on which they have to work upon. This needs training the new entrants about operation of the special types of machines, before they are actually asked to work on the machines on regular basis.

19) Safety consciousness amongst the workers would be the greatest factor in minimising the rates of accidents. To arouse safety consciousness the new entrants must be trained. This can be done by appointing safety committees in factories where the employment strength exceeds 250. The safety committees can very well train the new entrants of their respective factories. In factories which are employing less than 250 workers, the Engineer Incharge may train the new workers as and when they are selected by the management concerned. The safety training should be made essential so that the man-days lost due to minor accidents could be reduced and the productivity in turn may be increased.

The old workers of the factories also need special training by periodical safety programme, through projection of the safety films, and lectures arranged by the Safety Committees. The Safety Posters are also helpful to a great extent in arising the safety consciousness amongst all of the workers.

20) No bipartite agreements relating to safety standards exists in Union Territory of Delhi.

21) Besides the suggestions made in reply to question No.19, it would be desirable to arouse the safety consciousness amongst the workers of the machines building, chemicals, fertilisers, petro-chemicals etc., requiring stricter safety standards, by appointing Safety Officers specialised in respective branches. The Safety Officer so appointed will make sure to train the workers in working in all these special machines used for the said process.

22) The Accidents Safety Provisions in the Factories Act, 1948 are quite satisfactory and need no amendment. However, it has been noticed that the small industries prefer to install sub-standard machines without having appropriate Safety Guards. Although the provision to regulate the fencing and safe guarding the machines exists in the Factories Act

and Rules framed thereunder, but the same needs special implementation and this can be achieved only when the Inspectorate Staff is adequately strengthened. Besides this there should be some sort of statutory provision to certify the machines, from the safety point of view, before they are commissioned. The certification would help to avoid the possibility of installation of the sub-standard machines which could cause danger to human life. The following provision may be inserted after the safety chapter in the Factories Act, 1948:-

"No machine will be installed in the factory, till safety fitness certificate is obtained from the appropriate authority;

The State Government may appoint the appropriate authority as mentioned in Sub-Section (i)."

23) (a) The safety equipment is easily available but due to lack of regulation of the quality procured by the management, the safety guards are not fully affective as they should be.

(b) The employers try to evade their responsibility and do not make proper and satisfactory arrangement for providing safety equipments to workers for their personal use. In some cases the workers are ignorant about their justified rights for demanding the safety equipments such as Goggles, Screen respirators and hand gloves etc. This difficulty can be over-come by arising safety consciousness amongst the workers by safety officers, projection of the safety films, supply of safety posters, and the safety committees. The Trade Unions can also help in this matter by arranging periodical meetings to make aware all the workers, about the safety equipment and they should also insist upon the workers to use the safety equipments provided by the management.

24) In all establishments which are engaged in the manufacturing process which involve hazardous process appointment of the Industrial Health Officers should be made. The Industrial Health Officers should be appointed by the Government but their pay and allowances should be borne by the employers. The appointment of Industrial Health Officer may be made statutory in the above said factory, which employ 100 or more workers.

25) The provision needs no amendment.

III. Trade Unions and Employers Organisation:

Federation of Employers and workers organisations:

26) The broad factors which have influenced the development and organisational pattern of trade unions/employers organisations, since independence, can be listed, as follows:-

1. Setting up of new industries particularly small scale and medium sized and the lure of job-hunters towards the capital city to seek work in industrial and commercial sectors;
2. Domination of political influence resulting in multiplicity of unions as well as emergence of professional leadership in the trade union and industrial relations field, both on the workers as also on the employers side;
3. Delhi, being a Capital City, there are both inter-union and intra-union rivalries which often spark off minor issue into a major conflict;
4. Growing awareness amongst the working class of their rights and of the importance of their contribution in the developing economy coupled with the seemingly unsympathetic attitude of the employers in general towards formation of trade union with the consequent increase in both the number of trade unions and number of employers' organisations in various fields as a measure to safe-guard their respective interests.

Initially, the Trade Union movement in Delhi was concentrated amongst individual establishments and amongst railway workers but, later on, as A.I.P.U.C., H.M.S., U.T.U.C followed by I.N.T.U.C. succeeded in gaining strength, workers from other industries were also 'unionised' gradually but the emphasis continued for sometime on formation of unit-wise unions. With the development of inter-union rivalry, there was a shift from unit-wise unions to the formation of industry-wise unions particularly in the fields of textiles and hosiery, engineering and chemicals, petroleum, hotels and restaurants, refrigeration and other food industry as also in the commercial sector, road building and other miscellaneous industries. The emergence of Bhartiya Mazdoor Sangh, in the latter part of the last decade, and the recent split up in the A.I.T.U.C. have affected the techniques of collective bargaining in a number of industries.

Broadly speaking, there are practically no federation of trade unions effectively functioning in Delhi except for Banks and certain commercial institutions.

On the other hand, there are a number of Federations of employers' organisations functioning in Delhi which were primarily organised to protect the interests of the industry and to secure various concessions from the Government. As the Trade Union movement expanded and became strong, some of these federations also started taking up industrial relations problems on behalf of their members.

27) The Trade Unions Act, 1926 and particularly, the Industrial Disputes Act which prohibits victimisation and assures security of services to employees have accelerated development of the trade union movement. Similarly, enactments of different labour statues, setting up of Wage Boards for different industries and the growing strength of the trade unions have helped to bring about a common platform amongst employers thus presenting a united front in tackling the major problems affecting industrial relations and to render guidance to the individual members in the problems arising out of various labour enactments and judicial pronouncements on the labour laws.

28) There has been a distinctive change, for the better, in the modus-operandi of both the trade unions and the employers' organisations. During the last two decades, there is a general realisation of the need to adopt peaceful means to settle disputes by negotiations or through constitutional machinery, rather than by trial of strength between the parties, although, in some isolated sections, agitational approach has not been finally abandoned in the preliminary stages of the dispute. Despite difficulties, a number of major local problems have been settled through the forum of the Labour Advisory Board or tripartite discussions at the industry level except those relating to alleged victimisation or unfair labour practices, which suddenly flare-up into disputes requiring tactful handling by the Conciliation Machinery. By and large, the trade unions-barring one or two exceptions which believe in show of strength or agitational approach-are satisfied if the dispute is promptly taken up in conciliation or referred for adjudication expeditiously and consequently major prolonged conflicts have

been comparatively few. This has been possible primarily because more than 60% of the disputes are settled at the conciliation stage which has helped to encourage confidence in the Governmental Constitutional Machinery. Besides, in Delhi, adjudicators' awards have been generally held to be fair by both the parties, thus, both the trade unions and the employers have tended to become more mature and reasonable in their approach and there has been no resort to gheraos or illegal confinement in Delhi.

29) The success of conciliation in settlement of disputes including complicated ones and awards of the adjudicators giving the decisions on the established concepts of social justice and merits of each case have encouraged confidence in the Governmental machinery in the matter of getting a fair deal to both the parties. This has, in its turn, fostered amongst them better understanding and appreciation of each other's point of view in their attempts to settle disputes by constitutional means. There is, however, still a feeling amongst a few employers that the Labour Department does not give due weightage to the problems of the managements and acts more in the interests of the workers. By and large, the settlement of a large number of disputes in conciliation and the awards have tended to erode gradually this feeling and employers generally recognise that in the prevailing social climate, exploitation of labour will not be tolerated and if resorted to, is bound to seriously disturb industrial peace and thereby, industrial production. The trade unions, on their part, are also less and less militant in their approach for solution of the day-to-day problems and are more keen in accommodating the other party in a spirit of 'give and take'.

30) The traditional role of Trade Unions continues to be agitational, with a view to gaining immediate and quick concessions and facilities and to maintain continued improvement in the workers' economic conditions to ensure that their members are not denied the benefits conferred under various Labour Acts. This is mainly due to certain historical factors, as also because the trade unions find it difficult to keep their hold without promises of a better deal and the constant apprehension that if it is not done, another union may replace them in due course. Although, it can hardly be

denied that the trade union exists primarily to protect the worker's interests and to better their economic conditions, it is essential where planned economic development is intended to be achieved speedily that they should extend their activities in other constructive channel and avoid agitational methods to secure immediate concessions at the cost of industry or national interests. There is a wide field to develop their existing activities, such as, educating the workers regarding their rights and responsibility and obligations to the society in general and industry in particular and the means to maintain discipline and production in a planned economy. The union can also develop social, cultural and other activities for all round development of their members and can usefully set up Consumers' Cooperative Societies or House Building Societies as a means to improve the general standards of living of the working class.

Similarly, the employers, on their part, are generally allergic to the trade unions taking a strong footing in their establishment or to recognising them for the purpose of evolving adjustments in the industrial relations and often tend to function in isolation, although each is aware of the powers of the others. Consequently, there is still an attitude of suspicion and mistrust which has hampered co-ordination and consultation between the parties in regard to redressal of grievances and cooperation in the development programmes of the individual units. To some extent, the mushroom growth of trade unions and inter-union rivalries has also acted as a handicap in the way of collaboration between the labour and the management. Very few employers have accorded recognition to the trade unions which has naturally retarded collective bargaining and settlement of disputes at the plant level. In the circumstances, collective bargaining can be developed by frequent consultations between the parties by encouraging development of responsible leadership from the ranks.

Employers can play an effective/independent role in developing welfare measures and fringe benefits and in formulating labour policies, consistent with the national income as this would enable raising of the standard of living of the working class and thereby, maintaining cordial labour management relations.

Accordingly, there is a wide field, of cooperation

between the employers' and employees' organisations in the matter of:-

1. developing productivity and efficiency, while assuring a fair deal to the workers;
2. solving the day-to-day problems by mutual adjustments keeping national interest upper-most;
3. analysing the economic trends so that its adverse effects on the industry and workers are timely eliminated.

The Government can also be associated by holding periodical tripartite meetings at least in the major industries for reviewing the policies and programmes followed by the two parties to ascertain its effects on the industry or on the developing economy and to help the parties to refrain from those actions which may be prejudicial to national interest.

31) Since the concept of a better society is more co-related to the broad policies laid down at the state or national level and as, at present, the goal is to achieve socialist society through planned development, it is essential to take measures to ensure that no community or class is subjected to exploitation and that all are provided with facilities for their fuller development in relations to other members of the society. The labour force, represents a sizeable sector of the society which is on the way to industrialisation. The trade unions and other social workers from time to time have focussed attention on the problems and difficulties of this section of community and as a result of tripartite discussions and Government decisions, various labour laws have been enacted to protect their rights and to confer several other benefits in the matter of working and service conditions etc. This improvement, by itself, is not sufficient unless there is substantial improvement in the entire status of the family, of which he is a bread-earner, since his earnings as a worker have a direct bearing on the general improvement of the society. Trade Unions, by their programmes for securing economic concessions as chalked out from time to time and their concerted actions in removing the areas of dis-satisfaction or dis-content from this important section of the community have helped formation of a better society.

Employers' organisations, by means of tripartite agreements have given a lead to other employers in accepting similar demands of their employees, which cannot be ignored in a progressive society. Views of the employers' and employees' organisations are considered at periodical intervals in the Indian Labour Conference and State Labour Advisory Boards and other informal meetings as and when they become necessary. However, ordinarily, the general public are not fully aware of the implications of the policies of the employees' and employers' organisations, although occasional articles are being written in leading newspapers about the nature of demands or immediate causes leading to major stoppages of work. More publicity regarding the view points of both the parties, therefore, seems necessary so that the public opinion can play an effective role in discouraging activities which are, prejudicial, in the long run, to the national interests.

32) High level of employment cannot be achieved merely through Governmental agency which, no doubt, can create additional employment opportunities as a result of formulation of industrial, fiscal and economic policies, at the State or National level. However, in a society where there is no regimentation, there is ample scope for Private Sector initiative, as such, trade unions and employers' organisations are better placed in providing employment. For instance, where retrenchment is threatened, the employers can initiate measures for retraining of the workers so as to absorb them in other occupations or industries and to take measures as would bring about more employment in the existing industries. Similarly, the Trade Unions, by their cooperation, can encourage expansion of the existing units to reduce the impact of un-employment by accepting various alternative measures such as temporary lay-offs for distributing the work evenly amongst all the workers, instead of retrenching the surplus labour.

33) Tripartite consultation often reduces the area of conflicts between the parties, but unfortunately, there is a general lack of such regular consultations except in a few progressive establishments where there is one strong union which has secured recognition. The main hurdle in promoting consultation has been the multiplicity of unions, each one, claiming sizeable following and lack of appreciation that collective bargaining is in the

interests of both the parties in the long run. Accordingly, consultation can not be developed unless there is a statutory provision for grant of recognition and there is more realisation on the part of employers to set up joint consultative machinery on a voluntary basis.

34) While, there is frequent consultation between the employers organisations and their members through periodical meetings and issue of circulars, there is no such frequent consultation between the employers' organisations and their constituent units. This is mainly because the workers' Central Organisations are not in a position to hold frequent conferences and meetings where the constituent units are generally represented.

35) In Delhi, there has been only one instance, brought to notice, where the applying union could not be affiliated as another union from the same establishment had already been granted affiliation. In the particular case, the union seeking affiliation was advised to amalgamate with the other union but due to subsequent developments, this proposal did not materialise.

36) By and large, the obligations undertaken at the national level are honoured by local constituents but there have been a few exceptions. This has been particularly so in regard to the Code of Discipline and the Recommendations of the various Wage Boards, set up by the Central Government; in the latter cases some employers have attempted to evade the requisite relief and it is only after considerable pressure from the workers, the Government and the public opinion that the Recommendations are ultimately implemented. Very rarely sanctions are used against the erring units, for the obvious reason that the unit threatened with any action generally finds it more convenient either to get affiliated to some other 'Organization', or prefers to remain independent. However, it is for the respective organisations to take appropriate decisions in the matter.

37) No such specific difficulties, in reconciling the actions of the unions/employers at plant levels with national policies evolved jointly have come to notice except in regard to the observance of the 'Code of Discipline' in the matter of prior notice for a strike from the workers' side and unilateral actions from the employers' side. It has been observed that the trade

unions find it difficult to restrain workers from spontaneous strikes over sudden dismissals of active trade union workers or retrenchments during pendency of demands raised by them and it is only after considerable persuasion that the strikes are ultimately called-off and the disputed matters are taken up to be examined in conciliation. Similarly, there is a tendency on the part of some individual employers to take unilateral action either in regard to withdrawal of concessions or increase in work-load or adoption of a new system of working etc. without prior consultations with the workers' representatives, which has led to agitations for restoration of statusquo, infact, good number of strikes or agitations are mainly due to unilateral action on the part of the individual managements who have not reconciled to the idea of having first discussions before taking any action in matters affecting the workers' interests directly or indirectly.

38) Since the local constituents are generally aware of their rights, they hardly need any guidance from the Central Organisations. Trade Unions and the employers' organisations therefore, should concentrate more in educating their constituents about their obligations and responsibilities which have a bearing on maintenance of production, discipline and industrial peace. This approach is likely to reduce the area of conflict between the parties. Side-by-side, both employers and employees' organisations should conduct studies in those units/industries, where the industrial relations have been cordial over a sufficiently long stretch and also in those cases where there have been frequent disturbances in industrial relations. If the basic causes leading to deterioration in industrial relations as well as those promoting better labour/management collaboration are known, measure could be taken either to impose strict standard in future or to take steps for remedial measures in the light of the facts revealed in such studies.

(ii). The Central Organisations should sponsor studies to make enquiries regarding implementation of laws, agreement and awards and circulate their reports for information of their constituent members with appropriate advice for future guidance.

(iii). The Central Organisations should also supply

to the affiliated units latest literature on current or likely problems alongwith the ruling of various courts and tribunals. In addition, they might also appoint expert Labour Advisers, wherever possible, for day to-day guidance.

(iv). Disputes having far reaching consequences and affecting more than one unit should be tackled at a higher level and in this field, the Central Organisations can play a more useful role.

