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Replies to the Questionnaire
by
The National Commission on Labour

UNITED TRADES UNION CONGRESS

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United Trades Union Congress

249B, Bepin Behari Ganguly Street, Calcutta-12.

1. Name and Address : United Trades Union Congress, a Central Organisation of Workers.
249B, Bepin Behari Ganguly Street, Calcutta-12.
2. Name of Central Organisation : United Trades Union Congress.

I. RECRUITMENT AND INDUCTION

1. (a) *How is labour recruited*
 - (i) Jobbers. (ii) Agents or Contractors. (iii) Advertisements. (iv) Introduction by existing employees. (v) Employment Exchanges (vi) Recommendation by Public men and relatives and friends of Officers.

It may be mentioned here that the officers of the various establishments exercise their authorities to a great extent in getting their nominees appointed either by influencing the Bara Saheb or the Particular officer who may be in charge of recruitment and in all such cases the sirdars or supervisors also play an important role in recruitment of unskilled or semi-skilled labour and charge money from the appointee.

- (b) *Recruitment arrangements—How far satisfactory.*
 - (a) Satisfactory for those who get the selection.
 - (b) Level of pull or influence superseding the level of skill.

2. **Categories regarding short supply of Labour.**

There are occasional short Supply of Skilled labour and for the jobs considered unclean or demeaning like that of scavengers.

Steps should be taken to give adequate training of the existing workmen and to promote them and to remove the odium and ignominy of the job to be adopted.

3. **Lack of mobility and Labour supply.**

A thing of the past. But Seasonal shortages do occur. Better living and working conditions and service benefits would meet the ailment.

4. **Migratory character of Industrial Labour.**

In low-paid jobs and jobs requiring high technical skill, a portion of the workers are migratory. So the employees can be recruited and retained by better standards of living better Housing and security of employment.

The technician would prefer to go back to his native place even for lesser remuneration if he gets reasonable chance to be so employed. Of course, the employees generally desire to remain within their linguistic boundaries.

5. **Statutory provisions and employment of women.**

Maternity benefit, shorter hours of work etc. have been deterrants to large scale employment of women in industrial establishments. But, for physical labour which calls for deftness of fingers

like plucking in plantations and the various jobs in the Cashew and Coir industries women are preferred even now.

No major modification of the provisions is called for. Some specific jobs should be mainly earmarked by the Statute for the women. Higher literacy and educational facilities would bring in large number of women to the working front.

6. Employment of Casual Labour.

The advantage of 'Casual Labour' for the management is that they can just employ for casual necessities any number of persons they may require, without having any permanent obligation of paying retiral benefit, leave with wages, or any benefit provided in the statutes on labour. Correspondingly what is the advantage to the managements is a disadvantage to the labour, as a tendency is patent with the management to keep so called casual labour, even when the work is of permanent nature and at least a definite percentage of men could be permanently employed. The only remedy is to legislate on the subject beyond a certain percentage of the total complement and beyond 15 days in a year and to give all benefits of a permanent hand when a man work in all 90 days or more in a year continuously or with breaks.

7. Physically handicapped.

As long as the Government is not in a position to provide pensions for the physically handicapped, the problem of their existence would also have to be solved.

In such jobs as could be quite efficiently handled by the various sections of the physically handicapped persons, it would whip up their morale if they are given preference by statutes up to a small percentage—say 50%.

8. Discriminations in Recruitment.

Caste, Community, religion, language etc. do play a vital role in present day recruitment.

Such discriminations cannot be justified under any circumstances. But, where other qualifications are equal, preference should be given to the weaker sections of the community.

Induction

9. Adequacy of the programmes of 'on-the-job' training.

In skilled jobs a short course on a specific type of work alone is unsatisfactory. The grounding on basic matters connected with that job and a general technical understanding would make a trainee much more efficient in his day-to-day job and would help him to switch over to another or a higher type of job very easily.

10. The employers hardly grant study leave to the employees for improving the skill outside their working hours and outside the place of work. Either the employer should arrange such training for improvement of their skill or facility should be offered for improving their skill outside the place of work and to run after-hour-courses to help the ordinary technician and semi-skilled and unskilled workers.

11 (a) Seniority cum merit is the general rule of promotion. While seniority can be ascertained by reference to record, the 'merit' factor is often as used as an element of abuse to defeat the legitimate claim of a senior man for some extraneous reason. Accordingly machineries should be scientifically determined for merit and trade-test and unless there is anything specific against an encumbent on merit the promotion should be allowed on seniority as the prime consideration.

(b) Generally speaking, yes and at all levels.

II. CONDITIONS OF WORK

Working conditions.

12 (a) (i) As regards the safety and welfare measures, the matter was discussed at the 23rd Session of the Standing Labour Committee in March, 1965 and by the Sub-Committee thereafter. The said committees suggested certain legislations and we consider the same as well as others indicated below where the changes are necessary in the various Acts.

- (a) Appointment of safety officers in concerns employing 500 or more workers or in all such concerns where manufacturing process involves serious risk of bodily injury, poisoning or disease.
 - (b) Notification of dangerous occurrences as prescribed by rules ;
 - (c) Provision of powers for conducting occupational health surveys, enquiry into fatal accidents etc ;
 - (d) Strengthening of safety measures and to provide for better safety conditions for workers ;
 - (e) Special protection for minors and women ;
 - (f) Night work to be restricted to unusual circumstances and emergencies ;
 - (g) Prohibiting manufacturing processes prejudicial to the health of the workers or specially safeguarding all dangerous parts of the machines ;
 - (h) To educate workers and make them safety and welfare conscious ;
 - (i) To provide for participation of workers in joint plant inspection team, plant safety committees, safety contest and safety suggestion schemes ;
- and (j) other provisions in line with the above ;
- (a) (ii) The working hours should not exceed 40 hours in a week excluding recess of $\frac{1}{2}$ an hours for factory workers and workers in mines and 30 hours in plantation excluding recess and 30 hours in mercantile and other offices excluding recess and 5 days work in a week in all cases. In case of night shift work the period of work in a factory should not, however, exceed 35 hours in a week, other suggestions remaining the same.
 - (iii) This has already been indicated under 12 (a) (1). It is to be provided that none below the age of 16 years should be employed particularly in factory and mines.

- (iv) One day's annual leave for every 12 days work should be provided. This leave should be irrespective of qualified period of 240 days in a year as at present. It should be allowed to be accumulated for 60 days and a workman should be allowed to encash the accumulated leave if he does not avail the same.
- (v) Occupational diseases : The list of occupational diseases as present is incomplete, unscientific and outdated. New investigations of occupational diseases in context of new social and industrial complex should be undertaken and listed.
- (vi) Overtime payments should be made at double the normal rate of wages in excess of the normal wages for the day. In cases of weekly off days and holidays and in other cases any work in excess of the scheduled working hours of each concern should be deemed to be overtime work and paid for at overtime rate. It should be provided further that overtime work should be an exceptional and emergency arrangement and where it is a regular feature the employee would have the right to refuse overtime for reasons of health and social considerations.

The failure in implementation of these acts should attract deterrent punishment and the same should be provided by way of amendment of the existing statutes. Further the unscrupulous employers and departments of labour in charge of inspection and implementations of these acts in collusion with each other have created a condition where no amendment of legislative action will be of any effect unless the standard of the inspecting staff can be improved by departmental machineries and the position of the trade unions with statutory power of vigilance is strengthened against both the employers and the Government department. The minimum that can be done is to form a committee of employer and the union at every unit and making it compulsory for a Government officer either of the Home department, or of the Labour or Industry to immediately visit a Unit on the basis of a complaint lodged by the Union against violation of the Act by the management. Since delay in handling the complaint might help the offenders in manipulating things, all such offences under the labour legislations should be deemed as cognisable offence for the purpose of speedy and prompt action.

12 (b) The question cannot be answered completely as so many factors are there which may be included within the term proper working conditions. Accordingly to us psychological factors healthy employer-employee relation is of utmost importance to ensure proper working conditions. As regards the physical and other factors steps in the following directions should be taken for perfection, as far as possible :—

- (1) Regulation of heat and humidity
- (2) Standardised machinery
- (3) Safety arrangement
- (4) Dust and noise should be eliminated
- (5) Sufficient light and air should be arranged
- (6) Labour Welfare arrangement should be perfect

13. National paid holidays generally speaking are three in number, 26th January, 15th August and 22nd October, being the days known to be Republic Day, Independence Day, and Gandhiji's Birth Day respectively. The number of festival holidays however varies from region to region and even in establishments in the same region. The number of such paid holidays varies between 7 to 24 days. There is no justification for such wide difference and it is desired that the

number of festival holidays in the year should be standardised without prejudice to the existing benefits, and the occasion vis-a-vis dates may be left to the region for availability of the holidays. May Day should be declared as National Holiday.

14. In every State, systems have evolved for regulating conditions of work in employment other than in factories, mines and plantations. Such employment may be broadly divided into 2 categories (A) Employment in mercantile offices and (B) Employment of unorganised labour in unorganised industries. While the former has its service conditions fixed or standardised by different awards or agreements and may be left without any intervention, the conditions of work in shops and scattered unorganised industries like Road-ways, Irrigation labour and the rest, known as casual labour, require a central legislation to cover the workmen of the country as a whole ensuring fair and reasonable conditions of work as in factories, mines and plantations.

15. Child labour is even now prevalent in rural and out-of-the-way places in industries like Cashew companies, Surface mines and Plantations. It is also commonly found in Hotels and Restaurants. More stringent provisions are required to control the employment of child labour.

16. There is no regulation in regard to conditions of work of contract labour and labour employed by contractors. There should be a central legislation abolishing the system of contract labour. In any case the principal employer engaging the contractor should be made liable for payment of wages, amenities, benefits in the line with their own employees and also of security of service. Statutory recognition to the effect that all such workers are workers of the Industry in which they work and not for which they work, is urgently needed in the interest of equity and social justice.

17. The various statutes regulating safety and welfare arrangements, working hours, provident fund and gratuity, lay off and retrenchment as in chapter V A of the Industrial Disputes Act for the purpose of compensation only are often abused by the employers for absence of a statutory joint working arrangement. A legislation associating trade unions with the management for proper implementation in all such matters seems to be essential.

18 to 25. **Safety and Health**

The Industrial civilisation has brought in its strain also some hazards and risks and the various steps are being taken to minimise number of incidence of risks including accidents and diseases. It is assumed that complete elimination of such risks and diseases may not be possible but the alarming feature is that instead of there being a fall or reduction in the cases of industrial diseases and accidents, the number is always mounting up. The reasons for the same may be two-fold. (a) The modern technique of production by highly mechanised machines (b) Employers' failure to provide for the safety equipments befitting work in such machines and/or non-compliance with the safety measures provided in the different statutes. To act as a guard against the aforesaid contingencies, legislative attention for more stringent provisions in both the directions may be useful. This is, however, necessary, to stress that the authority in charge of looking to the health and safety measures under the various statutes have generally failed to perform the duties cast on them under the various statutes. This may be due to two or more reasons again; (a) short staff, (b) corrupt or inefficient staff, (c) want of co-operation by the parties concerned (d) want of adequate education on the part of those officers of the government who are in charge of looking to the health and safety measures. Ofcourse the employers invariably and almost in all cases attribute accident to the carelessness of the workmen concerned or an act of God. Here again the question

of giving proper education for safety and health seems to be necessary for the industrial workers as a class. Problem thus being of great magnitude there should be a co-ordinated effort of the Government officials, management and the trade unions to see how this risk of accident and foul diseases of the industrial workers could be avoided as far as practicable. For this, joint councils at factory or regional level may be tried but the importance of stringent legislative measures against violation of statutory provision should get priority.

In this connection it may be stated that the workers have a general apathy if a mask or a hat or a glass used by others are supplied as a safety measure to the different persons and to avoid using the used things they do not use any protective instrument at all and expose themselves to industrial hazards. This psychological objection can not be ignored also from point of health and as such something should be done to improve this state of things.

As regards Industrial health service, the arrangement of the ESI Scheme, if it is any indication in that direction, has failed to enthuse any one for the basic defects like the restricted medicine, want of proper medical co-operation, delaying treatment and the like. As a part of health service, the employers should arrange rest-rooms, hygienic food in the canteens, comfortable working conditions including sufficient light, air, pure water supply, hygienic urinal and lavatories etc.

As regards the provision of the Workmens Compensation Act vis-a-vis the ESI Act on compensation for accidents and disability, it should be told that the old approach evaluating the life and work of an industrial worker no more holds good. The life of a man, however poor or low paid he may be, must have a guaranteed value considering him as a human being with a potentiality of going at the top and having a much longer span of life than before when the compensation Act was conceived of in the twenties. The minimum compensation being thus assured, higher slabs of compensation may be suitably adjusted. It is to be emphasised that the value of money is now very much reduced and hence a real and substantial relief to the heirs and dependant of the deceased and other total disabled persons called for radical changes in the approach and a suitable scientific provision should be advised so that this people may get real and substantial benefit by way of compensation.

As regards those who are partially disabled as the position stands now, the employers get rid of them by paying the little compensation of 5% or 10% disability on the plea that he is a disabled man and he has got his legal dues. This heartless action should be banned and light work befitting such persons should be assured, besides paying them the compensation for the loss sustained at the rates which may be raised in the light of the facts and circumstances indicated above.

Whole period of absence due to sickness or accidental disability, temporary or permanent should be paid for at the same rate including the period of so called waiting period and without having to wait for a fortnight as in section 4(d) of the Workmens Compensation Act.

III. TRADE UNIONS AND EMPLOYERS ORGANISATIONS

26. The sense of class has resulted in the formation of trade unions and employers Organisations both. Naturally they function from two different interests but nowhere else the unity of these two divergent forces is more required than in the case of these two class organisations. In fact the enlightened approach of both trade unions and employers organisations are the two wheels on which industrial prosperity rests.

The trade unions are formed under the Indian Trade Union Act while the Employers' organisations are either unregistered bodies or registered under the Societies Act. The trade unions as we see now are dominated by political leaders and political parties who have taken up upon themselves to organise the labour in their own way to fight the systems of exploitation. INTUC is dominated by congress, AITUC by the Communists, HMS by the PSP and UTUC by different progressive political forces opposed to the Congress. However we may disapprove importation of politics in trade unions it cannot be denied that but for the political workers belonging to the different political parties, the workers in different industries would have had remained unorganised and utterly helpless and the job was too heavy for the social worker of the country to perform and meet the challenge of the mighty employers and their organisations.

The century old foreign domination over India and the control over the Indian industries by the community of the said rulers was to a large extent responsible for the trade unions being politically oriented. In pre-Independence days the congress was the political platform for all parties and as a corollary there too, 'All India Trade Union Congress' was the only central organisation wherein different political parties co-operated actively in developing its stature. The hard-earned independence in 1947 or on the eve of that, sudden political considerations with certain political attitude became pronounced having their repercussion in the trade union organisations.

The employers organisation may be viewed as belonging to different shades according to the varying degrees of enlightenment. While all the employees organisations are formed with motive to help their constituents in earning more and more profit by paying low wages and amenities to the labour, low Income Tax to the Government as far as possible, to secure tax relief, amendment of various statutes in favour of employers and also to function as an advisory body for the constituents in all relevant matters. A section of employers mostly of foreign have a better wisdom and they realise that the workmen deserve human treatment and at least in course of discussions they concede to many of the fundamental objectives of employer-employee relation. They are appreciative of the efficacy of the trade unions both for the labour and the industry and recommend better wages and amenities for the workmen to their constituents. Whereas the other shade of employers, organisations are unimaginative without any social approach recommend as little as possible to their constituents for payment to the labour and consider the trade unions as enemy to the industry. These employers' organisations have as their members mostly Indian Capitalists both big and medium.

27. Post Second World War legislative provisions have definitely retarded the growth of militant trade union movement in the country. The movements have shifted from the factory to the Court of law. All trade unions have lost their strength of collective bargaining. They are now engrossed in total litigations. Labour is always a weaker partner in the matter of litigation. Hence, the post war legislations have helped the Capital and not the Labour in any manner. Besides these, unscrupulous machineries for administration of labour laws have generally helped the Capital to crush the labour and their trade unions. Litigation and lengthy litigation is the only outcome of the post war legislative measures. Increases in the number of post war trade unions is nothing but 'a flop'. Number of litigations have surpassed the number of trade unions by thousand times.

Due to the existing legislative provisions there could not be usual growth of trade unions in Educational institutions, Government offices, Solicitors Firms etc. in as much as no trade union can be registered in those concerns or establishments and no dispute can be raised before the

Government conciliation machinery or can be referred to any industrial tribunal, as those concerns or establishments are not covered by the definition of "Industry" in the Industrial Disputes Act or in the Indian Trade Unions Act.

28. The Trade Unions have been forced to adopt several fundamental changes in their tactics. From effective mass action, the organised working class movement came down to legal action and to inaction during the period of Pak aggression. After that phase the employers have started disrupting the Wage Boards and blocking the proceedings before the Tribunals and refusing to adopt arbitration. At the same time the economic recession has set in the context of sky-rocketing prices.

Closures, lay-offs, retrenchments have become the order of the day and the trade unions are meeting them with strikes, gheraos and sometimes with violent clashes.

29. The attitude of trade unions and employers' associations towards each and towards the government have worsened during the last decade. The attitude of indifference between employers and trade unions is understandable, because to workmen their wages are incomes and to employers the wages are costs. But as regards government, the workmen have never been convinced that it can really be independent of the pressures exerted by the dominant class of capitalists and businessmen. Workmen also are sceptical about the approach of the judiciary to their problems, and if it can really be impartial. Their fears are not unfounded either in theory or in practice. But where internal strength is lacking, the advice of the government can hardly be ignored. Unions have found that the government does not act properly even in cases of obvious injustice.

30. The trade unions are the product of the society and they protect directly the interest of a section of the society namely the working class. The service condition of the Indian working class is so low and intolerable that the trade unions in our country mainly remain busy to protect the limited rights of the workers and the security of their services and to realise their just claim. The trade unions are not also financially sound. The income of trade unions is neither steady nor sumptuous. The attitude of the employer's organisation towards the trade unions is also unhelpful. In the context of all these, the trade unions are handicapped to develop other social, political or welfare activities for their members.

In spite of the same it has become imperative for trade unions to embark on an extended service to their members to develop the workers as a responsible citizen in a civilized society by organizing constructive activities in social, political, cultural, intellectual and recreational lines. They should educate the workers what society is, how society develops, who are the main forces to change a social system, how production and distribution can be planned to reap better benefits for the vast masses of society and nation as a whole and how the working class can take part in the shaping of the fate of a nation of which they are inseparable part.

The trade unions should develop attitude in the minds of their members that they can not protect themselves being detached from other social, political and economic development of the country. The trade unions must for the said purpose organise training courses and allot trained personnel to make the workers participation in those activities possible.

The trade unions can organise independently, with the financial help from the government and the employer, different co-operatives, housing societies and other welfare activities. Any joint activities with the government practically depend upon the confidence of the workers upon the government.

The employer's organisation should recognise that as human beings, as the main productive forces and as responsible citizens of the country, the workers must have their say and right in all matters. They should not also stand in the way in sharing profits with the workers and to recognise their just claims. They should not also encourage litigation with a purpose to harass the workmen and to create more distrust. They should also accept arbitration for settlement of disputes and extend all their co-operation in case of the workers' desire to organise welfare, recreational and other activities.

No substantial help could come from the trade unions and employers organisations in the evolution of a better Society. Trade Unions generally represent their views through resolutions, letters and personal contact and through publicity in Press. On broad matters their views represented through their Central Organisations. But there exists no effective channel of communications between Labour, Employer and Government. Sometimes different Labour Advisory Bodies discuss the problems touching the society.

A smooth system of Co-ordinating various activities along the lines of accepted national objectives may bring better result.

31. Better Society. By safeguarding the respective rights of the two most organised and most important sections of the community, the Employers' organisations and the workers' Organisations have made their contributions for the evolution of a better Society. But, lack of coordination and undue delay in facing and solving major national and Social problems have been retarding the progress.

Both the Employers and the workmen have been trying to influence the Government and other public authorities by show of strength. So, the solution of any problem is put off till it develops into a crisis.

32. High level of employment : Employers' Organisations can :

- (i) Reinvest their profits for expansion and for new industries.
- (ii) Coordinate their activities and salvage the uneconomic units from going to dogs.
- (iii) Avoid expensive automation and enhance production and productivity by better coordination of jobs.

But overall responsibility for maintaining the high level of employment and expanding it rests with the Government. The workers can only co-operate in those efforts of the employers and the Government when they accept those as necessary for the good of the nation.

33. To promote bipartite consultation the employers organisations should undergo a re-orientation in their approach and objective. They must recognise the trade union for this purpose without any hesitation. Labour must be accepted with respect and dignity. The trade unions also should undertake proper training of personnel for bipartite consultation. To know the background of the dispute, to know the grievances of the workmen vis-a-vis the dispute, to know the argument to be made in support of the dispute, to place the arguments properly and to finalise the dispute are the matters which require experience and training.