(v). Employers' Organisations should set up Institutions for training of management personnels, particularly in industrial relations, labour laws and safety measures.

The employers' and Central Organisation should jointly sponsor studies regarding incentives and reward schemes for useful suggestions; linking of wages to production and determination of fair wages in a particular industry, and in regard to measures which would facilitate setting up of joint Consultation Machinery.

III-TRADE UNIONS AND EMPLOYERS ORGANIZATIONS

39) Ordinarily, a Trade Union, at the plant level, is formed either at the instance of outside active trade union workers or on initiative from some inside workers with the backing of some trade union leader, to protect their rights and interests. There have been some instances of employers' sponsoring a union in an attempt to forestall union formation under influence of outside authority; but such unions die natural death in course of time. In Delhi, however the tendency is more to form unions, on industry-wise basis, except for commercial sector & independent unions which prefer to work at plant level particularly in comparatively bigger establishments.

2. There are generally 4 types of constitutions, according to the scope of membership. (1) Unitary, where membership is open to workers of a particular establishment or a specific occupation (2) mixed type, where the membership is open at the industry level. In the latter cases, the constitution generally provides for a General Council as well as an executive/working committee, which controls the day-to-day working of the unions while; in some cases, there is a provision for unit committees for establishments where the membership is sufficient and

generally elections are held through delegates, chosen from different units. The third type of unions covers a number of industries simultaneously and their constitution provides for a separate working committee/Executive Committee industry-wise, to manage the day-to-day working and the elections in these cases are invariably held through delegates elected on the basis of a fixed membership strength. The remaining type of unions are those whose membership extends to more than one state and may either consist of membership from different branches of the same establishment functioning on All India basis or of a particular industry, such as Banks, Railways, P & T, C.P.W.D., Petroleum, Public Motor Transport and Air Transport Companies, Defence Establishments, Road and Building Industry and employers' Organisations, formed on trade union lines.

3. Majority of the unions have same common objectives with slight variations in phraseology; these common objectives are:-

1. Securing fair and better conditions of life and service to the members, in particular and the working class in general;
2. To organise working class and to protect their interests, particularly against sickness, unemployment, old age and accidents;
3. Amelioration of the social, educational and economic conditions of the workers;
4. Redressal of grievances and settlement of disputes;
5. Provision of legal assistance to members, in respect of matter arising out of or incidental to their employment including strike or lock-out period.

4. Although these objectives are incorporated in most of the constitutions, the unions, in practice, concentrate their energies, mainly in securing redressal of day-to-day grievances of their members or settlement of disputes and in providing assistance during strike/lock-out periods.

40) As a rule, persons who have been inducted into the Trade Union ideology of the particular organisation generally get elected as office-bearers at the time of annual electi-

ons, while, in other cases, persons more popular or active are elected as office-bearers. However, in some cases, persons belonging to other group or ideology succeed in becoming office-bearers by majority support.

2. Ordinarily, Office Secretaries are paid, while trade union leaders, belonging to Central Organisations draw their remuneration from their respective bodies but in some cases, they also get extra remuneration in the form of allowances or otherwise for work in a particular union. No data, however, is available regarding exact number of paid office bearers including honorary workers who receive remuneration.

41) As there are a number of trade unions functioning in the same establishment, considerable canvassing is done to enroll members. However, in some cases, the same person prefers to become a member of more than one union at the same time. Rarely, membership is rejected except where the group controlling the affairs of the union suspects that the applicant belongs to a different group or ideology and his admission may create difficulty in the smooth working of their unions.

42) This is a question to be replied by the Trade Unions themselves.

In quite a number of unions, however, the rank and file of the members are not actively associated with the day-to-day conduct of union affairs and do not seem to take interest in the unions' working except when demands have been sponsored on their behalf, or there is individual grievance of the member requiring redress at the union level or some agitation has been sponsored by the Union.

43) This is also a question to be replied by the Trade Unions themselves.

It has been observed that rank and file are not associated with the formulation of policies, as the control is generally exercised by some top leaders who themselves decide the demands or issues to be raised and the course of action to be adopted which are then announced for general information. In the case of unions, affiliated to Central Workers' Organisations, decisions are taken in active consultation with the members of the Executive Committee or the Working Committee, as the case may be.

44) In Delhi, neither the system of 'closed-shop' nor

'union-shop' is prevalent. These systems can be successful where a responsible trade union movement has been built up and there is more consultation/negotiation between the managements and trade unions, which is yet to be developed in this country. In the circumstances, no comments can be given in this respect.

45) Due to multiplicity of unions which has divided the membership and the average low income particularly of the un-skilled and semi-skilled workers, the trade unions, barring a few exceptions, do not have enough income to play an effective role in promoting alround interests of their members. The main source of income of the trade unions continues to be voluntary subscription supplemented by donations or special funds when disputes are raised. There is a tendency, however, in some cases particularly in independent unions to issue bogus receipts to boost up membership; or to accept donation without issuing any formal receipt. As this tendency needs to be curbed in the interest of the unions themselves, it seems necessary to make statutory provision that no amount shall be received without issuing a receipt by the unions. Provision should also be made for a periodical check-up of all receipts with penalty where it is detected that money was realised without issuing a regular receipt. This has been suggested as there have been reports that certain office-bearers charge fees for representing cases in conciliation and adjudication and this amount is treated as personal to them.

The other limiting factor income raising capacity of the unions is failure to develop social and other benefits; as a result, the members are not likely to agree for any increase in the rate of voluntary subscription. Since members do not regularly pay subscription, the union's income would be more stable if the employers agree to make deductions of union subscription from the wages in the case of recognized trade unions. Besides, subsidies may be given to trade unions who have observed the 'code' and have played a constructive role in getting the disputes settled through constitutional means only.

46) As already observed, worker are not likely to contribute more regularly by way of monthly/periodical subscriptions unless the unions, on their part, maintain proper accounts and

provide social or other benefits by way of compensation for the increased contribution from their side. Since workers ordinarily would prefer to remain members of unions charging the lowest subscription, unless the particular union is in a position to get more concessions from the employers, the only way possible is to increase the present minimum quantum of subscriptions which can be charged by the unions.

47) The check-off system should be adopted in the case of recognized unions only for the present, as this would give a stable income to the unions and they may become less interested in raising unnecessary disputes, off and on, for the purpose of raising funds.

48) In Delhi, the trade unions, occasionally render assistance in case of continued un-employment in a pending dispute case where the union hopes to secure favourable decision ultimately. In exceptional cases only, assistance is given for personal injuries or prolonged sickness where no other help is otherwise possible from the employers' side.

TRADE UNION - LEADERSHIP AND MULTIPLICITY

49) The affiliation of the trade union movement such as the I.N.T.U.C. with the Congress, the A.I.T.U.C. with the Communist Party, the Hind Mazdoor Sabha with the P.S.P. and recently the Bhartiya Mazdoor Sangh with the Bahartiya Jansangh, has considerably influenced the pattern of Trade Union Movement in India. As a result, the political parties which succeeded initially in getting a footing in a particular industry, made attempts to organize workers in the same industry in the adjoining or other state and also to concentrate their efforts in those sectors of economy where no trade union wing of another political organization has made its appearance. In Delhi, consonant with this stand, some time during the latter part of Second World War and immediately after independence, a number of outside trade union workers from other places were detailed to strengthen their respective existing trade unions as well as to expand their activities in other industries. Consequently, the All India Trade Union Congress as well as the Hind Mazdoor Sabha which had gained some hold in textile and other field in 1948, gradually lost much of its pre-independence strength and the I.N.T.U.C. was able to gain sufficient strength amongst different industries. Side-by-side, the Hind Mazdoor Sabha lost its

following due to the shift of local top trade union leaders to other parties. The shifts in the position and the power of the trade union wing of the parties and the inter-union rivalries have both affected the nature of the demands raised from time to time in an attempt to oust the other unions from the field and the development of trade union movement in new industries, such as Petroleum, Engineering industries, Public Sector Undertakings and Building and other miscellaneous industries. The impact in Delhi has been somewhat greater due to the presence of the top leaders of the political parties, whose guidance is sought by local leaders in union matters including for launching of agitations. The recent split in the C.P.I. has led to emergence of new unions with attempts to gain popularity by threats and intimidation and other agitational methods including reported assaults on the trade union workers belonging to the old group of the party. The Bhartiya Mazdoor Sangh on the other hand, has, to same extent, increased its influence amongst the Delhi Working class during the last 6 months. It has been reported that in some cases, the workers have enmasse joined their unions, newly started in certain establishments, in the hope of getting the demands expeditiously settled through their efforts. All these factors have thus, influenced the techniques and modus operandi adopted by the Trade Unions to achieve their immediate objectives. So far as Delhi is concerned, the I.N.T.U.C., the A.I.T.U.C. have generally followed a policy of peaceful negotiations with emphasise on settlement by mutual accommodation and failing that through conciliation or adjudication in most of the disputes.

50) 'Outsiders' for the purpose of trade unions would be persons, who are not actually employed in the industry concerned but get themselves elected to an office and thereby, seek to guide and control policies of the unions. In the initial stages of the trade union movement, when labour was un-organized, un-educated and there was no security of service in the absence of any legislative provisions, these outsiders who were mostly imbued with trade union ideology, were effective in creating consciousness of the strength in collective action for protection from exploitation and to secure improvements in working, service and economic conditions of the working class.

Responsible outsiders dedicated to the trade union movement have helped considerably in finding out a reasonable solution of disputes and in advising the workers regarding the correct legal and other position from time to time. In Delhi, by and large, they have been cooperative in the observance of the 'code of discipline' as well as in settlement of disputes and presenting the workers' cases effectively before the Adjudicators.

However, as such outsiders succeeded in gaining confidence of the workers, some self-styled trade union leaders have infiltrated into the trade union movement and thus, use the trade union platform for their personal benefit by holding threats of agitation or strikes in case the demands put forward, are not immediately conceded. Since these outsiders have little stake in industry and there are reports of their being easily purchased, their emergence has detracted the utility of the trade union movement which has now gained sufficient strength to stand on its own footing. There is, therefore, need, in the ultimate interest of the industry, to encourage and build-up leadership from within the industry as 'insiders' would understand the problem better and know that their future is inextricably linked with industry which would make it easier for the parties to come to reasonable terms. In Delhi, the workers' Education Centre has already trained a number of workers, employed in different industries which would facilitate development of internal leadership. Of course, general guidance can always be sought from outside as and when it becomes necessary.

51) The following methods might be useful for building up inside leadership in a union:-

- (1). The existing provision in the Trade Union Act, 1926 permitting 50% of officers as outsiders should be reduced to 20% to start with.
- (2). Training of workers in trade union philosophy and current methods of economic problems vis-a-vis the industry concerned should be intensified by the Government and employers Workers' Organizations.
- (3). Only those persons should be eligible for holding office in trade unions, who have been

continuously employed in an establishment for not less than 3 years, and more detailed procedure should be laid down in the statute itself regarding the holding of elections preceded by adequate publicity amongst the members.

- (4). Special privilege may be allowed to two important inside office holders, namely the Secretary or the President of the Unions in the matter of grant of leave for trade union work and their protection from arbitrary transfers or suspensions to create confidence that they would not be victimized for trade union work.
- (5). Grant of recognition to those unions, who have no outsiders as office bearers.
- (6). Holding of regular consultations by the managements with the trade unions consisting of inside workers.

52) Under the existing Trade Union Act, it is possible for any 7 persons to get together and get registered by merely fulfilling the formalities in respect of mandatory provisions prescribed under Section 6 thereof; this has encouraged mushroom growth of trade unions. The conditions for which the Trade Union Act was initially enacted in 1926, have since then considerably changed, as at that time, the Trade Union movement was very weak and the workers were diffident in joining a trade union combination for fear of immediate reprisals from the management's side in absence of legal protection for security of their services. As the workers became more and more organized and the trade unions through unity were able to secure monetary and other concessions from the employers, professional class of self-styled trade union leaders have tried to exploit the Trade Unions for ulterior purpose namely exploitation of workers and for serving as source of their livelihood by being the Chief Executive office-bearers. This has become evident from the complaints received about non-maintenance of proper accounts particularly of receipts or special donations or special funds and taking personal share from the advantages accruing to the members as a result of

mutual agreements or settlements. This is further strengthened by the fact that some trade unions fail to submit any annual returns, while, in good number of cases, miscellaneous expenditure shown, accounts for a considerable percentage but no detailed break up is generally furnished to the 'Registrar' of Trade Unions.

2. The following remedial measures are accordingly suggested:-

- (1) the present minimum limit of 7 should be raised to 20% of the total workers who are eligible to be enrolled as members, subject to minimum of 7 workers as at present.
- (2) where any registered union has been functioning for more than 1 year, no new union would be eligible for registration unless it has been in existence for a period of atleast 1 year.
- (3) The union should be liable for de-registration if its membership, in any period of 6 months falls below 10% of its eligible membership.
- (4) There should be detailed provisions laying down procedure for election of Office Bearers including maintenance of records and giving of adequate and reasonable publicity before holding elections.
- (5) The Registrar of Trade Union should be empowered to inspect the accounts and other records of the registered unions any time and unions found to have issued bogus receipts or accepted money without proper receipt should be liable to be de-registered after due notice.
- (6) There should be provision for appointment of Trade Union Inspectors, whose powers may be defined under the Trade Unions Act, 1926.

53) In Delhi, The Code of inter-union conduct has failed to eliminate inter-union rivalaries, which have rather tended to increase. There have been instances of attempts to dislodge existing unions of long standing either by raising extravagant demands or resorting to sudden strike or by indulging in personal villification and intimidations in inter-union dealings, thus making a settlement impossible between the parties. Dual membership also continues in some unions.

No improvement seems possible so long as multiplicity of unions continues. The remedy lies, therefore, in imposing more rigid standards for registration in order that the number of trade unions is reduced and outside influence having no bearing on genuine Trade Union ideology, is curtailed substantially.

TRADE UNION REGULATIONS:-

51) The main advantages arising out of registration to a trade union are the resulting immunity from criminal liability in pursuing trade dispute and civil suits in certain cases as conferred under section 17 & 18 of the 'Act', besides their right of representation in proceedings under the Industrial Dispute Act, 1947, and the protection to the office-bearers for their trade union activities as provided under section 33(3) of the Industrial Dispute Act, 1947. The obligations are that the union has to furnish annual return for which accounts have to be maintained and their records are liable to be scrutinised while examining the annual accounts and the disputes regarding elections of office bearers or complaints regarding non-observance of any rules of its constitution from its members are liable to be looked into by the Registrar, Trade Unions. The advantage, however, outweighs the disadvantages. At present, the Registrar has practically no powers to exercise control or check on proper functioning of the registered trade unions in accordance with the registered constitution and has no means to check that the trade unions are functioning democratically and maintaining accounts properly. The powers of the Registrar, therefore, need to be enhanced particularly in the following matters:-

- (1) The Registrar should be empowered to inspect the records and accounts books of a registered trade union at any time to ensure that the funds are not misused and are being utilised for the purposes envisaged in the Act.
- (2) A number of disputes regarding elections of office-bearers are generally reported and Registrar's decision is not final and there are conflicting versions about elections proceedings. As a result, the disputes about elections are referred to courts and in the meantime, the

working of the union is paralysed. Provisions, therefore, should be made for observance of a definite procedure in holding elections and the decisions of the Registrar in this respect should be final subject to appeal to an appellate Authority, specially indicated for this purpose, on the analogy of Industrial Standing Orders Act, 1946.

- (3) Provisions should be made in the 'Act' for appointment of Inspectors and for prescribing their powers to check and ensure, to a reasonable extent that the provisions of the constitution and the provision of the Act are being properly observed.

55) There has been no appreciable change in the attitude of the employers in the matter of recognition. Besides, the unhelpful attitude of some of the employers the main hurdle is the multiplicity of unions and the legal position that any registered union can raise a dispute on any matter. However, there has been awareness amongst the employers that a union after recognition becomes more responsible to settlements and more responsible in their activities and therefore, for practical considerations employers hold negotiation with unions having majority following, without technically according them recognition, to avoid unnecessary disputes and agitations at a later stage.