34. The main existing arrangement of communication between central organisation and the constituents is through letters, circulars, holding conferences and tour of leaders in various regions. The communication is generally made through state branches of the central organisation.

The channel of communication can be improved if funds can be arranged for holding frequent discussions between the central office and state offices and/or trade unions, for publishing regular periodicals and frequent tour of leaders.

35. The UTUC had some rare occasions to refuse affiliation to certain unions for the following reasons, amongst others :—

- (i) The union being a rival union to another union already affiliated.
- (ii) The union being not in a position to make payment of Affiliation Fee.
- (iii) The unions in which different political parties function and where there is Federation of workmen on, Industry basis affiliation to which will serve the workmen better.
- (iv) The unions which will not subscribe to the objective of the UTUC.

36. **Enforcement of obligations :** The minority of the constituents alone could be enthusiastic about implementing the obligations of the Central Organisations. Denial of further benefits is the only penalty. Publicising the delinquents and tripartite investigations of these units could be effective, but, not feasible.

Hence agreed formula must be enforced by legal sanctions.

37. **National policies vis-a-vis units.** Plant Unions generally do not fall in line with the national policies when they go counter to their immediate interests. The Recommendations of the Bonus Commission were unacceptable to those Unions where there was a 4% Minimum Bonus in vogue and where there was no ceiling. The Bonus tangle still remains unsolved.

The most important principle to be enforced is that on no account should existing benefits be taken away from the workers for ensuring uniformity. In other cases some legal sanctions have to be applied. (*i.e* Fair Price shops in industrial Establishments.)

38. **Responsibilities of central organisation.**

- (i) Expert advice with a compromising bias should be made available to the constituents.
- (ii) Proper training facilities should be provided to the units.
- (iii) To keep the constituents informed about important decisions on labour matter and policy matters on Labour.
- (iv) Personal, and where required financial assistance.

Trade Unions : Constitution and Finance.

39. Seven worker-Signatories and a few office-bearers can give birth to a trade union. The constitution of Trade Unions may be unitary or federal. There are plant unions exclusively for the particular unit of an industry or a union for the industry as a whole of a particular region. In regard to the later type of unions the constitution may provide for individuals participating as a member in the industrial union and sometimes the constitution provides that industrial union shall be an affiliating union and its membership comes through the delegation of those affiliated unions which select delegates on certain definite basis, say one delegate for 50 members or so. They are generally known as federations.

All these unions, however, have the common objective of organising labour and championing their causes for economic, social, cultural, moral and other upliftment.

The rates of subscription vary from union to union and the same is fixed by a resolution in a general meeting and formed a part of the constitution. The constitution also provides for the different patterns of membership, namely ordinary member and honorary member, limited member of outsiders may be taken as honorary members in terms of the rules of the union to elect them as office-bearers of the Union. The constitution vis-a-vis the rules of the union are generally framed in terms of the model rules of the Government.

40. The officers of trade unions are elected generally by the general body of members once in a year. Due to low wage of the workmen and low rate of subscription very few unions can afford to make any payment of their officers. However, there are few unions which make some payment to some of the officers proportionate to the capacity of the union, in the form of monthly allowance or Travelling allowance.

41. **New Members** are usually attracted by :

- (a) Concrete achievements in the working.
- (b) Propaganda on the utility of remaining united against onslaught of Employers.
- (c) Persuasion.

Except where regular functioning has ceased and only the shell remains, new applicants are admitted without restriction.

On rare occasions the objectionable antecedents or politics of the applicant may lead to the rejection of his application.

Unions generally compete for higher membership by promising higher emoluments and benefits and by exposing the functioning of other Trade Unions.

42. Only members with a socio-economic perspective or with a devotion for service come to the fore-front of the trade union movement. Spotting out such elements and giving them the work suited to their genius is the responsibility of the leadership. The other methods adopted to encourage members are through meetings, classes, leaflets, gate meetings, group discussions etc.

During normal periods the number of activities go down.

43. **The activities** of the Trade Unions are based on the democratic election by the General Body of the Executive and office-bearers annually. The routine matters are handled by the Executive Committee. But major policies are always decided by the General Body of the Members. The Secretary is the Executive authority. But the President has a right to overrule the decisions of the Secretary till the matter is considered and decided by the Executive or the General Body.

During periods of discontent and agitation, the rank and file exert real influence over the policies. Otherwise the matters are decided by the activities.

44. As regards closed shop or 'union shop' system it can be answered by saying that they do not exist in India and the existing Indian conditions, nothing like that is possible. Besides the question of constitutional impediment, it is apprehended that such a system may be politically utilised and unscrupulous employers and the unscrupulous trade unions both may conspire together to make the function of genuine trade unions impossible.

45. Trade Unions are always short in fund and it is mostly impossible to spend anything for promoting member's interest. The trade unions should move so that the Governments help the unions to get rent-free Union Offices, Stamp Free Postage and monetary help in litigations relating to industrial disputes.

46. Increasing members' subscriptions would be resented by large section of workmen who are ill-paid and sections of workman whose union-consciousness is not developed.

47. "Check-off" system is likely to make the Union leaders lazy and indifferent. It will also gradually cut them off from direct contact with the mass of workers. But the minimum fee can be collected and given to the Union of the worker's choice. The levy for only the "Recognised Union" would lead to bitter rivalry among the workers.

48. In most cases trade unions due to shortage of fund cannot render any help to their members in their personal difficulties. Sometimes some efforts are made to raise special fund or to arrange box collections from other Union and/or public to render help to members or their dependants.

TRADE UNIONS—LEADERSHIP AND MULTIPLICITY

49. Historically speaking trade unions were there even in India in form and essence even before the Indian Trade Union Act, 1927 was passed. In its early days the social workers dominated the field of trade union and the contribution of Servant of India Society in this connection is worth-mentioning. The main objective of the social workers was to arouse social consciousness amongst the labour and employer both and resist ruthless exploitation of human labour from moral and ethical point of view. Later in the process the political leaders and workers found quite correctly that the employers of the Industry were foreigners by far and large and the workers employed were the Indians and the economic exploitation was both on political and racial basis and in the freedom struggle organising the labour on class slogan became an imperative task. Since then the political leaders and workers have played significant role in organising the labour in their own way. Sometimes the workers might have been led astray by the political considerations of the respective parties. Nevertheless, the trade unions owe much of their values to these leaders. They have not only organised them and brought in a new feeling of life, they have helped them to challenge the organised actions of the powerful vested interest. In doing so the leaders themselves had to face all sorts of risks and it must be admitted that if all the political leaders and workers withdraw now from the field, the trade unions of our country are so unequipped and infantile in nature and character that a big void would be created too difficult to be filled in. The outside leadership vis-a-vis political influences are therefore not so bad as it is often suggested. What is to be guarded upon is not the outside influence but the character of the outsider, so that he may not be there in the union to make his position felt only to achieve his own personal interest.

Another impact of the political parties on the pattern of trade union movement is that the working class have begun to think that day to day economic concession cannot assure their security of service, living wages and old age provisions etc. permanently and it can be achieved only through the change of economic system and through the achievement of a socialist system.

50. The term 'outsiders' in trade unions means a person who is not a workman under the establishment where the union functions. The Trade Union Act itself provides place in the trade unions for these people. These outsiders are actually leaders of the trade union movement and

and conscious keepers of the trade unions. Many of them have dedicated their lives for the cause of labour and have so closely identified themselves with the cause of the labour that they are never treated by labour as 'outsiders'. Of course there are some 'outsiders' who are only 'yes' men of the employers or are there for their personal interests.

The influence of outsiders is still immense upon the trade unions, the reasons of which will be found from the attitude of the employers towards the union and their members, victimisation and ill treatment. Other reasons are illiteracy and growing complexity in labour matters, litigation and administration of trade unions. But this position can not be allowed to stay for all time to come. With the growth of trade union consciousness, a process has already started to replace outsiders by workers themselves and actually the number of outsiders in a union will be on the average not more than three or four in number.

51. Trade union movement and participation of labour in it is the best way to develop internal leadership. With it, trade union courses on matters concerning labour and the society can help the building up of internal leadership. Efforts should also be made to eradicate illiteracy.

52. The existing legislation though allows any group of seven workmen to form a union, it is not the only or sometimes main reason for multiplicity of unions. Political reasons, attitude of the employers towards existing union, corrupt and inefficient leadership are some of the reasons amongst others. No legislative measures can be effective to improve the position. Trade union movement itself and recognition of unions having 15 per cent membership, through secret ballot, may improve the position.

53. The inter-union code of conduct has become completely obsolete and ineffective in regulating inter-union relations and avoiding inter-union rivalness. The united movement on specific issues concerning labour can to a large extent improve the position.

54. Registration of trade union is necessary only to have some legal benefits and protection. The Trade Union Act should be amended to the effect that the Registrar of Trade Union shall give his decision in the matter of registration within 30 days from the date of receiving the application for registration by his office.

55. The employers have entered into the game of divide and rule and try to play one Union against another. The conciliatory and helpful attitude towards unionism is fast disappearing. The employers are following the traditional attitude in recognizing only the 'yes' Unions.

56. **Code of Discipline** has been a dead letter soon after its adoption. It has not contributed anything towards securing recognition of trade Unions.

57. All Unions with more than 15 % effective membership should be recognised. The concept of "Representative Union" has been smashed by the ruling of the Supreme Court. The 2 year base of life is also dangerous because it would usher in a false sense of security in the leadership of the Union. Further landslides among the supporters would not be reflected and would lead to illegal strikes. The strength of a Union should be determined by means of plebiscite through secret ballot.

58. The enactment in some States have done more harm than good to the T.U. movement. All Unions with a membership of 15% or more should be given the rights mentioned in Appendix IV by Amendment of the I.D. Act.

59. **Industrywise Unions** will be in a better position to study the technical aspects of the industry and counter the repressive measures of the employers. But the problems of the workers in the various units can be, and will be different.

Federations of unit Unions should be encouraged and all such Federations as have more than 15% effective membership should be recognised. Thus the plant level and industry-level units will have the same leadership.

60. **Sole Bargaining Agent** has become a dangerous and destructive concept in modern India. In a well-planned developing economy, with the Unions encouraging the widest membership, it would have brought in some benefits. But, now, it has become the graveyard of the T.U. movement. It is always easier to pick holes in a settlement or agreement than to wring out concessions from the employer. So, the hard work put in by the Negotiating Agent can be ridiculed in no time. So no single Bargaining Agent is to be recognised.

61. Election by Ballot is the best method. When any Union disputes the representative character or the claimed membership of another Union, the Labour Department may be requested to fix up a date for the Voting. As many boxes as there are functioning Unions in that sector should be provided and the unions given separate Boxes with their names boldly exhibited. A cross-marked paper should be given to each worker who appears in person and he can put his thumb impression on it and deposit in the box which he chooses. The boxes are to be kept in an enclosed area.

62. If a Union is elected as the Sole Bargaining Agent, which we don't approve of, the Labour Department should consult the other Unions before serious discussions are finalised. The other Unions must also have the right to represent their members for redressal of individual or group complaints.

The minority Unions should approach the general issues with a constructive and co-operative mind and should try to focuss the attention of the bargaining agent and the employer on any anomalies or omissions that might have crept in in the solution of the general problems. They should not adopt a vindictive or spiteful attitude.

63. Categorywise union is not preferable. The general union may give weightage to the particular grievances of a particular category of workmen. However, if there is any category-wise union, it should remain responsible to the general union so that their action may not prejudice the interest of the general workmen.

64. The employers should extend all facilities as approved by the Indian Labour Conference to all registered trade unions at the workplace. Entry and inspection at the working places and enquiry from the workmen about existing and apprehended disputes should be allowed to the officers of all registered trade unions.

65. Attitude of the Government as employer towards the trade unions is extremely bad, prejudiced and provocative. It is worse than the Private employers. The bureaucrats acting as the Management of Industry under the Public sector always misuse their Governmental-authority against the workers and their trade unions. These managements do not mind for any deterioration of industrial relation, because whenever they desire they get the unauthorised protection from the Machineries of law and orders. It is a practice for the employers under the Public sector to

engage retired police officers in the service of their undertakings only to keep secret liaison with the local law and order guardians to have undue favour from them. Besides, the Government being always a party Government, moves in a partisan manner even as employer. The officer in the management is loyal to the Minister concerned and not to the industry. Their attitudes are always determined by the wishes of the Ministers concerned.

IV. INDUSTRIAL RELATIONS.

66. The *criteria* for determining the effectiveness of the Govt's industrial relations policy are :

- (a) Whether the apprehension of an industrial dispute in an industrial sector comes to the notice of the Government at its inception and whether the Govt. adopts prompt action to avert a crisis.
- (b) Whether the Government anticipates possible conflict and initiates tripartite discussions to avoid a flare up.
- (c) When a dispute has cropped up, whether the conciliation machinery moves in time to avert a strike and bring about a settlement or refer the dispute for adjudication.
- (d) When a strike is in progress whether the Govt. takes measures to check both the employers and workmen from resorting to tactics which would cripple the unit or would have disastrous consequence for the workers or for the industry.
- (e) By enforcing amenities and Welfare measures and training Schemes enactments.

In the post independence period much has been done by way of legislative measures and setting up of machinery for the conciliation and settlement of disputes. But the vastness of the field, the differences in the approach of the State Govts and the Centre, the paucity of enforcement officers and the lack of facilities for their effective functioning, have all led to the negation of most of the progress intended to be achieved.

67 The patterns of industrial conflict have definitely changed since independence. In the pre-independence period every struggle was considered to have an anti-imperialistic significance and as such was supported by all sections of the workers and large sections of the common people. The subject matters of conflicts are also changed. The major conflicts now rest with security of service, Fair Wage and Bonus

The concept of political significance in the T U struggle led to the severance of friendly relations between the I N T U C Unions and the other politically biased Central T Us. Govt, while trying to encourage the I N T U C Unions by meeting all their demands, tried to show a stepmother treatment to the other sections of the T U movement.

As long as the economy of the Country progressed, it was possible for the Govts and the employers to grant some concessions to the working class. But, with spiralling of prices and the recession, matters have reached a dead end and the wages of the workers are being eroded or eaten up in every sphere. So Wage Boards and Tripartite Bodies have reached a stalemate and direct struggles have become inevitable.

68. No significant fact is known to us. But in some cases the following factors were found to be helpful in improving industrial relations at the plant level.

Factors :

1. The recognition of the dignity of labour and respect of the workmen.
2. Better service conditions and terms of employment.
3. Realisation of the obligation to other party.
4. Showing information to the union by management.
5. Desire to avoid litigation.
6. Fair attitude towards the union activities.

The above factors will continue to be of significance in future also.

69. Industrial unrest since independence has increased and is increasing. The expectation of the workmen to have better deal from the Government and from the employer have been totally belied. There is frustration and sense of betrayal. Suffering has not been equally shared. The rich have become richer and the poor poorer. The distribution of wealth produced by the efforts of labour have been all along unfair. However the main causes of industrial unrest since independence are the following, amongst others :—

- (a) absence of any scientific wage policy ;
- (b) denial of even need-based wages ;
- (c) absence of security of service ;
- (d) victimisation ;
- (e) steep rise in prices and consequent fall in real wages ;
- (f) denial of full neutralisation of the rise in the cost of living ;
- (g) scarcity of food ;
- (h) delay in settlement of industrial disputes through constitutional methods ;
- (i) unfair attitude of the employer towards the trade unions ;
- (j) non-implementation of the Awards, settlement etc ;
- (k) complications created by the Government in the matter of payment of fair bonus to the workmen ;
- (l) litigation mindedness of the employers to harass the workmen ;
- (m) contract system of employment.

70. **Inter-Union rivalry** had both beneficial and injurious effects. While it tended to make the trade unions keen and active in protecting the rights of the workers, it also led to raising spurious and untenable demands and spiteful propaganda.

71. The present arrangement for prevention of industrial dispute are not at all effective. The intervention by the conciliation machineries must be at the first instance and it must complete the conciliation effort within a reasonable time. The conciliation officers should be more honest, efficient and acceptable to both the parties. More conciliation officers and in serious disputes more mediators and arbitrators would stem the tide of strikes or lock-outs in normal conditions.

72. *Fact-finding Enquiries* would help to dispel many misconceptions and wrong notions among the workers and employers and would provide a sound and scientific basis for tackling the problems of the industries, thereby improving industrial relations.

73. *T.Uns. and Industrial Relations* : (a) Trade Unions give the workers a sense of security and restrain the employers autocratic tendencies. Even the most liberal employer will be better understood and appreciated by the mediation of a Trade Union.

(b) When the Union is weak, the employer will ride roughshod over the workers. A weak union is worse than no Union.

(c) Absence of T.U. would subject the workers to all sorts of persecutions not only by the employer but also by the supervisory staff. Nepotism and corruption will be rampant. It also creates sporadic outburst.

74. The contribution of these factors has been practically negligible : for industrial harmony can only be promoted through bargaining power. If the union is organised, well knit, disciplined and strong, it matters little whether it is recognised or not, whether there are formal arrangements for bilateral consultations or not. If the union is weak it will go under in spite of these facilities.

75. The central organisation should keep a close contact and watch over the functions of the the constituent units and advise them to maintain and promote harmonious relationship. The central organisation should take up the broad and common issues concerning labour for the purpose of settlements with the employers organisations. They should also move to the government for taking timely measures to avoid labour unrest and to settle the dispute. The local managements and local unions should make a correct assessment of the needs of the worker and the capacity of the industry to pay higher wages. Both the parties should be agreeable to hold bi-partite discussions and should come to amicable settlement of disputes before the disputes take the form of acute labour unrest. The government Central or States should take remedial steps at the first instance. They should also see that there is no unreasonable intervention in the trade union struggle for the realisation of genuine demands of the workmen.

76. **Labour/Personnel Officer.** In the present set up, this Officer is identified as part and parcel of the management. As such, his role for preventing disputes and establishing harmonious relationship is only negative. They have been quite ineffective as mediators. If these officers are recruited and maintained as an independent section which does not depend on the sweet will and pleasure of the employer for existence, and are enable to give proper and conciliatory advice both to the employers and the workmen, it will definitely improve matters. These officers should be appointed by the Governments and paid by the Government after realisation of the same from the employers.

77. Registered trade union or a committee with representatives of registered trade unions should be the proper channel of communication between management and workers at the plant level.

78. Managements generally delegate to their managers or labour officers the authority to deal with employees. In big concerns, there are personnel officers who are supposed to be specialists. However, there are no specialists in the sense there are specialists for research or for cost accounting.

79. **Standing Orders** are almost always drawn by the managements alone. If there are exceptions, they only prove the Rule. The amendment of the Act empowering the Certifying Authority to go into the merits of provisions have been of some help in reducing the rigours

of the Standing Orders. But, vague and broad definitions give Managements advantage in victimising the workmen.

80. The Employment Standing Orders Act, 1946 and the Model Standing Orders Rules have been cleverly exploited by the employers to ride rough shod over the workmen. Thus the main purpose of the enactment has been defeated.

81. Disciplinary rules imposed by the management generally follows the lines indicated by the Model Standing Orders. They however require modification on the following lines:

The worker must be permitted to be defended not only by a workman working in the same department as himself, but by any worker in the bargaining unit. He must also be permitted to be defended by a representative of the union to which he belongs or if he does not belong to any union, by a representative of any registered trade union which he may be able to persuade to defend him.

A copy of the enquiry proceedings of each day must be forwarded in writing to the workman for scrutiny. His signature on the records recorded by the enquiry officer should not be taken. The records submitted to the workmen must be held valid only if after a period of three days he offers no comment in writing on them.

After the final authority has considered the report of the enquiry officer and come to a conclusion as regards the proper punishment, the workman concerned should be given a show cause notice as to why the proposed punishment should not be meted out to him.

The enquiry must be finished within 15 days from the date of alleged misconduct.

The model standing orders must also provide for certain rules to guide the management in the awarding of punishment. Such as the following :—

1. The penalty must fit the crime.
2. A punishment which may be reasonable for a workman of a particular length of service may be regarded as unreasonable for a similar offence by a workman of longer standing.
3. Any offence due to temperamental excitement may be condoned if the workman concerned regrets his conduct within 48 hours.
4. All punishments as a result of disciplinary action, must be regarded as substantive industrial disputes subject to the approval of competent independent judicial authorities such as Labour Courts and Industrial Tribunals. The modern judicial practice of not going into the enquiry procedure except under certain circumstances or of not questioning the degree of punishment or not calling for evidence de-novo, should be discontinued. With each act of misconduct must also be stated the range of punishment appropriate to it, or to the infraction of any rule.

A just cause must exist for imposing a penalty.

5. Misconduct should be divided into 'Minor' and 'Major'

6. Striking work or inciting others to strike work should not be treated as 'misconduct'.
7. An employee should not be punished twice for the same offence, unless it is repeated at a later date.

50% wages should be given for the period of suspension pending enquiry and for security reasons even if a workman is found guilty and punished.

An equivalent of the law of limitation must also operate. An offence committed sufficiently remote in time cannot be the basis of any disciplinary action. Even if the charge is proved management's judgment as to the appropriate penalty must be subject to challenge.