56) The Code of Discipline has, to a limited extent, contributed towards securing recognition for trade unions. This has been so particularly in some public sector establishments where only one union has been found to be sufficiently strong.

57) As already observed, although the provisions of the Code of Discipline in regard to procedure for verification, grant of withdrawal of recognition and the period of recognition etc. are quite satisfactory, it has not helped to promote recognition mainly for the following reasons:-

- (1) In majority of cases, one trade union does not command absolute majority and recognition, to the more representative union would not eliminate possibility of disputes being raised by another union/unions.

(ii) The employers often feel that a recognised trade union would lead to unnecessary disputes being raised requiring constant negotiations on one issue or other.

(iii) Some of the employers feel that the negotiations might lead to putting up extravagant demands.

58) It is considered that the provisions similar to Bombay Industrial Relations Act, 1946 or the M.P. Industrial Relations Act might be more appropriately incorporated in the Industrial Disputes Act, 1947.

59) Since unitwise unions tend to create wide disparities in the working and service conditions in the different units of the industries and the establishments having strong unions have to concede more and more which adversely affect their competitive position in the market, formation of strong industry wise unions would facilitate promotion of uniform minimum standards in respect of wages, working conditions and other benefits in a particular industry. Besides, collective bargaining at the industry level would reduce disputes being raised in other units for securing concessions already obtained by their colleagues. At the same time, unions would be in a better position to put up realistic demands as compared to the present tendency of individual unions pitching up their demands high in order to gain more support from the workers without any consideration of its impact on the industry. The representative character of the industry wise union can be determined every 2 years and the unions having the largest number of members should be recognised as the sole bargaining agents for this period. The unions at the plant level should concern themselves with matters which do not affect the industry as a whole but are purely local ones.

60) The main advantages of naming a union as the sole bargaining agents may be listed, as follows:-

(i) It would be foster healthy respect and regard between the managements and the unions and thereby create in both a correct approach to problems and a willingness to find a mutually acceptable solution. 'Certified unions' would

also act with greater sense of responsibility and are likely to adopt more realistic attitudes in settling the day-to-day problems.

- (ii) It will promote democratic functioning of the trade unions and will discourage tendency to win cheap popularity by raising extravagant demands by unrecognised unions to undermine the influence of the recognised unions.
- (iii) It will check the trend to multiplicity of unions at least during the period of its recognition.

The main dis-advantage in adopting the proposal would be that it may tend to encourage the tendency on the part of the other unions to create trouble in the industry in order to win the support of a maximum number of workers at the time the representative character of the recommendation is liable to be reviewed and there may be more attempts on the part of the management to bestow favours on the unions of their choice. Although, in the initial stages, there may be some trouble but gradually things are likely to settle down and introduction of the democratic element in the trade union movement will be for the good of both industry and the workers. The balance of advantage thus lies in adopting the system of declaring one union as the sole bargaining agent for an industrial unit or entire industry where the unions have been formed on industry basis.

61) Since all the workers of an establishment may not be necessarily members of trade unions, the representative character of a trade unions could be determined better by secret ballot which may be given only to worker who has a membership receipt from any trade union of the establishment. The handing over of the ballot paper as well as the conduct of this ballot should be carried out under the supervision, of a person deputed by Registrar of Trade Unions.

62) In an establishment, where a union has been recognised as a sole bargaining agent, the other unions functioning in that establishment should have only the rights (1) to represent redressal of individual grievances of its members; (2) to take up matter regarding non-implementation of awards or agreement or Labour Laws, but should not have the right to raise dispute of collective or general character.

63) Formation of category-wise unions separately in each establishment is not deemed helpful for the trade union movement under the present circumstances. Such unions if formed on industry-wise basis, need to be treated as separate unions for the purpose of recognition and negotiations, as their problems are quite different from those of other operatives.

64) Employer should provide the following facilities to the recognised unions :-

- (1) Collection of dues from members at the premises through deductions from their wages as may be agreed to between the parties.
- (2) Accommodation for trade union work and particularly where the social and other facilities are intended to be provided to the members.
- (3) Use of notice boards for notices regarding meeting and legitimate trade union activities or other activities of social and other nature.
- (4) Special leave to the main office bearers not exceeding three for attending to trade union work; this would promote in-side leadership in the unions.

65) The attitude of the Government as employer towards trade unions, on the whole, is sympathetic, particularly where the trade unions have adopted constitutional means in the redressal of grievances and settlements of disputes. In practice, however, in some public sector undertakings, the trade unions have not been accepted as a force in maintaining cordial relations and attempts are made to boost up one union against the other to divert their attention in other direction. This ordinarily happens where no proper personnel policies have been developed and there is a mistrust between the parties and the Heads of Departments feel that all their actions are being questioned by trade unions.

IV.

INDUSTRIAL RELATIONS

Introductory:-

66) The main criteria which would determine the effectiveness of the Governments' Industrial Relations Policy would, inter-alia, include the following broad tests:-

- (a) Whether it has succeeded in promoting better relations between labour and management, without any adverse effects on the efficient working of the different industries so as to enable maximum utilization of the existing and potential productivity capacities of industrial units;
- (b) The extent to which it has protected the legitimate interests of both the parties and particularly, the workers, who are in a somewhat dis-advantageous position as compared to the employers;
- (c) Whether it has brought about a gradual change in the attitudes of the labour and the managements towards each other as well as towards the Government and the society in general, and
- (d) The extent to which conditions have been created as would accelerate rapid economic development, while fulfilling the rising aspirations of the labour for realising the living wage standard in the minimum possible period.

2. After independence, broadly 3 alternative policies were open to the Government:-

- (i) Adoption of laissez faire approach which means a policy of absolute non-intervention in the settlement of disputes between the parties. Such a policy in an under developed economy is fraught with disastrous consequences, as it necessarily involves prolonged industrial strife without any corresponding gain to the parties or the society at large. Besides, the workers being the weaker party will have to suffer if such a course is adopted.
- (ii) Facilities for assistance either of a voluntary nature or by statutory enactment for promoting collective bargaining with the government interfering only in very exceptional cases, in the public interest.

(iii) While allowing facilities for utilizing collective bargaining in the first instance, prescribing detailed procedures for conciliation and in the event of its failure, compulsory adjudication with a view to minimising stoppages of work or prolonged agitation in other forms with a view to building up rapidly the economy of the country.

So far as the first alternative is concerned, non-intervention would have meant the role of a mere spectator on the part of the Government, which was bound to bring about complete chaos and would not have helped in any way to promote either the legitimate aspirations of the labour or the rapid industrial development of the country. The second alternative was also not suitable in view that the trade union movement was not sufficiently developed as to protect their members' interests, without governments' assistance. Besides, such an experiment, although tried earlier by enacting the Trade Disputes Conciliation Act, 1934 proved a failure as it was not helpful in bringing about mutually acceptable agreement, automatically. Such an approach is more appropriate, where the attitudes of both the parties are sufficiently mature and there is willingness to make adjustments, keeping in view the overall interests of the industry and the society. The Government was thus left with the third alternative to provide statutory machinery for exploring the possibility of conciliation in the first instance and failing that, compulsory adjudication on the merits of each case subject to the further safe-guard that, in certain industries whose continued functioning is deemed essential in the public interest, almost all disputes are compulsorily referred to adjudication. It was in this context that the Industrial Disputes Act was passed in 1947 and judged by its working in the light of the amendments from time-to-time, it has proved effective in minimising unnecessary conflicts between the parties and has helped, on the whole, to stabilize industrial relations in various industries. Its effectiveness can be judged from the fact that over 60% of disputes are settled in Delhi in conciliation and majority of the awards are promptly implemented, while, appeals have been generally preferred in these cases only where vital principles of law or financial implications are involved. The settlement of disputes in conciliation and

otherwise has brought about a general improvement in the conditions of labour. There have been good number of agreements which have raised the pay scales, rates of Dearness Allowance and other allowances and secured other service benefits including retirement benefits as to maintain a chane of continuous gradual improvement of the working class. Side by side, awards of the adjudication as amended by higher appellate authority, have evolved case-lay setting up precedents in the light of which fresh disputes are examined and settled, as they arise. As a result, both the Trade Unions and employers, by and large, have realised in course of time that the system of conciliation and adjudication has proved beneficial as a whole and thus, the policy pursued, has proved its worth.

67) It was during the Second World War that a beginning was made to invoke compulsory adjudication under the Defence of India Rules, 1939. This was considered essential by the then Government to maintain essential supplies for defence efforts in particular and to ensure uninterrupted working of industrial establishments in general. There was, therefore, practically lack of strikes in major industries except for the year 1942 when the 'Quit India Movement' was launched by the Congress.

The grant of independence naturally gave rise to high expectations on the part of the workers in the matter of rapid improvement in their working, service and other conditions. This feeling was utilized by certain trade union sections in launching series of strikes in major industries with a view to securing immediate concessions from their own Government and the employers. The situation became so serious that a conference had to be convened at National level, which led to the adoption of the Industrial Truce Resolution. Although, this Resolution did not have immediate impact on the Trade Unions, it has, to some extent exercised a restraining influence on the trade unions' then prevailing tendency to resort to direct trial of strength as a means to achieve their ends. As the Labour Department in Delhi started functioning effectively by the end of 1948, the tendency of the dominant trade unions to ignore the Government

in settlement of their demands continued for some time. This position, however, gradually changed following success in conciliation in some of the major disputes and where it failed, disputes were referred for adjudication. As a result, the number of strikes which totalled 35 in the year 1948, tended to gradually fall down in the subsequent years and in the year 1953, only 3 strikes occurred in Delhi. Immediately after independence, the trade unions in Delhi concentrated their energies in raising major demands relating to increase in wages and allowances and improvement in service and working conditions. The Minimum Wages Act, the Provident Fund Act, the Factories Act, Delhi Shops & Establishments Act brought about a general improvement in service and other working conditions. However, for some period, the All India Trade Union Congress, which was dominant at that time, preferred trial of strength and their representatives were unwilling to approach conciliation Machinery of their own accord. The INTUC, which had already started organising workers became strong as a force to reckon with in some important industries. At the same time, the Hind Mazdoor Sabha who had sufficient following on the eve of independence, dis-integrated and lost much of its original strength in the following decade:-

The pattern of conflict, however, has undergone substantial change in the following way:-

1. The workers organizations including AITUC, INTUC and BMS which started its activities near about 1960 - have tended to rely more and more on the Government assistance in bringing about conciliation between the parties and failing that in securing reference of the disputes for adjudication;
2. As compared to pre-independence and immediate post-independence period when demands mainly centred round economic concessions, such as increased in wages, dearness allowance, Bonus and leave and other service and monetary benefits, the major disputes or agitations, launched by the

workers in the subsequent period, related to alleged victimization including suspensions or transfers. As a matter of fact, a good number of disputes, for some time past, relate to discharges, dismissals and individual workman, who are members of the Trade Unions.

- (3) The emergence of a number of trade union organizations, have led to pitching up of high demands in an effort to oust the other unions from the field. This has political implications. There have been cases, where trade unions having majority, amongst themselves, found it difficult to settle the dispute between the parties as the other union, interested in gaining strength carried out propaganda demanding settlement on better terms as dictated by them. In such cases, it becomes difficult to bring about successful conciliation unless all the trade unions are made to agree to accept a common workable basis in the interest of the workers.
- (4) Inter-union rivalry has prevented settlement of disputes at the plant-level. All such disputes are being referred for conciliation, as the management find it difficult to negotiate with all the unions simultaneously.

68) Industrial relations at the Plant level have improved considerably, where the unions are recognized or informal consultations are held with the un-recognized unions having sizeable following and long term agreements have been concluded covering important issues between the parties. This is particularly so in Petroleum Industry and a good number of commercial concerns and a few manufacturing establishments including Public Sector Undertakings. The main factors which have contributed to the improvement of industrial relations in such establishments is the existence of a single strong trade union and the emergence of a cadre of union leaders from amongst the workers themselves and

willingness of both parties to negotiate a settlement in a spirit of give and take, keeping in view the latest trend and judgements in industrial law.

69) The main causes of present industrial unrest since independence, are summarised, as follows:-

1. Continuous increase in the spiral of prices with its depressing effect on the real wages and the need to seek from time to time adjustments in the neutralisation of rise in prices;
2. General mis-trust in the accounts of the employers for the purpose of distribution of bonus and conflicting claims over bonus by different unions, the general feeling being that the quantum of offered bonus can only be increased through agitation.
3. Inter and intra Trade Union rivalries.
4. Growing awareness amongst the working class for securing a fair deal and particularly, fair share in the prosperity of the industry and to secure a fair wage, as early as possible.
5. Non-provision of housing facilities by the employers in general;
6. Retrenchment and particularly those effected during pendency of demands;
7. Delay in implementation of awards and agreements and non-observance of the Code of Discipline in so far as taking recourse to unilateral action without consulting workers' representatives.
8. Militant attitude of certain trade union leaders, although, in Delhi, it is confined to a particular section which has some hold in one or two industries and few establishments.
9. The un-willingness of certain employers to negotiate unless agitation has gathered momentum.

All these factors have cumulatively contributed to industrial unrest from time to time. The present enforcement machinery is not adequate in regard to implementation of awards and agreements, while, the conciliation machinery also is over-worked due to more and more cases being referred for settlement

and the increase in disputes on account of mushroom growth of trade unions and the recent amendment requiring handling of individual disputes of discharges and dismissals. It is considered that for implementation of agreements and awards and for Code of Discipline, there should be a fullfledged senior officer, of status equal to Deputy Labour Commissioner, so that timely action is taken in all such matters. This would also help to reduce unnecessary tension and will bring about further improvement in the labour situation.

Since the disputes have become more complicated as exhaustive case-law is being evolved through various pronouncements of High Courts and Supreme Courts, it is also felt that there should be a senior cadre for conciliation officers, who are required to deal with complicated cases and a junior cadre for handling individual cases of discharges, dismissals or disputes of minor nature.

70) The Inter-union rivalries have rather aggravated the problems and created difficulties in maintaining cordial industrial relations. It has been the general experience that where there is one union, sufficiently strong, the industrial relations generally tend to be more stabilized as both the parties are in a better position to compromise the dispute. The position, however, is altogether different where number of trade unions operate in one unit, since management find rather impossible to negotiate an agreement simultaneously with all the unions, as one of the union tries to pitch up their demands so high as to preclude chances of any amicable settlement. There have been instances, where due to opposition from other unions, some of the unions were unable to strike a settlement and the dispute has had to be subsequently referred to the adjudication. In another instance, due to emergence of a new union of a militant type, the agreement reached with the remaining unions was, later on, dis-owned by the leaders in view of the mis-representation, made by the new union that they alone would be able to get better concessions if all workers would unitedly muster under their banner; this dispute, as a result has had to be referred also for adjudication. Apart from this, the multiplicity of unions is not advantageous to the workers, since the management try to play up one union against the other and is taken

up as an excuse to delay consideration even of legitimate demands.

71) At present, cognizance of disputes is normally taken up only when tensions between the parties has increased or a strike notice has been served or actual stoppage of work or go slow has occurred and thus, no adequate attention has been paid for taking preventive action to minimise recurrence of disputes. Consequently, it will be more beneficial if the parties are encouraged to set up, voluntarily, some internal machinery to deal with the disputes as they arise. This could be done by agreements which would bind the parties to settle the matters mutually within a definite time limit and failing that, either to have recourse to the conciliation machinery or to some other arbitration machinery acceptable to both the parties.

(ii) Standing Conciliation Boards, industrywise, may be set up which could be approached at the instance of either of the party; this would enable dispassionate examination of the issues in dispute and might offer scope for arriving at a compromise, to mutual advantage. In Delhi, the experiment of setting up Conciliation Boards in 2 major disputes was successful as in both these cases, agreements were reached in almost all the issues referred to them. The success of the Conciliation Board, however, is intimately linked with the selection of the Chairman, who is in a position to exert sufficient persuasive influence on both the parties to accept a reasonable compromise.

(iii) As disputes involving revision of wages increase in the Dearness Allowance, retirement benefits leave and holidays facilities and issues affecting common interests of the workers engaged in a particular industry settled or decided by awards, often result in similar demands in other comparable establishments, meetings of the Trade Unions and employers should be convened by the Labour Department to persuade parties to accept these as a basis with view to avoiding unnecessary industrial unrest, at a later stage.

(iv) Statutory provisions seem necessary for regulating recognition of unions and for certifying the representatives ones, as the sole bargaining agents along with a provision that a recognized union cannot resort to strike or go slow without giving atleast 7 days notice

of their intention to do so in order that in case of non-settlement, the conciliation machinery could intervene intime.

(v) In order to reduce the number of industrial disputes, it is also necessary to take adequate measures for effective enforcement of Labour Laws and implementation of awards, agreements and the 'Code of discipline'. Conciliation machinery also needs to be strengthened proportionately to the number of disputes required to be handled in ordinary course and their status and remuneration should be commensurate with their duties and responsibilities if mediation has to be effective and carried out on sound lines.

In the ultimate analysis, however, cordial labour management relations would depend more on the willingness of the employers and the labour leaders to come to a reasonable compromise and the general attitude developed for avoidance of unnecessary litigation or warfare in the over all interests of the society.

72) Industrial relations depend on a variety of factors, such as, the existing working and service conditions, regional and national trends in labour and the attitudes of each party, impact of Trade Union movement and the rate of economic growth of the country. The post-war developments have established that human relations approach has a direct bearing on the improvement of industrial relations. In America and some other countries, special studies have been carried out, in some industries or establishments, where relations between the parties have been consistently cordial over a long stretch, to ascertain and focus attention on factors which have helped to maintain this position. In other words, the stress is more on the right type of personnel practices, contributing to the maintenance of un-interrupted peace rather than analysing cases leading to past conflicts between the parties. The fact findings enquiries, therefore, in establishments or industries having cordial relations without recourse to litigation or Government intervention would be more decisive and helpful to the managements and the unions in bringing

about requisite changes in attitudes and personnel practices as would improve industrial relations in the long run. To some extent, fact-findings enquiries in industries and establishments having constant conflicts, would also throw light on factors which have been responsible for such state of affairs with a view to taking remedial measures, on the part of the parties concerned.

73) Non-existence of a union in a unit generally tends the employer to exploit the workers, who feel diffident in voicing their protest against unfair practices or poor working and service conditions on account of fear of reprisal by discharges or dismissals, as attempts are made to keep hold on them through selected henchmen from the management's side. The Trade Union movement in Delhi, however, has spread in almost all sectors of the economy including small establishments and thus, it is only in very few units that the unions have failed to make appearance. Initially, however, formation of the unions, which are not backed by Central Workers Organization, have led to immediate conflicts between the parties, as attempts are made to crush such unions. Consequently, in units having weak unions, there is also more friction, bitterness and also indiscipline which is not conducive to harmonious industrial relations.

On the other hand, industrial relations in units having strong trade unions have generally resulted in better relations after initial conflicts. This is so as each party becomes conscious of the strength of the other one and there is a more willingness to come to terms with a view to avoid unnecessary agitations at a subsequent stage or having to concede more as a result of the reference of the dispute to adjudication.

74) Since recognition continues to be voluntary and multiplicity of unions function in good number of units, the employers are averse to accord recognition or to set up a regular grievance procedure or a barpartite Consulting Machinery to settle the day-to-day disputes. As a result of special steps taken, a few employers of Establishments ~~where~~ the unions are strong and sufficiently representative, have secured recognition but the majority of the

unions still continue to be un-recognized. It has been noted that as a rule, industrial relations subsequent to recognition, between the parties have tended to improve substantially and there has been less recourse to agitational methods, while, in those few cases, where the Joint Consultative Machinery has been set up, relations have not only substantially improved but there has been practically no strike or lock out and most of the demands have been settled at the unit level.

In the year 1965, as a result of an agreement in all the Textile Mills, grievance procedure was laid down and since then, majority of individual complaints/grievances have been settled at the unit level, which previously were being referred to the Conciliation Machinery for necessary settlement. Consequently, grievance procedure has a vital contribution in maintaining good relations between the parties.

75)(i) The Central Organisations of Employers and Workers should take positive steps to ensure that the provisions of the various Labour Acts, subsisting agreements awards and the Code of Discipline, in particular, are faithfully observed and that remedial measures are taken in respect of any violations in these matters. For this purpose, periodical inquiries should be instituted to determine that there are no prima-facie grounds which would affect employer and employees relationship in the near future. There should be also no hesitation, on their part, to invoke sanctions in case, defaults noticed are not set right expeditiously.

(ii) The local management should develop contacts with the workers representatives so as to build up a channel of communication system with two fold purpose:

- (a) to acquaint workers about the general working of the unit regarding its existing and potential productivity, its competitive position in the market and the problems that are likely to arise in the near future, in this respect and to ascertain the workers difficulties in regard to maintaining production and the day-

to-day problems that are likely to arise in the unit. What is necessary is to develop a healthy working relationship and to divert energies of the trade unions to more constructive channels so that unnecessary conflicts are avoided, as far as possible.

- (b) The local unions should not concentrate merely on putting up demands at periodical intervals to gain cheap popularity by holding promises, which cannot be fulfilled without detriment to the working of the unit. They should, in the first instance, settle the day-to-day grievances in the spirit of mutual adjustments and accommodation. Demands should be formulated in the light of regional considerations and sufficient time should be given to the management for consideration, while the workers should be apprised of the limitations within which the bargain may be struck to the mutual advantage of both the parties. In case of failure of mutual negotiations, the local unit, in ordinary course, should utilise the constitutional machinery provided under the Industrial Disputes Act, instead of launching direct agitation particularly on minor issues.
- (c) The Government, through the Labour Department, should keep a watch on any developments which are likely to disturb peace or industrial relations between the parties. For this purpose, preventive action, wherever possible, should be taken in time to persuade the parties to hold negotiations in the first instance, with a view to understanding each others point of view. At the same time, Government should not allow labour-management to indulge in private warfare in case their negotiations break down and conciliation machinery should be immediately set in motion to explore all possible avenues to bridge their difference. This can be done if the Governments'

conciliation and general enforcement machinery is adequately and properly manned so that their advice and proposals are given due consideration by both the parties, before the matter becomes an issue of prestige between the parties. It is equally necessary that the conciliation is carried out expeditiously and where, prima-facie, there is no scope for settlement, the dispute is referred for adjudication without any undue delay, as there is general impression amongst the Trade Unions that the conciliation and adjudication is merely a time-consuming device to delay final settlement between parties.

76) The Labour/Welfare/Personnel Officers appointed in various industrial establishments have not been generally effective, in preventing major disputes or maintaining cordial relations, although, to some extent, they have been helpful in redressing day-to-day minor grievances, or disputes. This has been particularly so as the ultimate personnel policy is determined by the head of the establishment and in case of difference between the labour/personnel officer and the Heads of the Department or Sections, the views of the latter generally prevail. As a result, inspite of appointment of such Officers in bigger establishments, a number of disputes have had to be taken up by the conciliation machinery which could bring about settlement in some of the major disputes. This tends to establish that what is necessary, is that the officer dealing with personnel matters should have an effective voice in determining the policy and taking decisions in the day-to-day matters and as such, the appointment of Personnel Managers, who are solely responsible for industrial relations would be conducive to better industrial relations between the parties. Obviously, such persons should be of proper status with requisite experience in labour-management relations and the employers' organisations can play a decisive role in bringing about change in the attitude of employers in the matter of keeping the industrial relations separate from the technical and administrative side.

77) Arrangement for proper communications are practically lacking in Delhi. Such arrangement have to start almost from the time the worker is recruited and inducted into service and is made aware of the rules and regulations of the unit, the existing working conditions and steps taken by the management to improve them from time to time, the facilities provided for redressal of grievances and to ascertain the workers view points in dealing with the problems that might arise in the working of the unit. Steps should be taken to set up voluntarily Works Committee or Bipartite Consultation Committees, which are intended to establish direct contacts between the workers and the representatives of the management. There should also be some machinery for disseminating information regarding the general position of the unit, its potential capacity and the inducements offered to the workers for getting a fair share in the prosperity of the unit.

78) In the day-to-day matters not involving any change in the basic policy, the authority to deal with the employees matters is concentrated in the Manager's or the General Manager's, who are assisted by the Personnel or Labour Officers in bigger establishments. In Delhi, except for a few commercial concerns, where the Personnel matters are dealt with by specialists designated as Personnel/Industrial Relations Managers, the final determination of personnel policies is determined by the Managing Director or the Head of the Unit. Of late, there is a tendency to seek advice from the employers' Organisations particularly on issues which have legal or considerable financial implications, while, in the small or medium sized units, the local management seeks consultation with the professional labour advisers before taking any final decision. A number of such 'advisers' have set up practice during the last decade, in Delhi.

79) It is not the general practice in Delhi to frame Standing Orders in consultation with the workers, as, in most of the cases, these are framed without any

agreement with the employees who have to raise disputes, later on, against such provisions as are deemed to affect them adversely. This position, however, has changed in respect of establishments subject to the Employment Standing Orders Act, as a result of the recent amendment providing that the 'Model Standing Orders' would be operative until any amendments are certified thereto in accordance with the prescribed procedure.

80) The Industrial Employment (Standing Orders) Act, 1946 and the Model Standing Orders there-under, have failed to achieve the purpose in view, as despite its coverage of procedure for discharges, dismissals, grant of holidays, leave facilities, criteria for permanent temporary and casual posts, shift working, suspensions and retrenchment, a number of disputes on these issues have had to be referred for adjudication as the parties have not preferred to follow the procedure prescribed there-under, in these matters. The 'Act' was intended to define precisely the service conditions governing the issues to be covered with a view to avoiding unnecessary disputes in these matters unless there may be differences over the inter-pretation of the certified Standing Orders.

The Industrial Employment (Standing Orders) Act, 1946 is applicable to such establishments where there are 100 or more workers are engaged. At the close of the year 1966, there were 101 establishments coming within the purview of the Act. Out of these 67 Standing Orders had been certified till the close of 1965 and 15 cases of Standing orders were disposed of during the year 1966, thus bringing total of certified Standing Orders as 82. During the year 1967, 4 Standing Orders have been certified and another 8 Standing Orders are likely to be certified by the close of this year.

Provision has been made for wages as subsistence allowance during the suspension period in-spite of resistance by the employers even before the amendment of the Model Standing Orders. Similarly detailed procedure for holding enquiries and representation by the workmen during the enquiry proceedings has also been laid down

in the certified Standing Orders.

81) The disciplinary rules are generally based on the provisions of the Model Standing Orders, but, as no detailed procedures regarding inquiry is laid down and case law has developed rapidly, there is a tendency to question every disciplinary action including minor punishments imposed on the workmen; as a result about 40% of disputes raised in Delhi relate to disciplinary cases including victimisation. The most common grounds advanced are alleged failure to give proper opportunity of defence including assistance of a union representative of the workers' choice, selection of an inquiry officer who is under the influence of the management, non-supply of the copies of the inquiry proceedings, an attempt to fabricate charges against the workmen and alleged victimisation in most of the cases. It is necessary, therefore, that detailed procedure is laid down for finalising action in disciplinary cases.

Similarly, provisions of suspension have not worked satisfactorily as the suspension is being used by the employers to demoralise the workers or otherwise harrass them by prolonging inquiry particularly where no suspension allowance or merely subsistence allowance is payable.

It would, therefore, seem necessary to amend the existing procedures with a view to providing:-

- (i) detailed procedure in regard to suspension;
- (ii) time limit within which a charge sheet will be issued and inquiry would be commenced in ordinary course;
- (iii) the time-limit for completing the inquiry unless the workman fails to cooperate;
- (iv) payment of half wages for a period of 30 days and thereafter, if the inquiry is delayed, amount to be increased as a deterrent for unnecessary prolongation of the inquiry proceedings;
- (v) allowing a union representative to defend the workmen and issue of a show-cause notice before finalising the decision on the basis of the findings of the Inquiry

Officer.

82) In Delhi, grievance procedure has not been laid down in most of the establishments, while it is only in few cases that grievance redressal machinery has been set in motion, in consultation with the trade unions. It has been the experience that the employers find it difficult to set up an agreed procedure due to multiplicity of trade unions which are opposed to each other, while, in other cases, the employers are reluctant as they feel that it will boost up fresh demands on the management. Since grievance procedure, where-ever set up, has proved effective in minimising minor disputes and in maintaining normal relations, statutory provisions seem necessary. It should exclude units where bipartite arrangements already exist with an union which represents majority of the workers. It should mainly lay down that arrangements should be made for hearing of individual grievances by the immediate superior officer and failing that by the Manager at which stage the workmen should be at liberty to bring his trade union representative and that records of the cases and the decisions taken, should be maintained.

83) The employers organisations are not likely to agree for any voluntary or statutory system of grievance arbitration. Some of the Trade Union Organisations, however, would be prepared for a grievance arbitration provided they are satisfied that the person chosen will be independent one and has the necessary back-ground or experience to deal with the matters under dispute. Unfortunately, there is a dearth of competent arbitrators in this field and unless a cadre of such arbitrators is developed, progress in this direction has hardly any scope. A grievance arbitration would no doubt improve labour-management relations as management would come to know the validity or weakness of their stand, while, workers would refrain from raising issues which, if allowed to be arbitrated, are likely to go against them.

84) In Delhi, there is no institution for training of management personnel. However, for the workers, a

Regional Centre is functioning under the Workers' Education Scheme and it has trained a good number of workers since its functioning. The Employers' Organisations, however, take advantage to hold Seminars in Delhi or outside for certain selected topics for the benefit of the management personnel.

85) Collective Bargaining:

Collective Bargaining has not been so far successful, in this country, on account of various factors, such as multiplicity of trade unions and inter-union rivalries, general reluctance of the employers to grant recognition to the unions, lack of right type of trade union leadership in a good number of establishments particularly small and medium sized and general apathy on the part of both parties to understand each others' point of view and the general tendency to allow the matters to drift until the State Governments intervene as provided under the Industrial Disputes Act. Another factor which has hampered collective bargaining is the growing tendency on the part of some unions to look upon bargaining as a means to gain concessions and to encourage acts intended to undermine discipline and pre-rogatives of the managements, although in Delhi, the Trade Unions, by and large, have shown responsive cooperation in compromising minor disputes where they have been recognised and where there is frequent consultations from the managements' side. The absence of any facility to strike a bargaining at industry-level, however, has also affected the collective bargaining in individual units, as organised labour aims at securing uniform standard conditions of service, while, managements prefer to have individual agreements which are separate from unit to unit in accordance with the financial and local conditions. As a result, although the Industrial Disputes Act provides for registration of mutual agreements, very few agreements have been submitted for such registration and on an average, their number does not exceeds even 1% of the total disputes handled by the Conciliation machinery. To some extent, success of conciliation in Delhi in tackling complicated disputes has

had the effect, on both parties to rely more on the Government machinery for bringing about a settlement between the parties particularly where a number of trade unions are functioning and a common agreement cannot be reached, simultaneously, with all the trade unions.

86) As in Delhi, trade unions have tended to concentrate their hold, industry-wise, where the number of establishments are limited and region-wise where the number of units are quite large and scattered at different places, it is considered that the most representative union in the former cases and more representative unions in the latter cases may have to be certified as bargaining agents. The question, however, is complicated as some of the Trade Unions hold the opinion, as expressed in informal consultations that where there is multiplicity of trade unions, the two more representative trade unions which would account amongst themselves, for the majority of the strength in the industry might be declared as bargaining agents until recognition is regulated statutorily.