82. Model Grievance Procedure : In the generality of cases, the Grievance Procedure is a dead letter. A Statutory provision also will be ineffective if the time-lag is wide and if there are several steps in the ladder of redressal.

The first mediation must be on the spot and immediately after the cause of complaint. The second mediation should be a quasi-enquiry at the managerial level with the top Union leader participating as an equal partner. Thus the existing bi-partite arrangements can be fitted into the Procedure.

83. T.Uns are in favour of Arbitration of every dispute including grievances. But employers are not willing to give up their unlimited disciplinary rights. It was with very great reservations that the progressive section of employers admitted the principle of Arbitration for dismissals sponsored by the Indian Labour Conference.

84. Management personnel training is imparted at present through certain Institutions such as : (1) Tata Institute (2) Bajaj Institute (3) St. Xavier Institute (4) Productivity Council (5) Institute of Personnel Management (6) In-company training scheme. There is no serious training facility for trade Union personnel. Central Workers Education scheme is not beyond criticism.

COLLECTIVE BARGAINING.

85. The process of collective bargaining is a process of competition between the unions and the managements for their respective shares in the total output of business. The system of collective bargaining has not however succeeded for settlement of industrial disputes in this country. Collective agreement of course have been arrived at in different industries in an isolated manner, but by and large the collective agreement have not been much in vogue due to several reasons. Without a strong trade union the workmen cannot get any benefit out of collective bargaining. Trade unions at plant levels are extremely weak in the matter of bargaining with the employers. Being ignorance of law, decisions and conventions they surrender to the terms and sweet assurance of the management without any material gain. Except in very rare cases the system has not succeeded. Adjudication or arbitration is better than the ineffective collective bargaining. The main obstacles encountered in the way of collective bargaining are the low bargaining capacity of the union, lack of art of negotiations and the adamant attitude of the employers.

The effect of industrial disputes legislations providing for conciliation and adjudication has to

some extent helped in cases where the employer was unwilling to negotiate or where collective bargaining became difficult. Indeed the progress of labour during the first ten years of independence was mainly due to the industrial adjudication.

86. **Bargaining Agents** on industry level cannot deliver goods. All confederations of the Unions in the industry which have more than 5% membership in each industry should be jointly brought in.

87. (a) Yes. Collective bargaining is useful in building up the Trade Union strength.

(b) Adjudication with the best legal talents on the side of the employers does not today help the workers' side. Yet, it helps to avoid or terminate open conflicts.

88. (a) Wherever the workers feel that they are organised enough to get their just demands accepted by the employer through collective bargaining, they must be allowed to do so.

(b) When dispute reaches stalemate or tends to assume a violent shape, it must be referred for adjudication.

89. Yes. If and when the Conciliation and mediation machineries function effectively and promptly, the issues for collective bargaining and those for adjudication could be sifted out.

90. There should not be any limit of collective bargaining particularly considering the effect of so called planned development. Collective bargaining is a method for preserving industrial peace based on arrangements arrived at to the mutual satisfaction of the parties, and when satisfaction is denied it is possible the disputes result in strike or lock out. The main aim being to reduce the number of man-days lost by strikes and lock-out and settlement of the disputes, collective bargaining or arbitration should be treated as complementary to each other.

JOINT CONSULTATION

91. Collective bargaining and joint consultations have not reached the stage wherein an effective form of internal democracy can be established in industrial enterprises.

92. Works Committee could not be set up in most of the cases where they were required to be set up under law because neither the Employers nor the workmen are interested about the Committee, Top management personnel are not represented in the works Committee. Trade unions apprehend that the works committee has been designed under the Act only to by-pass the Union. Committees where they have been constituted do not function.

93. No. No agent except a trade union, in between the employer and the workmen, shall have a role to play. If this is allowed, it will weaken the trade unions which are the workers' own organisation.

94. Deletion of the provision for constituting Works Committee is preferable. This bipartite contact point is absolutely redundant now.

95. Joint management Councils and Emergency production Committees have failed totally.

96. Profit-sharing and Co-partnership schemes are considered to be fraudulent Schemes by the workmen.

97. No. Ordinary shareholders, have no say in the Management. Major shareholders actually own, manage and run the company. The workers under no circumstances can have major-shares in any industry. Owning shares by the workers does not mean their participation in the Management.

CONCILIATION

98 to 101. There exists serious dissatisfaction among the workmen about the function of conciliation machinery. It is time consuming and ineffective.

Statistics of settlement of industrial disputes through the machinery of conciliation may be illusory and even misleading. It may be that the disputes would have been settled any way. The employers are accustomed to delaying tactics. The unions are in a hurry to settle. The intervention of the conciliator is sought immediately by the union. The credit is appropriated to the machinery of conciliation. Most of the major issues are not settled through the conciliation machinery.

In the matter of admission of the disputes, conciliators often assumed the role of an adjudicator. When they refuse to admit disputes in conciliation, they are permitted to do so without assigning reasons in writing therefor.

For the improvement of the conciliation machinery we suggest the following :

1. Conciliation officers should be honest, efficient and intelligent ;
2. Conciliation officers should have power to cause production of all necessary documents and give inspection to the other side ;
3. No dispute should remain pending for more then two weeks since he receives request for conciliation.
4. Employers should send top men in conciliation table so that decision can be taken at the spot.
5. If admission of any dispute is refused, reasons therefor should be given to the party.
6. The period between admission and failure report should not exceed one month.
7. More number of conciliation officers should be appointed.
8. Corrupt conciliation officers should be seriously punished.

The conciliation officers should not be arbitrators at the same time. The institution of arbitration should be kept apart from conciliation or mediation.

ADJUDICATION :

102. Adjudication machinery has played an important role in maintaining industrial peace in the first decade of independence. But since then the adjudication system has become cumbersome legalistic, time consuming and expensive. However, this system should be retained after having made the following improvements. :—

1. Judges on industrial tribunals should not be below the High Court Judges or the persons eligible for appointment for the High Court Judges.
2. A definite time limit say four months should be set within which time the disputes should be settled by award.
3. There should be no provision for Writs or appeals to any High Court or Supreme Court against the decision of the Industrial Tribunal. Constitutions should be amended accordingly.
4. Award should be pronounced in open court and should become immediately enforceable, without waiting for thirty days of publication in the official Gazette.
5. Legal practitioners, excepting office-bearers of Union, should be barred from appearing before Tribunal Labour courts.
6. For recovery of monies due under awards there should be a summary procedure.

103. The adjudicators should have the power to sit on judgement to consider the propriety, legality of the action of the management in discharging and dismissing the workmen and to consider the quantum of punishment.

104. The existing arrangements for reference of disputes to adjudication is not at all satisfactory. Once conciliation is failed, any registered union should have the scope to directly bring the disputes for adjudication. This right can also be exercised by the Government.

105. The authority to appoint the presiding officer of the Labour, court and industrial tribunal should be vested with the chief Justice of the High Court and in case of National Tribunal with the Chief Justice of the Supreme Court.

106. A time limit of two months in case of conciliation and four months in case of adjudication should be fixed.

107. Yes. Provided it is expeditious and not costly. Employers should bear the expenditure of the workman in contesting a case where Employer is the Appellant.

108. The adjudication should be finished within the period of four months. The major elements of cost is the fees of the Advocates. Adjudication has degenerated into a battle of legal wits. So legal practitioners should not be allowed to appear. The adjudication machinery should also be encouraged to award costs to the union or the workmen adequately irrespective of the results of the adjudication. The employers will not lose much as they spend the money from the revenue of industry.

109. Non implementation of the awards and agreements should be treated as cognizable non-bailable offence. Strikes for implementation of the awards and agreements should not be held illegal under any circumstances. Industrial tribunal and or labour courts should also be given power to execute the awards as well as agreements between the parties and settlement by conciliation officers.

CODE OF DISCIPLINE

110. The code of discipline in industry has served no purpose. It has gone to the advantage of the employer only.

111. The following Provisions of the Code should be given legal shape :—

1. Criteria for recognition of a trade union
2. No employer can increase work load in any case.
3. Victimisation and anti-labour practices should be made an offence.
4. Employers should be fined and imprisoned for not implementing the awards and settlements.

VOLUNTARY ARBITRATION

112. Voluntary Arbitration will pave the way for better industrial relations. Central Organisations can exert their influence to bring the recalcitrant units to accept Arbitration. It is also helpful to include the provision of Arbitration in all collective agreements.

113. With the availability of proper personnel, all issues in dispute can be referred for Arbitration.

114. We are not in favour of setting up standing arbitration board. The board may be constituted by the parties on agreement when a dispute will arise. The composition of the board should be tripartite—one representative from the labour, one from the employer and the third, an independent person who will act as Chairman.

115. Employers and trade unionist may be the good arbitrators where they are not personally interested. Of course in a dispute relating to assessment of proper working conditions, independent technicians may be the best arbitrators.

116. Employers should meet the expenses of arbitration.

STRIKES AND LOCKOUTS

117. The provision for declaring a Strike as illegal during the pendency of a dispute is unfair, because it shuts out even major issues which crop-up during the pendency.

118. The Union Rules do not provide a specific procedure for Strikes. But all functioning Unions do hold a poll in general body meetings before deciding upon a Strike. Sometimes Strike ballots are also taken to find out the intensity of the workmen.

119. In exceptional cases of sudden provocation prior notice cannot be given for Strikes and Lock-outs. In all other cases of regular disputes notice is invariably served.

120. Tribunals rarely award Strike days' wages even when they find the strikes are justifiable. But in bipartite settlements and even in some conciliation and Arbitration Settlements, wages for even illegal strikes are given, if the trade Union is fairly strong.

121. Victimization of the active members is the major weapon in the armoury of the recalcitrant employers. The only remedy now open to the Unions is to raise it as a dispute and get it referred for adjudication in the case of dismissals. But, as the scope of the enquiry of dismissal by Courts has been confined to the narrow limits laid down by the Supreme Court, all clever managements who observe the technicalities escape and the workers suffer.

If the Union is strong and if the fact of victimisation is serious, the Union will retaliate with a lightning strike and that will give effective remedy.

122. If there is any sudden provocation or if any unrecognised Union can whip up an emotional atmosphere, strikes can and will take place without the sanction of the Union.

123. During a strike whether legal or illegal, the Management and the Union keep in touch with each other mainly through their respective responsible officers known to each others. The Government also intervenes and should always intervene in all cases of strike irrespective of the fact legal or illegal.

GENERAL

124. The Tripartite Committees have been doing a good job. But, with the recession in the economic field and the strengthening hold of recalcitrant elements among the employers on their organisations, the Committees have come to a standstill. Moreover the record of implementation of the decision of the committees is extremely unhappy.

125. In industries outside the Central sphere the intrusion of the Central Govt. would bring in conflicts between the States and the Centre.