87)(a) Collective bargaining depends not only on the physical strength of membership which would no doubt exert pressure on the management to yield to their legitimate demands, but also on the type of the leadership, ideological allegiance, bargaining experience capacity and attitudes of both parties, in understanding realistically the problems germane to the disputes. It may be more appropriate to state that collective bargaining would have better scope where there is one strong trade union functioning on healthy lines.

(b) Adjudication undoubtedly provides means of settlement by obviating open industrial conflicts but may not necessarily protect the weaker party in all cases particularly where prestige considerations are involved.

88) Under the existing context of the economic development, it does not seem feasible to dispense with adjudication altogether if industrial peace is to be safe-guarded for some years to come and the Government will have to step in before the dispute flares up into agitation, which would affect production or industrial relations between

the parties. In practice, however, adjudication has tended to give rise to all sorts of disputes in the hope that some of the issues might be decided in their favour and thus, there is a constant raising of the demands on one issue of the other in a number of establishments where adjudication has been allowed in the past. Since it is in the over-all interest of the industry and the workers that their problems are immediately resolved, keeping in view the capacity of the industry, and the workers' share in the prosperity commensurate to their contribution, it seems necessary that proper atmosphere conducive to collective bargaining is created so that gradually recourse to adjudication is minimised and restricted to major disputes or disputes which may have repercussion on the industry as a whole. Consequently, development of a strong and healthy union and the acceptance of the concept of electing one union as a sole bargaining agent is likely to encourage collective bargaining at least in settling the day-to-day disputes between the parties.

89) In the light of the remarks at 88, and as a means to encourage collective bargaining, it may be feasible, in the initial stage, to allow individual issues or welfare facilities which may not have repercussions on the industry or the competitive position or the financial stability of the unit to be decided through collective bargaining. This is subject to the condition that both parties are given a time-limit to settle between themselves and the trade unions in the particular instance are already recognised formally or de-facto as to enable them to hold negotiations in the matter under dispute.

90) As already discussed, complete freedom in the matter of collective bargaining cannot be allowed in the present stage of economic development. Consequently, whenever there is trial of strength between the parties and there is apprehension of breach of industrial peace or social unrest, the government has necessarily to intervene at the appropriate time. All that can be done, by way of experiment, is to defer intervention in minor

disputes allowing both parties sometime to make adjustments, if possible, as in the existing stage of economic development, the country cannot afford set-back to industrial production or social unrest resulting from retrenchment or other causes.

91) Joint Consultation:

The present functioning of the Trade Unions in majority of the cases does not provide any indication to that they would be able to function democratically within the enterprise, on the basis of collective bargaining and joint consultations. Their political affiliation and inhibition in other cases has hampered their proper growth to function democratically within the establishment.

92) Works Committees:

The formula of Works Committees has not been a successful experiment in Delhi excepting in very few cases and as a rule, their performance has been far from satisfactory; as a matter of fact, these have miserably failed to serve the purpose. This is primarily due to the inherent reluctance of the employers to utilise such forum for settlement of the day-to-day grievances disputes and to use veto in placing certain matters before the works committees and to avoid placing all the facts readily, in an attempt to delay decisions. Similarly, the Trade Unions, who are mostly dominated by out-siders, generally look upon such Committees with disfavour as there appears to be a general feeling that Works Committees, if made effective, are likely to weaken their own organisation by reducing its hold in settlement of the grievances of their members, and that if the workers' representatives are successful, they might emerge as their competitors in their Trade Union field. As a result, obstructive policies are being adopted by both the managements and the unions which have undermined considerably the smooth working of Works Committee.

In Delhi, although the Works Committees are required to be formed in about 54 establishments, in actual practice, Works Committees have continued to function in only 16 establishments, as majority of the Committees initially set up, ceased to exist, either due to manage-

ments apathy to give a fair trial or due to indifference from the workers side, to furnish information for holding fresh elections. In some cases, there were complaints that the elections were manoeuvred by the employers and as such, the workers were no longer interested in reviving the Works Committees. Despite this position, Works Committees have been fairly successful in some Textile Mills and few other establishments where Trade Unions have been recognised and their representatives have been elected on the Works Committees.

93) As the illustrative list of functions of the Works Committees, as evolved by the Indian Labour Conference is intended to demarcate, broadly, the functions which should be left to Trade Unions with adjustments between the parties, it should help to bring about an improvement in the existing situation. Once, the Trade Unions are assured that it would not encroach upon their field, their opposition would be considerably lessened and the Workers' representatives would be encouraged to take more active interest in making the Works Committees successful within the demarcated functions.

94) The existing provisions regarding composition and general functions do not seem to require any drastic changes except that:-

- (i) detailed procedure need to be laid down for holding elections,
- (ii) provision for modification of constituencies in case of disputes or objections,
- (iii) Facilities to be granted to the elected workers' representatives in attending to the grievances of their colleagues before they are placed before the Works Committees.

The functions of the 'Committees' should be broadly on the basis of the formula evolved by the Indian Labour Conference with the proviso that any adjustments thereto can be made in the first meeting of the Works Committee convened for the purpose. The utility of the Works Committees would be considerably increased if it is laid down that no dispute can be raised on an issue

referrable to a Works Committee unless it has first been examined at the Works Committee level and the management are statutorily required to place the specific grievance before the Committee within a period of 3 weeks from the date it has been raised. Provision should also be made in the Industrial Disputes Act, enjoining the employers to furnish a copy of the proceedings of their meetings to the Conciliation Officer along with decisions taken within a month from the date, the last meeting was held.

95) Joint Management Councils.

In Delhi, the experiment of Joint Management Councils has failed to make any head-way and only, in one Public Sector Undertaking, Joint Management Council is functioning effectively. As observed earlier, the main hurdle relates to non-grant of recognition, in most of the cases, coupled with lack of appreciation on the part of the managements and the unions in understanding the rights and obligations of each party which are necessary for a successful working of Joint Management Councils. Similarly, although, a number of Emergency Production Committees were set up in Delhi following the Chinese aggression and some of them did succeed in increasing production, almost all of them ceased to function in course of time. The workers' grievance has been that their cooperation in tackling the bottlenecks of production has not resulted in securing a corresponding share to the workers in the increased productivity. It has thus failed to create a climate for mutual trust between the parties as Production Committees are looked upon by the workers as beneficial only to the employers, while, the latter feel that Joint Management Councils would not only undermine their authority but are intended to usurp their managerial functions in the long run.

96) In view of the failure of the Joint Management Councils and Production Committees and in the context of the prevailing conditions, profit sharing and co-partnership schemes are not deemed feasible, atleast for some years to come.

97) The conditions are not suitable for introduction of a scheme of workers' participation in management by making them share-holders. In Delhi, this experiment has

already been tried, many years before, in one of the big establishment where a good number of workers were enabled to become share holders and provision was made to elect Workers' Director on the Board of management. Despite its operation for a sufficiently long period, the scheme, by itself, has not been conducive to better industrial relations and conflicts and agitations have occurred over a number of issues, during the last two decades.

98) Conciliation:

In Delhi, conciliation machinery has been fairly successful in settling about 60% of the disputes raised during the course of last two decades and the cases settled include some complicated disputes involving prestige considerations and financial implications such as revision of pay-scales, increase in dearness allowance and its linking, payment of bonus, production bonus etc. During the period from 1st January, 1967 to July, 1967 1408 were raised of which 958 were settled in conciliation or otherwise withdrawn as a result of conciliation efforts. This has encouraged confidence amongst both managements and the unions, regarding the impartiality and fairness of the Conciliation Officers in bringing the parties nearer to each other and there have been very few complaints against the conciliation officers in the discharge of their official duties.

99) Obviously, conciliation has limitations, which are imposed under the provisions of the Industrial Disputes Act in so far as strike notices in a Public Utility Services are concerned, where conciliation has to be completed within a period of 14 days and the issues raised cannot be examined within such a short period. There have been instances where strike notices served included over 50 issues. The other limitation is due to certain disputes which involve vital principles of law or are out come of prestige considerations. It has been the experience that disputes relating to payment of bonus where number of items in the balance sheet are usually challenged, or introduction of gratuity schemes and substantial revisions of pay-scales or demands of facilities which are not already enjoyed in the region, cannot be normally conciliated successfully.

100) Conciliation Officers to be successful, have to be completely impartial and have often to steer through strong pressures to bring about settlements between the parties. Since time is the essence in such settlements, they have to keep pace with the latest labour case-law, regional national and international trends and have to gain sufficient working experience regarding problems facing the Industry and the workers and the likely effects of their decisions in the long run. In Delhi, as the conciliation machinery started gaining success, the number of disputes have also correspondingly increased, with the result, that the conciliation officer has to handle, on an average, over 50 disputes a month. In addition to this, they are also required to perform several other administrative duties, which do not enable them to give sufficient attention to the problems involved in the disputes. As in a number of cases, discussions have to be held with the top management, who alone can take final decisions, it seems necessary that the status and emoluments of the Conciliation Officer should be commensurate with their duties and the importance of their contributions to the economy. Ordinarily, fairly senior persons should be appointed as Conciliation Officers, at least, to deal with major or complicated disputes and if a Conciliation Officer has to do full justice to his work he should not be expected to handle more than 30 disputes a month, at the maximum. Since the job is picked up by experience, there should be two grades - one junior grade of Conciliation Officers and the other senior grade of Conciliation Officers who should deal with important disputes, besides initiating timely measures for prevention of disputes. The present emoluments are not such as would draw experienced and competent persons to this line particularly when persons employed in the Private Sector get substantially higher emoluments for the job which is not more arduous than that on the Government side.

101) In Delhi, there is more demand for selecting Conciliation Officers as the Arbitrators in most of the disputes, but as arbitration proceedings involve sufficient work-load and leave them less time to attend to

their main conciliation function, they cannot accept unlimited assignments to act as arbitrators and the suggestions, in their favour have had to be turned down for some time past. It is, however, not considered desirable to select conciliators as arbitrators in disputes handled by their colleagues. Since the parties have preference and faith in conciliation officers, rather than selection of arbitrators from outside, there is no objection, if a separate cadre of Conciliation Officers is kept available as Arbitrators, provided they are not required to handle disputes in conciliation.

102) Adjudication:

The institution of adjudication, in Delhi, has helped to maintain industrial peace, since in the event of break down of direct negotiations and subsequent failure of conciliation, it has provided a necessary escape for the weaker party, besides acting as a face-saving device when considerations of prestige threaten industrial peace. Since, in major disputes where agitations have already been launched, parties are not in a mood to accept any other solution, adjudication has definitely established its utility in the context of India's present need for un-interrupted industrial production. By virtue of the awards given from time to time by the Delhi Tribunals, the parties have tended to become more confident that justice would be done to their respective sides, and consequently, they are rather willing to wait for their decisions instead of prolonging mutual warfare on issues under agitation. The system, therefore, needs to be retained.

The criteria for determining its suitability would, inter-alia, include:-

- (a) Whether it has succeeded in restoring normal relations after the reference of the disputes to adjudication and has thereby prevented further deterioration in the situation which would have affected adversely the public interests;
- (b) Whether, the awards given have been accepted as fair by both the parties and have not given

grounds for further litigation in the majority of the decisions; in other words, whether the adjudication has inspired confidence in the parties as to rely more on adjudication than other forms of agitations as a means to resolve the conflicts.

- (c) Whether awards have been given in a reasonable time, and
- (d) whether it has not been very expensive, particularly to the workers' side.

So far as (a), (b), (c) & (d) are concerned, the Delhi Tribunals have fulfilled this test but as there has been delay in some disputes, Additional Industrial Tribunal had to be created to cope up with the increased work and to reduce the time-lag in the awards. As a result, the references, after the functioning of the Additional Industrial Tribunal, are being disposed of on an average, within a period of 3 to 4 months, except where a number of complicated issues are involved in a single reference.

103) There is a general tendency to raise disputes almost in every case of discharge and dismissal and since the recent amendment in the Industrial Disputes Act, a number of disputes are being raised by the workers themselves, with the result that more than 40% of disputes handled by the Conciliation machinery relate to discharges and dismissals, involving detailed examination of the inquiry proceedings in each case. Although some of these disputes are rejected, workers or Trade Unions concerned continue to submit their representations against the rejections presumably in the hope that an adjudication order will enable them to get some exgratia compensation from the management, as has become evident that a good number of such disputes are compromised by lump-sum compensation before the adjudication authorities. In the circumstances, it is considered that adjudication should primarily be confined to determining whether the main tests laid down by the Supreme Court, namely the fairness of enquiry and observance of principles of natural justice,

lack of malafides or elements of victimisation, reasonableness of the findings of the Inquiry Officer, as sustained on the facts gathered during the inquiry.

104) The existing arrangement for reference of the disputes are deemed quite satisfactory. However, following suggestions, if adopted, might improve the existing position:-

- (1) the power to refer certain categories of disputes for adjudication particularly in regard to individual cases of dismissals, discharges or those where strike, lock-out has already occurred as well as certain matters specified in the 2nd and 3rd schedule of the Act and indicated in detail in the subsequent Question No. 106 may be delegated to the Labour Commissioner to avoid delay in the reference of adjudication.
- (2) Reference of disputes relating to Public Sector Undertakings should be left to be decided by the Local Government as the present consultation with the Central Government has delayed abnormally the decisions. In some cases, the approval of the Central Government has not been conveyed even after a period of one year and naturally, this has led to a sense of frustration amongst the workers and have shaken their faith in settlement through constitutional means.
- (3) cases of individual discharges, dismissals should be automatically referred to the Labour Court, specially constituted for this purpose.

105) Industrial Tribunal should be appointed in consultation with the High Court, as this would inspire more confidence amongst both the parties.

106) The following measures are suggested for expeditious settlements of disputes:-

- (1) Senior Conciliation Officers with the requisite standing and experience should be assigned to deal with complicated or major disputes and normally, Conciliation

Officers should not be required to handle other administrative work and their normal work-load of disputes per month should not exceed 30, as the maximum,

- (2) Conciliation Officers should be provided specialised assistance to collect in advance the back-ground materials in the disputes to be handled and as far as possible, the officer provided for this purpose should contact the parties in advance to assess their feelings on the disputed issues before the parties meet the Conciliation Officer, for initial round of discussions,
- (3) The Conciliation Officers must conclude their conciliation in cases other than strike notices, within a period of 5 weeks of the dispute being referred to them and submit their report not later than week of the conclusion of the conciliation. Extension on the 5 weeks' period may be allowed by agreement with the parties for a further period not exceeding 2 weeks;
- (4) All cases of individual discharges, and dismissals of permanent/regular workmen, who have put in continuous service, of more than 2 years should be referred automatically to the Labour Court, specially constituted for this purpose;
- (5) Powers to refer disputes of individual workers in cases - other than those covered under item (4) above and those relating to application of interpretation of Standing Orders, withdrawal of any customary concessions or privileges, illegality or otherwise of a strike, lock-out, mentioned in 2nd and 3rd schedule of the Industrial Disputes Act and retrenchment of workmen and closure of the establishment - item 10 of the 3rd

schedule, should be delegated to the Labour Commissioner under section 39 of the Industrial Disputes Act;

- (6) The Industrial Tribunal or the Labour Court should not have normally workload of more than 30 disputes pending at a time and their strength should be so determined as to enable them to give awards, in normal course, within a period of 4 to 6 months.

107) Revival of the Labour Appellate Tribunal would not be conducive to bring about expeditious settlement of the disputes.

108) In Delhi, the area being relatively small, the problem of cost does not arise.

109) A fulfilled Implementation Cell in the Labour Department is deemed necessary for ensuring full and speedy implementation of awards and agreements. It has been the experience in Delhi that where information regarding enforcement of award etc. is immediately taken up, it has facilitated early implementation to the satisfaction of both the parties and workers faith in the Labour Department has been greatly strengthened.

110) Code of Discipline:

In Delhi, the Code of Discipline has been fairly effective in maintaining industrial peace and minimising recourse to agitations and stoppages of work which cannot be altogether ruled out, where there is immediate cause of provocation or attempts for victimisation of unfair labour practice on the part of some of the employers.

111) The provisions of the Code of Discipline, which may be given legal shape should include portions (iii) and (iv) which define the respective obligations on the part of the managements and the unions, besides, the provisions that there should be no strike or lock-out without notice and that neither of the parties will have recourse to coercion or intimidation.

112) Voluntary Arbitration:

Acceptance of the principle of voluntary arbitration in tackling disputes not only avoids likely breach

of industrial peace but generally tend to improve industrial relations between the parties. Voluntary arbitration bind the parties to a greater extent, morally than decisions of adjudicators and as arbitrators are not required to follow a very legalistic approach, their awards are mostly implemented without any hesitation and there is less scope for further litigation. As such, voluntary arbitration has a decisive role in achievement of harmonious industrial relations between the parties.

In Delhi, there has been fairly encouraging response to accept voluntary arbitrations but due to non-availability of competent outsiders as arbitrators, the disputes have had to be referred for adjudication, as conciliation officers and Tribunals, who are generally given the first preference as arbitrators in Delhi, can accept limited assignments in view of workload involved. Despite these limitations voluntary arbitration agreements have been concluded during the last three years and in good number of these cases, the Conciliation Officers or the adjudication authorities have been accepted as Arbitrators.

The Central Organisations of employers and workers can promote arbitration, if a panel of mutually acceptable arbitrators is drawn up by them to handle disputes of minor nature as their constituent members might be more encouraged to accept some of them as arbitrators as and when occasion arises. Besides, they should undertake to disseminate information about the decisions given in atleast important awards to inspire confidence, in other parties to follow suit in similar disputes.

113) Voluntary Arbitration is likely to be more acceptable, in the present context, in the following nature of disputes:-

- (1) Discharges and dismissals other than alleged victimisation.
- (2) Bonafides of retrenchment involving few workers.

- (3) Grant of adhoc increments, or increase in travelling allowance or other allowance.
- (4) Suspensions.
- (5) Deductions from wages.
- (6) Procedure regarding grant of leave or observance of holidays.
- (7) Disputes regarding unfair treatment or wrongful exactions from the workers.

114) The present stage is not yet ripe as to prove the utility of Standing Arbitration Boards for Delhi, as it can be effective only where there are sufficient number of arbitration references.

115) The best arbitrators can be provided by lawyers with experience of labour cases followed by civil servants and academicians, having at least some background knowledge of labour disputes.

116) Since development of arbitration would minimise adjudication and presently, the main difficulty to find suitable arbitrators is the parties unwillingness to meet the demand of remuneration it is considered that the Government should meet 50% of the cost, subject to a prescribed maximum amount per dispute which ever is lower and for the balance, management should contribute 2/3rd and the workers 1/3rd as their share.

Strikes and Lock-outs.

117) The existing restrictions on strikes and lock-outs need to be retained as the economy has yet to be stabilised on sound footing. As a matter of fact, the existing right to strike or lock-out in non-public utility services has to be restricted so as to provide a minimum of 7 days' notice before resorting to such action in manufacturing establishments.

118) In very few cases excepting those relating to public Sector Undertakings, where the unions have been recognised, the unions' constitutions do not provide any mandatory procedure prior to giving a call for strike. In majority of cases, strike is given at the instance of the person or persons dominating the trade union, without first consulting the general members.

119) In Delhi, prior notice of strike are being gene-

rally served in the following cases:-

- (1) In Public Utility Service Undertakings;
- (2) During the pendency of conciliation/
adjudication proceedings;
- (3) In regard to demands which involve recurring
financial implications;

The period of such notices ranges from 3 days to 14 days. No prior notices are being given where disputes suddenly flare up or provocation from the employers' side are alleged or in response to calls of sympathetic strikes. There has been, however, no instance of a lock-out with prior notice.

120) Workers have generally secured wages in short-lived strikes which were not illegal and there were immediate grounds of provocation, while, adjudicators have also awarded, in some cases, wages for the period of strikes, which were held to be legal and justifiable. There have been some instances where, although the strike was illegal, the management have agreed to adjust strike period against leave due, without however, reducing it to any written agreement or to pay wages where the strike was called off within a few hours and the workers undertook to make up the loss.

121) Ordinarily, the trade unions react to apprehended victimisation by launching instantaneous agitation and if it fails to achieve, by resorting to lightening strikes or continued go-slow. These methods, in a good number of cases, have proved effective, but in some cases, the disputes had to be referred for arbitration or adjudication, as a result of intervention of the Labour Department.

122) There have been a number of cases in which it was disclosed that the spontaneous strikes were resorted to without prior consultation of the unions. This has been particularly noticed where strikes were illegal and the unions found it difficult to persuade the workers for resumption of work without getting their main demand or demands conceded from the management.

123) The parties tend to adopt rigid positions after the strike has occurred and are not prepared to shift

from their respective stands. In Delhi, however, attempts are made to contact responsible trade union leaders to utilise their good offices in the hope of getting early resumption of work. However, the tendency on the part of both parties is now more to seek intervention of the Labour Department, for resolving the stalemate. In the circumstances, the government machinery has to play an effective part and has succeeded, barring a few exceptions to get the work resumed within relatively short periods. Consequently, the Government, has to and should intervene even if the strike is illegal because the workers are quite often misled and true position has to be pointed out to them through the Government authorities.

GENERAL:

124) The Tripartite Committees at the National as well as at the Regional local level, have been quite useful in evolving acceptable arrangements on issues affecting industrial relations. However, for some time past, this trend has not been maintained as before, as no unanimous decisions could be arrived at on some of the important issues at the local tripartite level, necessitating ultimate decisions by the Administration.

125) Yes, It has been the experience that the local heads of the Public Sector Undertakings are not in a position to take any prompt decisions without prior concurrence of the 'Ministry' administratively controlling their Undertakings, and grounds are advanced that any separate decision for a particular unit would have repercussions on other public sector Undertakings. Consequently, the Central Government would be in a better position to deal on an uniform basis with all public Section Undertakings.

126) As the basic objectives in a planned economy are to provide sound foundations for sustained economic growth, for increasing opportunities for gainful employment and improving Living Standards and working conditions for the masses and as these can be achieved rapidly only if the targets fixed in the different

industrial Sectors such as, basic industries, capital and producer goods industries including feeder industries thereto and Consumers industries, 'public utility' would be those industries where any loss of production or unnecessary agitation is likely to hamper realisation of the targets fixed under the 'Plan' or otherwise affect the economy. The existing provisions regarding Public Utility Service, under the Industrial Disputes Act, however, are quite elastic to serve this purpose, in view of the enabling provision to add any industry to the first Schedule under Section 40(1) of the 'Act'.

127) Industrial conflicts in the Public Sectors have tended to arise mainly on account of failure of the management to deal expeditiously with grievances/disputes raised by the workers, non-observance of the statutory provisions of various Labour Laws, particularly, the Factories Act, the Employment Standing Orders Act, the Workmen's Compensation Act, the Payment of Wages Act and lack of any Bipartite Standing Machinery to deal with the day-to-day disputes or grievances. There is a general impression that disputes in Public Sector Undertakings are not referred unless the workers are made to agitate and references are not being allowed in case of differences over the stand of the management in a particular matter. This has created some discontent and frustration amongst the Public Sector employees. Industrial peace in the Public Sector, therefore, would be better maintained if all personnel matters are entrusted at the top level management to an officer specialised in industrial relations and Standing Bipartite Machinery is set up to deal with the day-to-day disputes and adequate attention is paid to develop welfare facilities in the undertaking and to accept the principle of arbitration on issues which do not involve any policy matters.

So far as the Cooperative sector is concerned, what is necessary, is to ensure that the statutory provisions are complied with and the services and working conditions of their employees are brought at par with the private sector. In Delhi, it has been noticed that the prevailing

ing minimum wage is much lower than for their counterparts in the private sector and in most of the cases there is either complete absence of any separate dearness allowance or D.A. granted on adhoc basis has not been linked to any Cost of Living Index. In a cooperative sector, there should be no hesitation to accept arbitration more readily in the settlement of the disputes.

128) There would be no justification to treat the Public Sector or Cooperative Sector differently in the matter of observance of legal provisions or working and service conditions. As a matter of fact, the Government in Public Sector should function as a model employer for other sectors.

129) In Delhi, collective bargaining has not at all developed in the small scale sectors primarily because the unions find it difficult to muster sufficient strength in the scattered small establishments, while employers, on the other hand, are in a better position to maintain intimate personal contacts directly with their employees, who are often kept under some obligation from the management's side. However, the unions in the small sectors have made frequent use of the Industrial relations machinery, by raising disputes from time to time and continue to avail off this assistance from the Govt.'s side.

WAGES:

130) In the Union Territory of Delhi, there is a constant flow of labour from U.P., Punjab and Rajasthan and this keeps the labour market with a surfeit of unskilled labour many of whom are un-employed over different periods. The easy availability of unskilled labour naturally tends to keep down the wage rates payable for unskilled labour.

131) A close study of the relationship between the wage in agriculture and other unorganised sectors and wages in industry has not been undertaken in the Union Territory of Delhi. It is, however, known that the wages prevalent in organised industries in absolute terms are much higher than those paid in agriculture and other unorganised sectors. The gap between these two sets of wages is also increasing in view of the fact that labour in organised ..

industries has been able to gain substantial increase in wages by their organised strength, while the wages of those employed in agriculture and unorganised sectors have to be protected by means of wage fixation under the Minimum Wages Act.

132) It is not clear how wages in agriculture and unorganised industries can be allowed to influence wages in industry. Creation of more employment opportunities inducing thereby a demand for labour can alone help in improving the wages in agriculture and unorganised sectors of industries, bringing about a proper balance between the wages in this sector and the organised sector.

133) The wages are regulated by wage settlements, collective bargaining, awards etc. only in big organised industries and important commercial establishments. In agriculture and in small establishments, various modes of wage fixation referred to in the question have not played any significant part. In this connection it may be mentioned that Delhi is the home of Small Scale Industries and a centre for distribution of goods to the Northern India.

MINIMUM WAGE:

134) The concept of "minimum wage" as given by the Committee on Fair wages, is intended to provide a bare subsistence wage which will provide the worker and his family with bare necessities of life. The concept cannot be modified to reduce further the requirements of a worker and his family without impairing the health and efficiency of the worker. The experience is that almost all wage fixing committees have not been able to give even this minimum wage and it would, therefore, be not useful in widening the scope of this concept because it may not be attainable in the foreseeable future.

135) The only difficulty in implementing the formula of a need-based wage recommended by 15th Session of the Indian Labour Conference is that it is difficult to give this wage to the worker under the present economic conditions of the country. According to a rough calculation made by us, the wage based on this

recommendation lies between Rs. 155/- to Rs. 170/- at the present price level and the quantity of ration items available under the existing rationing rules. The minimum wages fixed at present in the Union Territory of Delhi for an unskilled worker varies between Rs. 62/- to Rs. 82/- in different employments covered under the Minimum Wages Act. The minimum wage rates in similar employments in the surrounding areas, namely, the Punjab, U.P. and Rajasthan are even lower than those fixed in the Union Territory of Delhi. If we are to follow the recommendations of the 15th Session of the Indian Labour Conference, the minimum wage rates will have to be doubled or tripled in certain cases resulting in severe handicaps to the industry in Delhi and leading to closures of many of the establishments due to competition. As a matter of fact, we have not been able to find any State Government has been able to fix minimum rates of wages in the light of tripartite principles. The basis of net intake of 2700 calories recommended by Dr. Akroyd may require a more realistic appraisal based on the availability of various items. For example the minimum quantity of milk recommended would be difficult to get even if money was available because India cannot produce that much of milk. At present an opinion is gaining ground that a reduced intake of calories in the light of availability of food and other articles may have to be adopted. Similarly, the rent to be taken into account is only theoretical because at that rent houses are not available and we may have to take into account only the actual rents paid for the existing type of accommodation. However, it is not possible to make any detailed suggestions without a thorough study of the problem. The main difficulty however is that our economy cannot in the present circumstances sustain such a high wage, which can provide the minimum requirements of food and other items recommended by the Indian Labour Conference.

136) The present experience of revision of minimum rates of wages clearly shows that one cannot expect

to reach from the existing minimum wage rate of Rs.75/- to Rs.170/- within the span of another 10 years, unless there is considerably improvement in the economic development of the country. Even if it is possible to reach Rs.170/- say within the next 8 to 10 years, this figure of Rs.170/- will still not be the minimum wage visualised on account of rise in prices. It would, therefore, be necessary to take effective steps to control and if possible, to bring down the prices by increasing agricultural and industrial production and reducing the cost of products by improving productivity. Without this, to attain the need-based wage in the near future would be difficult.

137) The term "Non-industrial" worker presumably means both the white collared employees as well as workers employed in rural sector in non-industrial occupations. The idea about minimum wage recommended by the Committee on fair wages seems to require some modifications in regard to non-industrial workers on account of a large section of them living in rural areas and not in cities. Their requirements of housing, medical aid, food etc. are in some respects different from those who live in cities. Similarly the requirements of white-collared workers will be some-what different from those of industrial workers.

138) It would be difficult in the existing economy of the country with considerable difference in the stage of development of the different parts of the country and difference between the rural areas and cities to fix any National Minimum Wage. It would, therefore, be better to aim at some regional coordination in the minimum rates fixed rather than fix one National Minimum Wage for the whole country.

139) This question does not arise in view of the answer to question No.138.

140) The definition of minimum, fair, and 'living' wage given by the Committee on Fair Wages may require some modifications if we define these terms not merely in the back-ground of industrial workers but also of non-industrial workers as pointed out in reply to question

No.137. It is not possible to say what the framers of the Constitution had in their mind when they referred to 'living wage' in article 43 of the Directive Principles of the State Policy. The concept perhaps means only what we understand in common parlance i.e. that every worker should have a right to be fed and clothed and provided with shelter.

DEARNESS ALLOWANCE:

141) So long as there is no reasonable stability in price level we may have to put up with the system of paying dearness allowance separate from basic wage to compensate wage earners for the rise in prices.

142) The only scientific method of compensating for rise in the Consumer Price Index Number would be by linking up dearness allowance with the index number but it may be difficult to adopt a uniform method because of the wide divergence of wage rates in different industries and their capacity to pay.

143(a) It is generally recognised that wages and dearness allowance should be paid on region-cum-industry basis. In the light of this observation it will be advantageous to link up dearness allowance to the locally available Consumer Price Index Numbers. That would also be a realistic method of compensating for the rise in the cost of living. Exception can be made in case of establishments of all India character where uniform terms and conditions prevail throughout India and transfers will not affect the emoluments of employees. In such cases the All India Index Number figure can be adopted with advantage.

(b) It is always difficult to make changes every month and review of dearness allowance after six months may be more useful and convenient.

(c) Generally the slab system is preferable to avoid frequent changes in dearness allowance and for convenience also. Whether the slab should be of 5 points or 10 points would depend upon the base year of the index figure used for the purpose of linking dearness allowance. For example, index figure based on pre war base (1939 or before) will show wider fluctuations as compared

with the base year after the war. If the fluctuation are wide, the 10 point slab may be useful, while in case the fluctuations are narrow, 5 point slab may be justified.

144) It has now been generally recognised that full neutralization of the price rise, except in cases of extremely low wages is not desirable, otherwise we would be witnessing the vicious circle of wages chasing the prices and vice versa. Many Tribunals have accepted that even in respect of the least skilled worker, the neutralization should not be cent percent but near about 90% in order to avoid the prices rising on account of the wage increase thus giving rise for a demand for further increase in wages. The higher categories of workers would naturally get lower percentage of neutralization.

145) We cannot ignore the capacity of 'industry' to pay altogether. After all our enthusiasm and anxiety to protect real wages of the worker cannot blind us to the fact that such action may bring a closure of the industry throwing out the workers and the whole economy out of gear. Moreover, the worker alone cannot be insulated against price increase, while other sections of the community suffer from such increase. Further the extent of the workers who are covered by the automatic linking of dearness allowance to cost of living is very small and such system is prevalent only in well organised industries. The rest of the workers have to suffer from rise in price without getting automatic and adequate relief for such rise.