126. **Public Utilities :** In scavenging and handling of food-grains, special provision to meet the demands of the workmen should be made and sudden stoppages at work avoided.

127. Strict enforcement of the labour laws and the management avoiding red-tape and adopting friendly relations with the workers representatives would minimise conflicts in the Public Sector.

The Management in the co-operative Sector and Public Sector must be made more efficient.

128. Public Sector and Co-operative Sector should lead the Private Sector in labour management relations and there is no need of different treatment.

129. In few cases only, collective bargaining has been possible in small scale sector. Sometimes the employer in small scale sector is more obstinate and adamant to negotiate with the union or workmen. In rare cases the sector uses the machinery of industrial relations.

V. WAGES.

130. Unemployment particularly amongst the unskilled workmen causes constant surplus in the supply of labour than the demand in the market as a result of which wage level is constantly falling down much below the subsistence level. This is in acute form in the unorganised sector.

131. Ratio between wages in agriculture and unorganised sectors and wages in organised industry is at present 1 : 2 with some variation here and there. Only in case of sudden and seasonal demand of agricultural labour, the wages remains much higher.

132. No. On the other hand the wages in organised industry should influence the wages in agriculture and unorganised industries.

133. The existing level of wages in organised industries are by and large the result of settlements, awards and recommendations of Wage Boards. In unorganised industries and agriculture, it is mainly unilateral and through the notifications under the MINIMUM WAGES ACT.

MINIMUM WAGE

134. The concept of minimum wage as set forth in the Report of the Committee on Fair Wages should be modified to mean and equate to the need-based wage as accepted by the 15th Session of the Indian Labour Conference.

135 & 136. The standard laid down by the Fifteenth Session of the Indian Labour Conference regarding size of the workers family, the minimum requirements of the family relating to the food, clothing, housing and other items of the expenditure do not warrant any modification. Any attempt to sidetrack the agreed norms for the fixing of the need-based minimum wage will be a retrogressive step.

137. Recommendation of the Committee on Fair Wages should be made applicable to all sectors including the organised industrial sector. The minimum wages should be the need-based wage as accepted by the Fifteenth Tripartite conference.

138. National minimum wage is to be worked out on the basis of national income.

139. Prices of consumption goods do not vary much now a days between different regions. If the Second Pay Commission can accept the Delhi—prices for fixing wages at all India level then there should not be any difficulty in finding an average price formula for determining national minimum wage.

140. We do not favour any change in the definition of the “minimum”, “fair” and “living” given by the committee on fair wages. Of course the minimum wage should be the need-based wage as already stated.

The concept of living wage referred to in Article 43 of the constitution refers to the living wage which is beyond the fair wage representing the comfort or decency level.

DEARNESS ALLOWANCE

141. In order to protect the real wage, there should be a separate component in the wage

structure in the shape of Dearness Allowance which will neutralize fully the rise in the cost of living or will make good the depreciation suffered by the real wage. If it is not accepted the wage level will move downward.

142. The system of dearness allowance with full neutralization should be applied uniformly.

143. (a) In case of fixation of wages on Industry-cum-Region basis, the regional cost of living should be taken into consideration.

(b) & (c) The frequency of revision should be month by month and point by point.

144. In determining the quantum of dearness allowance the governing principle should be 100% neutralization, so that a worker can at least enjoy the same standard of living as he was having in 1939, if 1939 is the base year for cost of living index figure.

We would suggest that the need-based wages should be computed on the basis of agreed norms and to link the wages to the current cost of living index number with 1960 base.

145. The capacity of the industry need not be considered to ensure the real wage of an employee. Otherwise there will be surreptitious wage cut.

146. Proportionate adjustment can be made in fixing the quantum of dearness allowance, where part of the wages is in kind.

FRINGE BENEFITS

147. Fringe benefits may be defined as small additional benefits which are given by the employer mainly voluntarily. The advantage accrued from the fringe benefit also goes to the employer as it creates conditions for better and efficient production.

148. Fringe benefits should not be substituted for any higher money earnings particularly when the wages is low and market is unstable.

WAGE DIFFERENTIALS

149. The present wage differentials are not scientifically determined and do not appropriately reflect the considerations mentioned in the Report of the Committee on Fair Wages. On the basis of theory of co-efficiency as formulated by the different wage fixing authorities, the existing wage differentials should be revised for the different categories of workmen.

150. The rate of dearness allowance should vary with the wage differential maintaining the differentials arrived at after revision as suggested above.

METHODS OF WAGE FIXATION

151. We are of the opinion that the Wage Boards are the most suitable machinery for fixation of wage, in case the wage boards are made statutory and they can complete their work during a period of six months or so.

In case of fixation of wage for unorganised industries, fixation of wage through statute should continue.

152. In case of national agreement on wages, there may be difficulty in doing the same through collective bargaining excepting in some industries where the workmen are organised on national level.

153. Tripartite Wage Board in some industries had been useful to some extent. But the functioning of the Board has been made impossible due to the recalcitrant attitude of the employers. It is becoming increasingly difficult to secure unanimity in these tripartite Bodies. Apart from the above, the recommendation of the Board has not yet been made statutory. The difficulties that have been created in the Engineering Wage Board are instance on the point.

154. (a) Only persons who can work full time should be appointed in Wage Board in the interest of early conclusion of the proceedings. The issuing of the very elaborate questionnaire should be avoided.

(b) The recommendation of the Wage Board should have legal sanction and the recommendation should not be questioned by any Court either by writ petition or by appeal.

WAGE POLICY

155. (a) Fair wage to labour should be the first charge of the industry. Therefore, development of the industry for capital formation, return to capital, cannot come as prior consideration over fair wage to labour, just as those considerations cannot come in before payment of the full price of raw materials, stores, electricity and power, etc.

(b) The criticism posed in this question that the consumers are often laid behind in the balance between fair wages to workers, fair profit to entrepreneurs and fair return to treasury, is not fully correct. The consumers certainly suffer to a great extent not because of paying fair wage to labour but due to high allotment of dividend to Shareholders and for unaccounted money popularly known as black money.

We hold that in case the income from the industries are equitably distributed considering the labour as the main partner the interest of the consumers may be protected to a great extent.

156. The question is difficult to answer as we hold that there is no planned development on the basis of welfare of the people in our country. It is true that if there is planned economy on the basis of social ownership of production and distribution, there should be an integrated view of wages, incomes and price policies. But the various plans in our country have been proved to be defective and against the interest of the people at large. Unemployment is growing, under-employment is not yet checked, prices are soaring affecting common people of the country. Real wages of the workmen are falling down constantly and even the installed capacity of the industrial units are not being fully utilised. Food problem is a continuous problem affecting industrial and non-industrial people. There is no security of service and there exists a tendency of retrenchment, closure, lay-off, etc.

However, we hold that socialisation of the means of production and distribution only can maintain a parity between wage, price and return to capital in the planned economy ; otherwise wide disparities, crisis and distresses of the people will prevail.

Till the means of production and distribution are socialised, there should be serious attempts

for nationalisation of all key industries including bank, insurance, etc. and the wealth of the country should in such manner be invested and distributed that the benefit may go to the people at large. The real wages of the workmen must be protected in any manner. Drastic action to be taken against hoarders, and profiteers. Ceiling should be made on high earnings.

The system of Managing Agency should be immediately abolished and serious attempts be made for giving employment to the people. Any attempt for rationalisation or automation must be discarded in view of the existing depth of unemployment in the country and in view of the apprehension of the working class of being retrenched or surplus due to the said introduction.

157. We are totally opposed to any policy suggesting wage freeze,. The wage level prevailing in our country is much below the need-based wage. The Government has totally failed to hold the price line resulting in constant falling down of real wages.

158. Without a balance between private and public sectors, uniform and satisfactory growth of the industry cannot be ensured. In these circumstances there should be no disparity in wages between the public and private sectors. We also hold that as an ideal employer public sector should take the lead for granting higher rates of pay than the private sector.

MODE OF WAGE PAYMENT

159. Payment of wages in kind is a very rare system in industry. A percentage, preferably 25%, of the wage may be paid in kind, preferably, wheat and rice at a fixed subsidised price.

160. Unskilled workmen except casual are ordinarily on time scale of pay in most of the organised industries. We will prefer its extension in all other industries.

161. We do not favour the suggestion that the total wage packet should consist of 3 components. We suggest that pay packet should consist of only 2 components, viz., basic wage and dearness allowance lined to consumer price index, so as to provide full neutralisation of the rise in the cost of living. We are against the third component ; as fair wage has not yet been granted to the workmen.

GENERAL

162. Implementation of the Minimum Wages Act is not satisfactory. The reasons may be the following amongst others : Ineffective inspectors, unorganised labour, lengthy time for litigation, unscrupulous employers, scattered areas.

We suggest that the enforcement wing of the Labour Department has to be made more vigilant to counter the machination of the employers and there also should be provision for summary trial in the matter of prosecution. Punishment for violation should always be imprisonment.

163. The Payment of Bonus Act, 1965 envisages a profit sharing scheme which gives priority to the investor and the industry, and the claims of the workmen have not been well formulated. The formula of prior charge generally goes against the interest of the workmen and workers generally get lesser bonus than under labour Appellate Tribunal. The trade unions have been demanding for the long past that since the workmen are not paid living wages, the bonus should be treated as deferred wages. The Government of India including the Labour Minister gave assurance on

the floor of the Parliament that in no case the quantum of bonus, being enjoyed by the workmen, would be taken away. It is our experience that ceiling of bonus upto 20% has affected a large number of workmen. The Government even did not accept the recommendation of the Bonus Commission as such. They went further to modify this recommendation in favour of the employer causing more harm to the interest of the workmen. From our experience in the proceedings of the Tribunal it is found that some items of the said Act are not beyond dispute. Tribunals feel difficulty in computing bonus as per Act particularly there being no specific guideline explaining as to the amount of income tax, difference between provision and reserve, etc.

We, however, suggest that the main feature of the old Labour Appellate Tribunal formula be retained without the prior charge of 'rehabilitation', and the allocable surplus should be distributed in the ratio 65 : 35 between labour and management with the benefit of tax rebate accruing to the employee taking into account.

The decision of the Supreme Court in taking the disputes pending conciliation or adjudication outside the purview of the Act without affecting some of the workmen, has got no continuing effect. But by striking down Section 34(2) of the Payment of Bonus Act, the achievement of the workmen through collective bargaining or otherwise has been wiped out.

164. Bonus should be treated as a separate item of payment so that the workmen can meet the annual obligation at least at certain time like Durga Puja, Deepawali, Christmas, Pongal, etc.

VI. INCENTIVE SCHEMES AND PRODUCTIVITY

165. The system of payment by results, if at all possible in some industrial units, will not yield good result in the present working condition, strained relationship between the employers and employees and especially, when the need-based or fair wage is not assured and because National economy is not firmly seated on a stable ground.

166. (a) Incentive scheme should be drawn and agreed through collective bargaining and it should be so done that its functioning is understandable to every workman.

(b) Normal wage should by no means be cut or reduced and it should not be less than the need-based wage.

(c) Yes, it can be framed to cover both direct and indirect workmen.

(d) Though Works Study is to be done before framing incentive scheme in ideal condition, but experience reveals that it is desirable to evolve incentive scheme on the basis of normal working as experienced in preceding months as because Works Study has generally been failure firstly due to lack of modernisation of organisation in industrial unit, of course with a few exception, and secondly, the workmen do not take the employer in confidence and as they consider the Works Study Team of outside to be the agent of the employer working on behalf of them to increase the workload of the workmen.

(e) We strongly oppose the suggestion that effort should be made to reduce the time-rated category to minimum, particularly so long as the need-based wage is not assured and working hours are not reduced. Besides, there are some occupation where piece-rate will not be suitable.

(f) It is true if the working condition and others stated above are fulfilled.

(g) It is true. Inspection should be prompt and quick to inspire workmen and if regular supply of raw materials and maintenance of machinery are satisfactory.

(i) It is true.

(i) Yes. In this regard thoughtful consideration could be given prior to fixation of particular incentive scheme.

(j) Non-financial incentive can play its role only when accompanied by financial incentive.

167. Since the workmen are oppressed in the present economic system they can only contribute to the raising of productivity in the present social framework if the Management moves fairly to meet the legitimate claims of the workmen obtainable even in this economic system and refrain from any anti-labour policy and if the Government on its side can provide effective industrial relation machinery and also make provision for research work and lastly, if it restrains and forces the employer to move fairly and legally and can thus be able to gain some confidence of the workmen.

168. The gains of productivity can be measured by increase of production in any unit at any period over the same deployed man hours. As in the present functioning of Industry labour plays a vital role and their wages are much below the living wages the bulk of the gains of the productivity should go to the workmen. The industry should get a share of the gain of productivity if it is as a result of additional investment. Consumers may get the share of gain of productivity if the production is of better quality and available at cheaper rate.

169. The increase of productivity is by far the greater than the increase in wages and it is being noted that this gap in between is fast increasing since 1964-65 as clearly revealed in Tata Year Book.

170. Where the productivity techniques have been introduced there have been serious reaction from the side of workmen and in some cases the workmen opposed to the scheme. The workmen generally understand productivity technique as a means of increasing workload and retrenchment of fellow workmen. They have also found that the main gain of such scheme goes to the employer. As the workmen have become conscious day by day, they are not in a position to tolerate the naked profiteering motive of the employer. There are instances where productivity scheme has been introduced keeping the substantial wage very low and wherever there was any disturbance in production due to non-supply of raw materials and defective machinery, etc. the net result was receipt of low income and dissatisfaction of the workmen about the scheme itself. In some cases it has been found that only basic wages are increased for higher productivity and it is not closely linked with other components, viz., dearness allowance. The workers suffer, as generally the larger part of wage is dearness allowance and generally the said D.A. is not given in the form of full neutralisation.

171. This can operate and help only when a better relation between employer and employee prevails and the workmen are free and encouraged to place their suggestion and on the other hand employers recognise the place and importance of labour in industry.

172. Absenteeism is generally due to the deplorable economic and working condition of the workmen.

173. If the improvement in the standard of living is steady and becomes a habit it would be a driving force to keep up the productivity.

174. It is obvious that 'go-slow' or 'work to rule' affects badly on industry and, therefore, cannot be encouraged. But it has been generally found that these are adopted as means by the workmen to create pressure on the adamant employer denying to concede the legitimate and rightful demand of the workmen.

Unions' ban on overtime is generally effected when the union finds that the overtime is not running on some exigency of job as it should be, but it is becoming a regular feature thus sealing the path of new employment on one side and on the other hand to extract more work out of lesser personnel. So it is suggested that to make the industry free from bad effect of 'go-slow', 'work to rule' or union's band on overtime, the Management should be on its tiptoe for keeping its own slate clean and fair and being on the right side of natural justice.

175. Rationalisation without tears can never be possible in an underdeveloped country like ours, especially, when millions of our men are out of employment. Rationalisation can be effected only if the national plan of the country is employment-oriented and there is no apprehension of loss of job or of higher earning. It is also our experience that the recommendation of the 15th Indian Labour Conference has not worked well, as security of service has not been assured to the workmen by the management, there has been higher load of work and lion's share of the gains of Productivity has gone to the employer.

176. Automation in our country can only lead to massive retrenchment and thus crushing the purchasing power of a large section of the population it would lead to the inevitable destruction of national economy. So we strongly oppose any introduction of automation till the position of national employment and national economy are improved.

(b) This would embitter the relation between the employer and employee as it has already been in LIC and in a few mercantile units.

(c) In view of the replies (a) and (b), this question does not arise.

177. National Productivity Council has not been effective in generating enthusiasm amongst employers and workmen in raising productivity. In fact the activity of this Council could not even leave the class room not to speak of reaching the shop floor.

VII SOCIAL SECURITY

178. (a) Social security schemes do contribute to stability of employment and better employment relation.

(b) We do not think that benefit based on qualifying period for entitlement led to larger labour turn over. The qualifying period for compensation for injury and sickness benefits should be abolished.

179. (a) **Medical care and sickness benefit** is now made available only to scheduled industry and to the extent provided in the ESI Act.

(ii) **Unemployment benefit** has been made statutory obligation in the retrenchment compensation under the I.D. Act.

(iii) **Old age benefit** is available only where agreement or award could cover the same. The P. F. Scheme also pertakes the nature of such benefit.

(iv) **Employment injury** is covered by ESI Act and Workman's Compensation Act.

(v) **Family benefit** is covered to a certain extent by ESI Act.

(vi) **Maternity benefit** is covered by ESI Act and Central Maternity Benefit Act.

(vii) **Invalidity benefit and survivor's benefits** are covered to a certain extent by ESI Act.

(b) Not more than 1%.

(c). No.

(d) Employment injury benefit, unemployment benefit, medical care, sickness benefit, old age benefit, should be in order of priority.

(e) The plan for the introduction of benefit not currently available should be in the form of priority as stated above and it will require further consideration for the purpose of improving the benefits.

180. It is suggested that the resources under ESI Scheme should be deployed to better the ESI Organisation and to give better benefit to the wage-paid-workmen who are generally under the scheme. To include self-employed workers, such as artisan traders, under such organised scheme, it would be advisable to start National Health Insurance scheme covering such self-employed persons.

181. We agree to the suggestion No. (i) of the ESI Scheme Review Committee for a comprehensive scheme of social security and as regards No. (ii) suggestion, we are of the opinion that ESI and EPF should not be merged, they should have separate organisational and financial entities but they must be operated and guided by the same high-power body to be formed by State Government with the help of Central Government which will create a third and separate fund in addition to the above two for giving unemployment benefit in the form of monthly allowance to those workmen who have already been retrenched or otherwise have lost job from their services on the face of economic recession of the country. To raise this special fund we suggest that the share of employers' contribution in ESI Scheme should be raised from the proportional ratio of 1 : 2 to 1 : 3 and this extra income together with a required quantum of pecuniar assistance from State and Central Governments would form the third independent fund for payment of aforesaid unemployment benefits. This work should be taken up immediately in the interest of the country and the people of the country. We think this would contribute to the most important factor to save the country from economic ruin.

182. The provision for exemption from ESI scheme should be tightened.

183. Our experience is that absenteeism of workmen has not increased due to the introduction of ESI scheme. The answer in this regard has already been given in course of our reply to question No. 172.

184. We have already suggested in our answer to the question No. 181 that this scheme

should be independently operated by the Corporation as it is now but it should be controlled and guided by a high power body to be made by the State Government with the help of Central Government.

185. As we have already answered, the employers, contribution should be increased and the ratio of employers' and employees' contribution should be 3 : 1 in place of 2 : 1. As regards the share of Central and State Governments, the later's share should be substantially increased and the former who is not bearing any cost at present must provide an appreciable portion of the special fund under social security for providing unemployment benefit to the retrenched workmen. Actual fixation of shares by the governments can be done by a careful and intensive study of the position.

186. The present Provident Fund Scheme should continue and in addition to this pension scheme should be introduced.

187. The investment should also be in fixed deposit in Reserve Bank of India/State Bank of India yielding higher rate of interest.

188. Yes, it is necessary and this can be improved by greater delegation of authority and decentralisation of power to make the administrative machinery effective and not time-consuming.

189. It is worth trying but it will depend on sufficient accumulation of fund.

190. The system of paying gratuity to the workmen is in operation in only a few countable units and major units have no such scheme. The workmen in general have great discontentment on the issue of gratuity. We think that gratuity should be given in addition to P.F. scheme and it should be brought under statutory obligation. Gratuity should be paid on total pay instead of basic pay which is a very minor component of the wages.

191. We suggest the following changes in existing provision relating to Lay-off and retrenchment :—

LAY OFF

- (i) The concerns employing 20 or more workmen should be covered for the purpose of lay-off compensation.
- (ii) The qualifying period for lay-off should be reduced to 120 days.
- (iii) Laid-off workmen should not be required to report to duty as at present.
- (iv) Lay-off compensation should not be affected for strike in other departments.
- (v) Lay-off compensation should not be taken into consideration and adjusted with the retrenchment compensation.
- (vi) Lay-off compensation should be given for all days of lay-off.

RETRENCHMENT

- (i) No retrenchment should be effected before prior approval of the Tribunal, where the employer will have to justify the bonafide of the retrenchment.

(ii) In case the retrenchment is approved, the compensation should be one month's total wages for each year of service.

(iii) When additional hand will be required for recruitment, the retrenched workmen should be given priority and be reemployed on the old scale of pay or wages and their past service should be taken into consideration for the purpose of gratuity and other benefits for the past services which other employees may enjoy.

192. In the present context it is better that the State or Corporation itself should handle the administration of Social Security Benefit with close consultation with trade unions.

VIII LABOUR LEGISLATION

193. Terms of employment and conditions of service should from time to time be settled by collective bargaining. But at the present juncture, it must be conceded that labour is weak compared to capital. Hence it is necessary to settle certain minimum terms of employment and conditions of service through legislation. Minimum wage, hours of work etc. are the issue which should be statutorily fixed. The following matters should also be fixed through legislative provisions.