146) Where a part of wage is in kind, there can be three components of wage - Basic wage in cash, basic wage in kind and D.A. which can be linked up with price index. Even though payment in kind is not widely prevalent in Delhi, there are certain employments where payment in kind is made e.g. in the hotel industry a number of establishments provide meals and tea. Generally the cost of food provided is treated as part of dearness allowance.

FRINGE BENEFITS:

147) One of the definitions has described Fringe Benefits as follows:-

"Wages are often augmented by special cash benefits, by the provision of medical or

other services, or by payments in kind that free part of the wages for expenditure on other goods and services. In addition workers commonly receive such benefits as holidays with pay, low cost meals, low rent housing etc. Such additions to the wage proper are sometimes referred to as fringe-benefits."

It would thus appear that these benefits are distinctively supplementary to the regular wages paid to the workers. They are primarily meant to be of advantage to the employees, while the gain to the employers is more indirect and subtle. They are generally benefits of a nature which the employees cannot secure individually through one's own efforts cannot be expressed in cash terms and can be identified to a particular employer.

Considering the definition and characteristics of Fringe Benefits as specified above, these benefits can be classified into the following categories:-

- a) "Extra payment for time worked, like over-time premium, holiday premium, etc;
- b) Payment for time not worked, like paid sick leave, paid lunch periods, lay off compensation, time spent on grievances, etc;
- c) Payments for employees security, like contributions towards insurance against various risks, workmen's compensation, etc.;
- d) Non-production awards and bonuses, like attendance bonus and suggestion awards; and
- e) Payments for employee services, like canteens, recreational services, counselling, etc."

The above benefits may be provided either as statutory obligation or voluntarily. Such benefits are computed to be a substantial portion of production cost. One of the I.L.O. surveys has computed the percentage of such cost to the total wage bill and it has been found to vary from 12% to 40% in different countries. The employers Federation of India has calculated the cost of such benefits as 21.30% of the total wage bill in India.

148) Fringe Benefits are regarded as supplementary to the regular wage paid to the workers and not as a substitute for wages or salaries of the employees. As one author has put it:-

"Where as a company with a wide range of benefits may stand in a better competitive position for direct labour than a company without benefits, this does not entitle the first company to pay lower wages and salaries."

Even in India it may be found in many cases that the wages paid may be better in those industries where there are better Fringe Benefits than in those cases where Fringe Benefits are meagre. This may show that Fringe Benefits are not really regarded as justification for paying lower wages.

149) We have no such information. The industry may perhaps be in a position to furnish information on this point.

150) Where D.A. is linked up with cost of living and the extent of neutralisation at the lower levels is much higher than at higher levels, it would tend to reduce the normal wage differentials between the different categories of workmen. The traditional wage differentials were not in any way the result of any scientific study. Unless scientific study is made, it is not possible to say the manner in which the wage differentials should be rationalised or what such differentials should be.

METHODS OF WAGE FIXATION.

151) The statutory fixation of wages should normally be for those industries where workers are not well organised and are liable for exploitation at the hands of the employers. These rates should be minimum below which payment of wages should not be permissible. The other industries should be left to determine wages by collective bargaining as far as possible and if bipartite negotiations fail they should resort to the existing machinery of conciliation. Whether the matter should go to adjudication or if the dispute is on an industry wise basis to a wage board should be determined on the merit of each dispute. The machinery of adjudication as well as the machinery of fixation by means of wage boards should be sparingly used depending upon the merit of each case.

152) Where the employers as well as the trade unions, for example, banking, insurance or railways are organised

on all India basis, agreements at the national level might be desirable. Adjustments would be necessary to make allowance for local conditions, such as cost of living, availability of facilities like housing, education, any special hardship or advantage of particular place etc.

153) The wage board decision does not seem to carry any greater merit than the award of an industrial tribunal. The decision of the wage board is looked upon as a means of fixing wages on an industry-wise basis covering many a time the whole country, while adjudication is generally confined to individual establishments or an industry in the local area. Some times criticism is laid against wage board decisions that the decision is not really the result of examination of the merit of the cases, but only a compromise of give and take in their anxiety to reach unanimity. In this process the interests of small establishments which may be covered by such decisions may be neglected in as much as only the well organised and large industries have generally representation on such boards. The decision of the wage board does not seem to be more enduring than the awards of Tribunals.

154) (a) By the very nature of its constitution the wage board cannot be expected to give quick decisions. It should not be another type of conciliation board where attempts are being made to bring about settlements by means of give and take. Wage Boards are expected to fix wages etc. on an impartial basis taking into account the conditions of the industry, the paying capacity, the present level of wages etc. It would, therefore, be helpful if the wage board consists of only independent persons, a few of whom should be with the knowledge and background and understanding of the industry. The method of representing employers and workers on wage board does not appear to be desirable process, although it may provide satisfaction when there are unanimous decisions making it easy to implement those decisions. On the other hand, the danger is when unanimity is not reached and the government is compelled to reach its own

conclusion, the decision may be assailed both by employers and workers. In view of this, it would be better for expeditious disposal of disputes and for a proper decision, the board should consist of independent persons as stated above. The board can be assisted by assessors who can represent both the industry and trade unions in the industry.

(b) With legal sanction to the recommendations of wage boards a lot of energy wasted at present in persuading the employers to implement these recommendations will be saved.

WAGE POLICY:

155) (a) These are various theoretical considerations. What weight should be attached to each such factor is a matter for experts and research scholars to say.

Such a study has not been undertaken by this office.

(b) This is a more a matter for experts to say and this office cannot offer any concrete suggestions on this.

156) This also is a matter for economists and other experts to offer suggestions. This office has no concrete suggestions to make in this regard.

157) To think of 'wage freeze' when government is not in a position to stabilise prices and freeze profits would be only an academic question. Such a 'wage freeze' would meet with stiff opposition from the rank and file of labour.

158) The question is not clear.

MODE OF WAGE PAYMENT:

159) The payment of wages in kind exists to a limited extent in some industries in Delhi, for example, the Hotel Industry where part payment of wages is made by providing food and tea and sometimes accommodation. In some other industries also, such as, cloth trade some of the employees are provided with accommodation and sometimes with food. It would not be desirable to extend such a system because it creates several problems, for example, the Hotel Industry in Delhi prefer to pay cash wages rather than provide food to its employees in view of rationing and difficulty of procuring essential commodities. Disputes sometimes arise on

account of the quality of food. Then again difficulties are created in making a proper evaluation of these facilities when minimum rates of wages etc. are to be fixed.

160) The payment to unskilled workers on time scale is prevalent in Delhi only in well established and large concerns. The system is not, however, widely prevalent. There is, however, a case for time scale for all categories of workers so that they get regular increments without depending upon the whims of the employers.

161) The suggestion made in this question is a good one and should be followed. This will help the workers as well as the employers in increasing production. Each industry will have to evolve its own scheme of payment in these three components. Such scheme can be worked out by experts who have experience in this line.

GENERAL:

162) We had not much difficulty in administering the Minimum Wages Act, 1948 except that the Inspectorate Staff has been inadequate to inspect such a vast number of establishments which run to more than 2,00,000. The fixation and revision of rates of wages in the existing inflationary period have no doubt created certain economic difficulties. For example, the minimum rates of wages which were fixed or revised a few years back cannot even be protected, leave aside improving those rates. In one employment wage rates were fixed in 1960 at Rs.63/- for an unskilled worker and were revised in 1966. The revised rate fixed was Rs.79/-. This increase compensated only about 50% of the rise in the consumer price index number. It was not possible to revise the rate as to neutralise the rise in the index to the full extent for several reasons. It would thus be seen that actually there was a fall in the real wage inspite of increase in the money wage. This sort of situation is creating difficulties to the various Minimum Wages Committees.

The implementation of the Minimum Wages Act in rural areas and in respect of unorganised labour bristles with a number of difficulties such as absence of properly

organised associations of employees and employers, the backwardness and illiteracy of the workers concerned, the shifting nature of their places of employment etc. setting up of a separate cell in the Labour Department is, therefore, essential.

163) The scheme for payment of annual bonus embodied in the payment of Bonus Act, 1965 is found to be not very advantageous to the workers, especially of big establishments with heavy capital. The redeeming feature is that the minimum of 4% of wages as bonus is ensured where no bonus was paid in the past. The one great objection to the scheme is that income tax payable according to the present interpretation is notional i.e. the tax is calculated before the bonus amount is calculated, with the result that the employers substantially gain by refund of tax on the bonus amount. Secondly, the annuity which is in the nature of a saving is also deductible item. The scheme should be modified to provide only for actual tax payable under the income tax law and no deduction should be made for annuity. The latest decision of the Supreme Court has affected the employees only of a few well established concerns in the Union Territory of Delhi because these establishments used to have long term settlements on bonus which gave to the workers fairly good amount of bonus. On the enactment of law, it has been found that the bonus payable to them under the act is much lower than what they used to get under the settlements. They would have continued to get substantially more bonus if provision of Section 34(2) of the Act had continued. Except for giving rise to dissatisfaction to a small section of workers in Delhi, it has not any far reaching effect in Delhi. At the same time if the relations between the parties are cordial there is nothing to prevent them in entering into agreements which provide higher quantum of bonus than what is payable under the Act.

164) So long as there is a gap between the living wage and actual wage paid to workers, the workers would continue to expect bonus when the employers make profits. The feature of payment of annual bonus has come

to stay and cannot be avoided in any future system of remuneration without causing serious disturbance in the industrial field.

INCENTIVE SCHEMES AND PRODUCTIVITY:

165) Where the system of time rates payment is in existence, it is always difficult to persuade workers to agree to a system of payment by results. When a new establishment is started, not much thought is given to this aspect of payment. It is really easy to introduce a system of payment by results in new establishments. With regard to the old establishments where such system did not exist it can be done only with co-operation of the workers and their trade unions. Much will depend upon the employer who can convince the workers the benefits likely to be derived by introduction of payment by results. The pace can be quickened if there is a separate cell in the Labour Department of every state with trained persons who can help both the workers and the management in introducing schemes of payment by results.

166) These guiding principles are more in the nature of theoretical considerations which may have to be considered in the introduction of incentive scheme. In simple language the position can be stated as follows:-

An incentive scheme should be simple and easily understood by the workers. Such schemes should not impair the health of the workers or the quality of the products and should provide for a fair share of the savings to the workers.

167) Primarily the responsibility for introduction of such schemes rests on the management and the trade unions and the workers. The Government can act as a moderating influence when differences lie between the two parties and also help in propogating the idea among the management and workers.

168) A reply to this question can better be furnished by engineers and Cost Accountants in industries who are actively engaged in the introduction and operation of productivity schemes.

169) This office has no information on this point as no such statistics are collected.

170) No such information is available in this office.

171) Since no study of such schemes has been undertaken by this office, the information asked for cannot be furnished.

172) There is no systematic study that has been undertaken about the factors contributing to labour turnover and absenteeism in the Union Territory of Delhi. According to the information available one of the most important causes of labour turnover and absenteeism in Delhi is the continuing close bond of workers with the villages from which they come. In Delhi most of the unskilled workers come from U.P. and Rajasthan. The workers still continue to go to their villages during the harvest time or marriages of their relatives and it is usual for them to overstay the sanctioned leave or even remain absent without prior permission. This still seems to be the single largest factor in labour turnover and absenteeism. The other factors naturally are the absence of proper housing conditions preventing the workers to lead a proper and regular life, the low wages, especially in small industries which predominate in Delhi, with the result that they have to look forward to occupations in the villages to supplement their income etc. Among the skilled workers labour turnover may be due to earn better or get better security and other conditions of service by change over to better paid jobs. The problem however, needs a proper study.

173) The desire on the part of the worker to improve his standard of living may be an important motivation in the successful working of incentive schemes. But the urge to earn more money does not by itself bring about a success of incentive schemes. Instances are not wanting where even good schemes have come to grief because the approach of the management to the problem was purely technological approach to rate fixing, overlooking the possibility of the innovation affecting the existing set of relationships. An incentive scheme entails changes in the methods of supervision, designing of schedule recording of output etc. If these changes are not acceptable to any of these groups, the latter are likely to resent the source of such changes, namely, incentives and may develop antagonism towards them.

It would be useful for the management to understand the frame work of social relationships within such an incentive scheme is introduced and its impact on that frame work.

174) We have had no case study on the effect of 'go-slow' 'work to rule' and unions' ban on overtime' in improving productivity. But it is clear that these are various symptoms of unhappy relations between the employer and the workers. No productivity scheme can succeed without active co-operation between the management and the workers, and all those factors which mar labour management relations will come in the way of improving productivity in the factory.

175) Rationalisation occupies a very important place in improving productivity. In Delhi, however, there has not been any important scheme of rationalisation on except one or two cases of modernisation of some sections of textile mills, which the managements did not consider to be a case of rationalisation. The factors inhibiting such schemes may be the non-availability of new machinery, the opposition of workers on account of the fear of increased work load and future reduced labour force and their suspicion of the employer appropriating the major share of the gains arising out of such schemes. The rivalry among trade unions and the managements' reluctance to take workers into confidence may be other factors. The recommendation of the 15th Session of the Indian Labour Conference on the subject seems to be the correct approach to the problem but it needs a proper appreciation both by the managements and labour at the level of the industry.

176)(a) The "automation" in the context of vast un-employment and under employment in the country appears to be paradoxical. We have to devise means to develop 'labour intensive and not 'capital intensive' industry as such an approach alone can create more employment. Exceptions can perhaps be made in a few selected exporting industries which has to compete in world markets by providing proper safe-gaurds to workers.

(b) Instances of the proposed 'automation' have given rise to serious suspicion from labour. The workers have shown stiff opposition to 'automation' and forceful introduction of 'automation' will no doubt lead to serious

deterioration in the labour management relations.

(c) It is true that the country cannot remain backward and use out-moded and old methods if it is to compete in the world markets. There may be certain industries which depend mainly on exports and such industries may have to adopt latest technological methods. Special machinery to study the problems and to introduce 'automation' on a selective base may be desirable after consultation with workers and their leaders.

177) It would be better if the employer and workers themselves provide answer to this question. It may, however, be made as a general observation that the National Productivity Council should be able to throw out adequate number of technical persons trained in the special problems of productivity and should be able to give active assistance both to the employer and workers who are willing to introduce the scheme.

PAPER VI

SOCIAL SECURITY:

178) (a) Social Security Schemes have on the whole, created a wholesome climate for stability of employment and industrial relations. They create contentment among the workers and foster a sense of belonging in the unit in which they are employed. The workers are also made to feel that they have a stake in the same and as such situations of strife and friction are minimised. The industry is also benefited as the workers are encouraged to give their best.

(b) To some extent, social security benefits, based as they are on a qualifying period for entitlement tend to bring about a larger labour turnover particularly where there is no job satisfaction. No detailed studies, however, have been made to conclusively establish the extent of such labour turnover. It would, therefore, be desirable to conduct a sample survey of some establishments so as to find out the extent of labour turnover and the reasons underlying the same. Cases have come to our notice whereby workers are tempted to shift from one job to another on account of large amounts readily available to them on account of retrenchment compensation and/or gratuity etc. On the side of the employers also, cases

have come to our notice where attempts are made to break the long period of service so that the employees may not be able to get the due amounts. This is effectively counteracted by a provision in the Delhi Shops & Establishments Act, whereby it is obligatory for an employer to issue letters of appointments clearly mentioning the date of appointment. In larger factories, there are service regulations or certified Standing Orders. The increasing influence of trade unions also acts as a great safe-guard in ensuring security of service. Education of workers would also go a long way in not being lured by temptation of getting a substantial amount of money immediately.

179) Social Security Benefits are available to the employees as envisaged in the following labour laws:-

- i) Employees State Insurance Act, 1948.
- ii) Workmen's Compensation Act, 1923.
- iii) Employees Provident Fund Act, 1952.
- iv) Maternity Benefits Act.
- v) Industrial Disputes Act, 1947.

Besides the above, gratuity schemes are in existence in several large industrial undertakings as a result of collective bargaining, conciliation, adjudication etc. We do not have detailed statistics to enable us to give definite reply to the various detailed questions. However, we would like to emphasize that adequate attention should be paid to extension of at least a modicum of social security benefits to rural labour which forms the backbone of our agricultural economy. Similarly there should be some provision for social security benefits to self-employed persons, artisans, traders etc. In some of the smaller establishments, there should be provision for gratuity/pension after an employee has put in a minimum period of 10 years of service. Cases have come to our notice where an employee in a shop/factory is not given any social security benefit when he is superannuated after long period of service whereas he would get retrenchment compensation if he is retrenched after completion of one year service. Some provision is, therefore, considered desirable to

remove this genuine cause of grievance.

180) As regards the advance steps to be taken to bring various persons like traders, artisans and small shop-keepers, who are self employed, a study group should be set up to examine the various aspects of the case. It should be possible to allow this category of persons to be benefitted by various social security schemes on compulsory basis where a substantial number of workers are involved. However, it would be necessary to work out detailed administrative arrangements in advance after the proposal is found feasible.

181) The suggestions made by the ESIS Review Committee are very valuable and should be accepted for implementation. Further action should depend upon availability of the report by the Expert Committee to evolve a blue print for comprehensive scheme for social security in the same. The problem of administrative merger of ESIS and E.P.F.Scheme should also depend upon examination of the problem in all its details. In the first instance, action may be expedited in this connection.

182) There is scope for tightening the provision of exemption from the E.S.I.Scheme. This could be done by thorough scrutiny of applications for exemption. As far as possible, exemptions should not be granted unless there are very strong grounds for the same.

183) Although employers sometime do complain that absenteeism among workers in factories covered by the scheme has tended to increase consequent upon the introduction of E.S.I.Scheme, there is no specific study to find out as to what extent the complaint is correct. Such complaints could be minimised by exercising greater care by the medical authorities while issuing medical certificates. In suitable cases, drastic punishment may also be considered against the erring doctors or erring workers. The number of social workers to visit insured persons when they are sick should be increased so that it may be possible to detect immediately whether a person is really sick or not. Cooperation from Central Organisations of workers may be taken so as to discourage such

practices on the part of their members. Similarly cooperation from employers' organisations could be sought in discouraging employment of such persons by member employers.

184) The question whether the administration of the medical benefits under the E.S.I. Scheme should remain the responsibility of the State Governments or whether the ESI Corporation itself should take over would depend upon a number of factors such as the availability of medical facilities, extent of labour force administrative convenience etc. Whether the State Governments are administering medical benefits, a Liason Officer may be appointed to ensure that a uniform standard of medical benefits is available to insured persons.

185) The respective shares of contribution from employers, workers and Government in any Scheme of Social Security may be 50:30:20.

186) It would be better to have a Provident Fund-cum-Pension Scheme as in the case of Government employees. Steps should be taken to convert the Employees Provident Fund Scheme into a Provident Fund-cum-Pension Scheme as mentioned above.

187) No comments in view of reply to Q.No.186.

188) The findings of the Reviewing Committee are already before the authorities and remedial action may be considered accordingly.

189) Yes.

190) The Scheme of Gratuity is a scheme of retirement benefit intended to provide for an employee, when he leaves the concern although it is intended primarily for the benefit of an employee on retirement at the end of his career. Gratuity, therefore, occupies a high ranking position in any scheme of social security. The joint family system is beginning to show signs of disintegration under the impact of rapid industrialisation in our country and this is the only amount available to a worker when he is no longer able to function effectively as a wage-earner at the end of his career. It would therefore be advisable to make liberal provision for the same. At the same time care should be

taken to ensure that the beneficiary does not fritter away the amount in wasteful expenditure.

191) The existing provision relating to payment of lay off compensation requires to be modified as sometimes employers resort to lay off for reasons which are not entirely bonafide. Lay off compensation at the rate of half wages should be payable to every employee of an industrial establishment employing 20 workers or more instead of the present 50 or more.

192) Time is not yet ripe for handing over the administration of some of the social security benefits to trade unions. However, in the first instance, experiment may be made in respect of three or four really strong trade unions in the country. The following preconditions should be laid down for the trade unions before they are considered eligible to take over such administration:

- i) 15 years standing.
- ii) 10 years experience in successfully running an institution such as labour cooperative bank, Housing Colony for Labour, Social Service League Co-operative Training Institute, Social Education Centre, Newspaper Publication, Book Trust and such other constructive activities.
- iii) Stable Membership extending over 5000 over a reasonably long period.
- iv) Sound financial position including fixed assets.
- v) Responsible and mature leadership free from the **viscitudes** of fluctuating politics.
- vi) Availability of well qualified and experienced staff/secretariat.
- vii) Capacity to inspire and maintain confidence among the rank and file of workers.
- viii) Tradition of harmonious labour/management relations in the particular area.

LABOUR LEGISLATION:

193) Collective bargaining is no doubt a healthy sign of vigorous and strong unionism and should be encouraged. This does not mean that there should be unbridled exercise of right to strike and lock-out. We are just making efforts to develop our economy

through the various plans. In such circumstances we cannot afford the luxury of disrupting the economy at frequent intervals by irresponsible action of individuals or groups. Some criticism has no doubt been laid against the powers vested in government to refer disputes to compulsory adjudication. But in the present state of economy of the country it would be in-advisable to give up this power without seriously affecting many development plans.

194) The principal difficulty in enforcing some of the labour laws has been the inadequate staff and poor scales of pay making it difficult to attract well qualified and experienced staff. For example, the enforcement of the Factories Act, Minimum Wages Act, The Transport Workers Act and Delhi Shops & Establishment Act will need for their effective implementation regular inspection and check for which the requirement of staff would be considerable. Proper staff with requisite qualifications are difficult to find on the pay scales offered by Government, especially in the technical branches as for example, under the Factories Act. The implementation of the provisions of the law, therefore, suffers on this account. On the whole the various laws administered by this office have achieved the purpose/objectives for which they were enacted, but the training of staff and proper scope for advancement can go a long way in better implementation of labour laws.

195) (a) To the extent the inspectorate staff may not have been able to inspect and check regularly the implementation of various labour laws, the employers may have taken advantage in dis-regarding the provisions to the detriment of the workers. By and large, the existing legislations have helped to protect and safeguard the interests of the workers.

(b) The various legislations, such as, the Factories Act, the Mines Act, the Plantation Act, the States Shops & Establishments Act, the implementation of the I.L.O. convention for equal pay for equal work for both men and women have to a large extent helped to implement Articles 39 and 42 of the Directive Principles of the State Policy

of the Constitution. The Directive Principles laid down in Articles 41 and 43 have not been implemented to any substantial extent in view of the economic conditions of the country. A small beginning has been made in regard to public assistance in cases of old age, sickness and disablement in the industrial sector by the introduction of Employees Estate Insurance Scheme and the Provident Fund Scheme. But these schemes touch only the fringe of the problem when the population of the country as a whole is considered. The Government of India is however, making efforts to give shape to these principles by means of rapid economic development of the country through various plans.

(c) What is required is not some change in the existing legislation or some further legislation. The objectives of these Directive Principles of State Policy laid down in the Constitution cannot be implemented without a rapid growth of the economy which will help to abolish poverty and create conditions of full employment.

196) There is no objection in the labour subject being a concurrent subject under the Constitution. The tendency, however, to centralise labour matters in industries which fall within the State sphere is not, however, desirable. In some cases the Central Government is the appropriate authority for administering certain labour laws, while the State Government is left to administer the other laws. For example, the Central Govt. is the appropriate authority under the Industrial Employment (Standing Orders) Act, while the State Govt. is the authority for dealing with the legislation under the Industrial Disputes Act, as for example, Hindustan Housing Factory, Janpath Hotel, National Small Scale Industries Corporation, State Trading Corporation etc. The banking and the insurance was formerly under the State sphere but was later on brought within the Central Sphere by amendment in the I.D. Act. Similarly, there is a growing tendency to bring public sector undertakings within the Central sphere, for example, Air Lines Corporation, while similar undertakings in the private sector are to be dealt with by the State Govt. The Centre should be concerned only with those undertakings which are part

of the Central Government Departments or are managed under the authority of the Central Government. In other industries it should be a matter for the State Governments to deal with the industrial relations and other labour laws. Otherwise, the divided responsibility is not conducive for maintaining industrial harmony and peace.

197) The conventions and recommendations of the International Labour Organisation have helped in accelerating the pace of progressive labour legislation in India. The Indian Constitution does not seem to have hindered the implementation of these conventions and recommendations.

198) The suggestions for amending some of the legislations dealt with by the labour office is given in Annexure 'A'.

199) There has often been criticism that while our economy has been improving at snail's pace, our labour legislation has been moving at galloping speed. Much of the legislation has been necessitated by the desire to protect the worker. It is possible that in this attempt, some of the legislations may have worked against the rapid growth of industries, especially in the small sector. For example, a factory having a strength of 20 to 25 workers has to deal with Employees State Insurance Scheme, the Provident Fund Scheme, the Factories Act, the Industrial Disputes Act, Minimum Wages Act and so on. The small industrialists who may be illiterate or half literate can hardly afford to keep staff who can understand the implications of legislations and fill in innumerable forms and statements apart from the financial burden caused to them. This aspect should be kept in mind in future legislation so that they do not create obstacles in the rapid economic development of the country.

200) The number of labour legislations is quite large and each legislation has its own purpose and object. It would, therefore, be difficult to consolidate and codify the existing labour laws.

201) It is good that we have been giving emphasis on a voluntary approach in labour policy. This itself will

help the parties to rely on consultation and discussions to solve various problems rather than make them legal minded in solving various labour problems. This idea of voluntary approach had salutary effect on industrial relations and has helped to maintain peace in industries to a large extent. Although occasional breaches of the Code and industrial truce resolution have occurred or might occur occasionally, it has on the whole exercised a restraining influence on the aggressive tactics of parties.

202) This question has been answered when answering the question Nos. 200 and 201.

203) In Delhi, the public sector is not in any way treated different from the private sector. The exemptions are also not granted merely on the ground that the factory is a public sector. Any exemption granted is on its own merit, irrespective whether it is a public sector or a private sector.

204) No such instance has come to the notice of this office.

IX RURAL AND UNORGANISED LABOUR:

205) The Union Territory of Delhi is one of the most urbanised areas. There are only about 360 villages and the condition of the peasantry is comparatively better than in some of the adjoining States, both socially and economically. Delhi stands first in all India in respect of literacy and there is greater awareness among them. As such, the problems of rural Delhi are somewhat different than those in other parts of the country. In any case, there is considerable scope for improvement in the effectiveness of various remedial measures taken so far, particularly in the matter of extension of benefits of progressive labour laws, applicable to industrial workers.

206) The local agencies already operating in the rural areas may be adequately strengthened both administratively as well as financially so as to enable proper implementation of the broad-based programme.

207) Given the necessary initiative and enthusiasm as well as financial backing each one of the suggestions made

by I.L.O. is feasible in the Indian context.

208)(a)&(b) The following remedial measures are suggested:-

- (1) Minimum wages should be fixed in those industries wherever 500 workers are employed in the entire industry.
- (2) A separate Labour Officer may be appointed with adequate subordinate staff in the Labour Department to look after the welfare of this particular section of labour.
- (3) Special efforts may be made to set up Cooperative Societies so as to eliminate exploitation by middlemen particularly in the purchase of raw material, production and marketing of the finished product, etc.
- (4) Social Security measures may be extended to these workers as may be feasible.
- (5) Training programmes may be organised by Government so as to enable these workers to improve the standard of their professional skill as well as their outlook towards life.
- (6) Working conditions may be improved by giving adequate space in newly developing areas so as to remove congestion in the thickly populated areas.

209) See reply to question 16.

210) See reply to question 162.

211) Setting up of a separate cell in the Labour Department for agricultural labour is suggested. It may work in close cooperation with other agencies dealing with rural labour.

LABOUR RESEARCH AND INFORMATION:

212) The collection of statistics under the various labour laws is now a days mostly done under the instructions and directions received from the Director, Labour Bureau of the Ministry of Labour and Employment. The Directorate has done a good deal to bring about uniformity in the statistics. Any further improvement in this direction could be suggested by that organisation which is specialised in this job.

213) It is possible that there may be a good deal of unproductive work and duplication so far as the employer is concerned. He has to submit returns under various labour legislations to different authorities administering the laws. It is possible that the employer might

submit one comprehensive statement to one of the authorities, say a statistical authority who can compile information and also supply to the different authorities administering the laws. So far as the labour office is concerned, there is no duplication of work.

214) This is mainly a statistical question which could be better answered by the statistical organisation like the Director of Labour Bureau.

215) The strikes and lock-outs are not only the criteria of industrial unrest. There may be a case of bad relation and industrial unrest without a strike or lock-out. For example, 'go-slow' or the frequent raising of demands on various subjects may be indications of industrial unrest. It may be difficult to quantify some of these indications but a rough indication can be shown by the extent of loss of production, number of times demands are raised and taken into conciliation, number of references made to adjudication etc.

216) It would be desirable to collect statistics of work stoppages arising out of causes other than industrial disputes as such figures will indicate loss of production and the effect of such loss on the economy of the country.

217) The workers' life cannot be measured only by the economic aspects. Social and sociological aspects have also be taken into account. The manner in which it could be done should be discussed by a committee of experts on this subject.

218) Since this work is not undertaken by the labour office, no comment can be offered on this question.

219) In Delhi, there are not many research studies in the field of labour. It has already been suggested that there should be a separate unit in the labour office to conduct periodical surveys in the social and economic aspects of the workers' life and also to give guidance to employers and workers in introducing schemes of productivity and incentives etc. and to keep a liaison with private research organisations.

220) Since this office has not much experience of the research work undertaken at present by the various organisations, it is not possible to offer any concrete suggestions in this matter.

221) So far as is known there is very little labour research work undertaken by employers/workers organisations in Delhi. There is, however, one institute sponsored by the employers, namely, Sri Ram Centre for Industrial Relations which is carrying on some useful research work on labour matters. The Delhi School of Social Work through their students also carry on research work into certain aspects of labour.

222) In the present state of the trade unions in Delhi, there is very little hope of trade unions carrying on any research activities. Most of the trade unions in Delhi are suffering from paucity of funds and are finding it difficult to maintain their office bearers who have to conduct activities. There is also no guarantee that even if funds are made available the trade unions which are only the labour wings of different political parties can carry on any work which will remain un-influenced by their own political philosophy and opportunism.

223) Universities and research organisations should be provided with sufficient funds by the Government to carry on research work in labour field.

224) There does not appear to be any permanent arrangement by which research personnel outside Government have been undertaking deeper analysis of data available with the administration. There is, however, a need of associating private research institutions with Government agencies for the benefit of both. This can be done by having a liaison between the research unit of the labour office and the private associations and frequent meetings and discussions between the two sides.

225) So far as Delhi is concerned, the existing information of labour matters is analysed and published by Director, Labour Bureau, Simla. Details as to how it is being used by private organisations etc. are not known.

226) There is perhaps not much arrangement for publicising the research activities of the various agencies. There is little publicity by the press presumably because such information is not considered of sufficient public importance and of news value. More frequent meetings between the Government, research institutions and private agencies and holding of seminars and reading of papers etc. might be useful in this regard.

227) The question can be answered by the trade unions/employers organisations.

228) Industrial conflicts as seen in the form of strikes and lock-outs, naturally get wide publicity because of their wide repercussions on the public and the sympathy for the sufferers. Industrial harmony is a sort of silent work, though a solid one and has not the same spectacular aspect to attract public attention. The press should be encouraged to give sufficient publicity by frequent news items and special articles on industrial harmony, especially by giving publicity to agreements and other schemes which help to maintain good relations.

229 & 230) These questions cannot be answered without undertaking a special study of the subject.