- (1) Compulsory recognition of Unions.
- (2) Compulsory negotiations in good faith between parties in case of disputes.
- (3) Machinery of arbitration in case there is no settlement through negotiations.
- (4) Amenities for unions to carry out their work.

194 & 195. The factors that have affected proper and effective implementation of various labour laws are mainly the following :

- (i) Want of integrity amongst the persons responsible for administration of labour laws.
- (ii) Delayed action by the implementation machinery.
- (iii) Ineffective penal provision.
- (iv) Unwillingness to enforce penal provision.
- (v) Lacunae in the existing labour laws. Definition of terms, such as 'workmen', 'industry', 'industrial disputes' have given rise to enormous difficulties in their interpretation. The definitions should be precise and simple.

The existing legislations have not been able to protect the interest of the employees. Victimization of trade union activists is increasing day by day. The decision of Courts and Tribunals generally go against the workmen apart from being harassing and time consuming. The recent tendencies show that Court and Tribunals are apathetic towards the improvement of the general demands of the workmen and serving indirectly in the interest of the employer.

The principal legislation, viz., Industrial Disputes Act, requires to be completely overhauled.

The conciliation and adjudication machineries have become more and more unhelpful and time consuming. Recovery of money or other benefits under award or any settlement is a tedious process. Recently, adjudication and arbitration machineries are being generally kept unavailable to the workmen, particularly in Public Sector and Cooperative sector.

The directive principles embodied in the constitution have remained as before unimplemented as if they were not laid down, for instance, state's responsibility "to secure all workers agricultural, industrial or otherwise, work, living wage and conditions of work ensuring decent standard of living and full enjoyment of leisure, etc." remain far cry and even the government authority is not responsive to those ideals.

While we hold that the present state of economy has been evolved out of the present capitalist structure and it carries with it all the evils, still efforts can be made to implement at least partially, the directive principles of State Policy on labour matters and the most important are the 'right to work' and 'right to living wage.'

196. The administration of the public sector undertakings owned by Central Government, as well as industrial establishments which operate in more than one State should be on the Central Government. Efforts should be made to see that principal labour legislations are uniform and those should be enacted by Centre.

197. Indian labour legislation is based on International Labour Conventions. Indian Constitution has helped the progress of such labour legislation which is based on the International Labour Conventions. But the legislation itself has helped neither in improving labour-management relation nor in developing Indian economy.

198. The concept of social justice, which should have been the guiding factor for adjudication of labour matters, is not yet reflected adequately from the various decisions and principles evolved out of the case laws. The Tribunals and Courts including the Supreme Court of India have found that definition of 'workmen' and 'industry' under Industrial Disputes Act do not cover a large number of employees, viz., employees engaged in Universities and other educational institutions, employees of Solicitor's firm, charitable institutions, clubs etc. We do not find any sense and justification why those employees should suffer and as to why should be denied of the benefit under Industrial law. The Tribunal and Courts have also found the refusal of reference by the Government as good-in-law. While rectifying all these defects, we suggest that the existing labour laws should be overhauled into a uniform labour Code for the whole country.

199. There has not been too much of legislation in the field of labour. Such an illusion wherever exists generally emanates from the theoreticians serving the employers interest only. As for instance, there is no legislation on the most vital item like 'wage' excepting in some cases of sweated labour. The trade unions have been agitating for fixation of National minimum wage through legislation but it is still to be considered and brought into legislation. There is no legislation in our country over the most important item 'right to work'. Moreover, the provisions of existing legislations are not being implemented satisfactorily.

200. Yes, there is need for consolidation and codification of existing labour laws particularly for the interest of uniformity and clarity. The codified labour laws should cover all the important matters concerning labour, viz., wages, working condition, industrial relation, trade union rights, security of service, welfare, social security, implementation etc.

201 & 202. Voluntary approach and settlement mean moral obligation. The majority of employers have no such sense of moral obligation if it touches their pocket. The deprivation of very reasonable amenities to the labour has created dissatisfaction and chaos in the industry. The code of discipline, industrial trade resolution, etc. have been totally unsuccessful. In such a situation, the importance of legislation should be guideline for formulation of labour policies.

203. Public sector is immuned of labour laws like the ancient kings, beaurocrats, autocrats, etc. The extent of enforcement of labour legislation in public sector is most unastisfactory. Generally, even the machinery under the I. D. Act are not available to the public sector though in words and theory it has been conceded in all hands that public sector should be the ideal employer, in practice it is just opposite. The administrator of public sector does not at all move without the prior consent of the employing Ministry. No exemption should be granted to the public sector undertakings from the operation of any of the provisions of the labour laws.

204. There are numerous instances where political and other rights which are normally available to individual are denied to the employees of public sector and the dependents. In most of the undertakings the Service Rules and Regulations of Govt. servants are made applicable, thereby denying political and even independent organisational rights. We do not find any justification for such application. The instance of denying political and other rights may be had from the rules that to contest even the Civic Elections an employee of public sector undertaking will have to get prior permission from his employer. The most shameless restrictions are that generally public sector employers insist that the employers shall not work for a candidate even if he be one of his dependents. In case of election to the State Legislative Assembly, or Parliament, the rule is that he must resign from service first and then contest. The result is that if he is defeated in election he loses both his position in Legislature and in Service.

IX RURAL AND UNORGANISED LABOUR

205 & 206. The problem of social handicaps for rural labour in industry cannot be ignored. But considering the economic, i.e., unemployment aspect affecting a huge section of rural population gradually being evicted by the *Mahajan-Jotedar* clique and also considering the negligible scope of seasonal employment only, serious planning should immediately be taken by Central Government to firstly decentralise urban industry as could be done conveniently and secondly, to start well chained specially agro-based cottage and small scale industry based on the feeding capacity of the respective rural places. In this connexion it can be mentioned that remedial steps taken by the Government in this regard have been ineffective.

207. All suggestion made by the International Labour Organisation can be implemented.

208. To protect the considerable body of unorganised workers by labour legislation first task is to organise them under trade union and to encourage union activities and secondly, to apply the Industrial Relation and Implementation machinery inside the village for close and quick action.

209. Contract labour should by all means be abolished by legislation. We feel that this is the most naked practice being adopted by almost all employers for more profit and for denying the workmen of even ordinary privileges and as such we do not recommend progressive reduction of contract labour which would surely have loopholes in itself and would serve the interest of the employer and we, therefore, strongly recommend for total abolition of contract labour.

210 & 221. Difficulties in implementation of Minimum Wage Act, 1948 are generally due to absence of trade unionism and ineffective implementation machinery.

The difficulties therefore could be overcome by building healthy trade union in rural areas and by effecting the implementation machinery in such a manner so that the offender may be subjected to penal punishment.

The implementation machinery should not be merged with Village Block Development which has already earned 'a name' for corrupt underdealing.

LABOUR RESEARCH AND INFORMATION

212. Either by the implementation of the Collection of Statistical Act 1953 or by the formation of a regular Statistics and Research Wing in Labour Department which in collaboration with the Employers' Organisation and Trade Unions would publish statistical data on all important aspects of industrial life, the difficulties as stated can be avoided.

213. We cannot see eye to eye to the feeling that the arrangement of administering the labour laws, as is done at present is unnecessary. What we feel is that effort should be made to break the beurocracy and line up the administrative organisation for the ready action of the labour laws.

214. It has been experienced that Consumer Price Index does not tally with the actual rise of price. For instance, one Man Expert Committee has recently made out a mistake in calculating the Index Numer and recommended for the change of conversion factor from 1.51 to 1.61.

We suggest that Consumer Price Index should be calculated regionwise due to the peculiar special and industrial complex existing in different regions. This should be calculated on the basis of firstly, considering only the basic necessary commodities which are actually consumed by the people and secondly the actual price at which the people are to buy them and not on the prices fixed by the Government which remains in paper only.

215 & 126. The information regarding the number of work stoppages, number of workers involved, number of man-days lost etc. is undoubtedly necessary but those are not all. Information regarding the factors leading to work stoppages, such as, economic condition of the employers, and their attitude towards the existing labour laws and also the political fervour of the country are also to be accounted for to have a comprehensive picture of the industrial unrest.

217. The charge is true.

We suggest that the condition of working and living of the workmen are to be carefully studied and for this purpose labour welfare organisation under comprehensive social security scheme should cross the wall of the factory and go to the dwelling places of the workmen.

218. It is possible and necessary to collect the data separately for each region and State. The age-groups, the standard of education and skills, their aptitudes should also be brought in for framing the operational programme.

219 & 220. No. Genuine objective problems of the workmen as actually faced by them are generally not revealed in the present form of collecting data and information which has a bias for record of effect only and not the cause. There should be intense arrangement to make comprehensive survey of the acutal working condition of the industry and nature of industrial disputes and their tendencies in shaping industrial relation, etc. In this regard Government machinery

should operate with the hands of considerable number of Inspectors or Surveyors in consultation with the trade unions.

221 & 222. There is at present no scope of research work by workers' organisations. It is needless to mention that an effective research organisation would firstly require a considerable financial resources and other allied resources. Employers have these resources and they run few organisations in this line but it has been experienced that their research work is made in a manner with a bias so as to strengthen their hands and voice to condemn and decry the workmen. Hence these research organisations cannot serve the purpose.

We suggest that the Union Organisation should be given scope to run research work and Government should extend fullest support in the form of assisting financial and other allied resources.

223. Labour research in Universities is likely to be confined in academic level and to cross the limitation the total perspective of labour research should be made clear to the research workers if at all it is wanted to derive benefit from the present functioning of research in Universities and other research organisations.

224. Co-ordination is always desirable.

225. It has been commonly experienced that Union Organisations are forced to be engaged mainly in the struggle from below that they cannot generally afford to run an organised effective office with requisite personnel and hence it does not even become possible to collect data and be properly informed of the statistics. On the other hand the employers with their well-knit office organisation and with the help of Press run by themselves, are able to make utilisation of statistics and other information for their own interest by forming public opinion against the workmen in general.

226. The press plays a very limited role in publicising research activities. Other means such as in book form, magazines and periodicals though useful but do not serve the purpose due to the fact that they are printed in limited number, available through limited source and in such a manner that it becomes difficult to trace them in the market.

To derive benefit we suggest that books are to be printed in large number and be made available easily and backed by as far as wide publicity of the content of the research to draw the attention of the people concerned.

227, 228 & 229. The Union organisations have a limited scope to inform the public of their activities as because the main weapon for this purpose is the press, which, being in the hands of the employers, generally project such news which go against the workmen and form biased opinion of people at large. This leads to bitter relation between the employer and employee. The desired goal can be achieved if Union organisations have their own paper.

230. The press in general being owned by capitalists and having a vested interest cannot play its impartial role in sharing decisions on industrial disputes, rather hinder the promotion of just and good industrial relation.