

SHRI RAM CENTRE FOR INDUSTRIAL RELATIONS
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CONFIDENTIAL

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Dear Mr. Datar,

I have the pleasure of sending to you eighty copies of the replies of the Centre to the questionnaire issued by the National Commission on Labour. The replies are based on the collective thinking of the Research staff at the Centre.

As you will notice, we have not answered all the questions. The reason is that we have neither first hand knowledge nor data on these aspects.

So also in Section III of the questionnaire we have answered only that part of the questions relating to Trade Unions leaving out Employers' Organisations as we feel we have nothing to contribute on the subject.

I shall be glad to detail the Centre's Research staff to give oral evidence before the Commission if you so desire.

With kind regards,

Yours sincerely

A. JOSHI
DIRECTOR

Mr. B.N. Datar
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I. RECRUITMENT AND INDUCTION

RECRUITMENT

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

Ans. The statutory provisions in regard to the employment of women are a disincentive to their employment. Additional expenses on providing maternity benefits, etc., prohibition of night work and more of inspections and form filling for submission to the government are some of the factors that discourage many employers to employ women workers. However, there are certain manufacturing processes such as radio assembling lines, folding department in textile mills, textile printing and similar other jobs that could be best done by women. In such occupations the intake of women workers continues to be substantial. We do not think that any other modifications in the existing provisions are called for. It is further suggested that research studies be sponsored with a view to finding out the work values and work attitudes of potential women workers in different income groups. Similarly, studies should also be undertaken to bring out such jobs and occupations which could better be done by women.

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

Ans. The available data on the employment of casual labour in industry are very inadequate. However, a few available studies indicate that casual labour employed in industry is of two types:

1. Those employed to meet the additional work-load which becomes incumbent on a plant due to additional market orders, or to handle work of a casual nature. Basically this form of employment

of casual labour is technologically determined and is in addition to, not substitution of, directly and regularly employed workforce.

2. Those employed on jobs which could normally be done by regular work-force and casual labour is employed to substitute directly employed work-force who are absent from work due to various reasons.

On the whole, we think that the employment of casual labour is not a good practice. At the same time we fear that it might be unavoidable in certain cases. Therefore, we suggest that the employment of casual labour of the second type as stated above should be abolished. Casual labour of the first type should be regulated with the object of giving a fair deal to labour without jeopardising the demand of productivity and efficiency.

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

Ans. The employment of "physically handicapped", particularly the jawans and officers disabled in action, should be given importance in the recruitment policy. We are not in favour of any statutory provision in this regard.

INDUCTION

- Q.11. (a) What should be the outline of a rational promotion policy? What place would you assign in this policy to seniority, merit and trade test?
- (b) Should recruitment to positions at higher levels be made from among the existing employees only? If so, upto what level?

Ans. The promotion policies of an enterprise should be based on merit as determined through trade tests. Merit being equal, preference may be given to seniority. It may be possible to restrict recruitment up to first level supervisors from amongst the existing employees only. Above that level, elimination of such skills might result in denial of useful skill to the enterprise.

II. CONDITIONS OF WORK

WORKING CONDITIONS

Q.12. (a) Conditions of work in factories, mines and plantations, etc., are presently regulated by the Factories Act, 1948, the Plantations Labour Act, 1951 and the Mines Act, 1952 etc. The main provisions of such acts inter alia relate to (i) safety and welfare, (ii) hours of work, rest interval, weekly off, etc., (iii) employment of young persons and women, (iv) annual leave with wages, (v) occupational diseases and (vi) overtime payment. What changes are necessary in these provisions? How should the implementation of these acts be improved? (See also Q. 19)

(b) What other steps are needed to ensure proper working conditions?

Ans. The implementation of the Factories Act, 1948, the Plantations Labour Act, 1951 and the Mines Act, 1952 is, by and large, satisfactory in bigger and older establishments. In such establishments most of the statutory provisions have been routinised. It is only in newer and smaller establishments the compliance of labour laws is generally unsatisfactory. Whereas no changes are necessary in the existing provisions, the enforcement machinery needs to be geared to focuss attention on establishments of the latter kind.

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

Ans. It is neither possible nor desirable to bring about uniformity in the number of holidays in industry all over the country.

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

Ans. The government should bring out a law on the employment and working conditions of contract and casual labour (please see answers to questions 6, 16, and 209). Insofar as workers in small-scale and unorganised industries are concerned, the possibility of enacting laws on the pattern of the Factories Act could be explored.

Q.16. How have the existing arrangements regarding regulation of conditions of work of contract labour and labour employed by contractors worked? In what directions are improvements necessary? (See also Q. 209).

Ans. Please refer to the note appended.

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

Ans. Trade unions' and employers' organisations can play a useful role in the enforcement and implementation of labour laws. In order to play this role effectively, it might be necessary for the government enforcement machinery to associate with itself these agencies as equals and not as advisors who are called upon for consultations on an ad-hoc basis.

III. TRADE UNIONS AND EMPLOYERS' ORGANISATIONS*

Federations of Employers' and Workers' Organisations

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

Ans. Trade unions in India are an integral part of the social structure of the country. As such, they are subject to all the socio-economic and political pressures to which the community as a whole is exposed. However, there are certain factors that have influenced the growth and organisational pattern of trade unions more than that of any other institution in the country.

1. The increasing tempo of industrialisation in the country has resulted in a significant increase in industrial employment (other than agriculture, small-scale and cottage industries), which rose by 2.8 times in the period 1947-1962. It is anticipated that 70 million people will be needing employment in the next 15 years. The increasing size of industrial workforce enlarged the client group of trade unions and threw new challenges to the latter in terms of organisation work. The trade unions responded to the challenge. In 1960, the total claimed union membership was 2.3 times more than that in 1947. They were, and continue to be, confronted with a stupendous organisation work, and a substantial portion of their resources will have to be channelised in this direction. Understandably, trade unions appear to have developed new priorities and strategies in the organisation work. First, they have taken up the organisation of mass-based unions. The

* Answers in this section relate to Trade Unions only.

organisation of general industrial unions is cheaper in terms of leadership inputs, quicker in results, reduces inter-industry and inter-occupational group competition, and serves the political interests of unions better. Second, trade unions have concentrated their organisation efforts at industrial metropolises, in areas where concentration of industry and workforce is heavy, and in big plants. Such a strategy involves less cost per 100 men unionised, adds more quickly to unions' numerical strength, and enables them to exercise a greater influence on national affairs through groups who are more vocal and can be greater frequencies.

2. The structure and composition of the emerging workforce is another factor that has considerable influence on the growth and behaviour of trade unions. For decades, India had only the traditional industries, such as cotton textiles, jute, coal, sugar, leather, paper, etc. The technology of production processes in these industries required either low skill or such skills that could be quickly acquired and then tapered off. The only recognised skills were at the supervisory level. As such, the workforce was drawn from rural areas from amongst those that were pushed out of the traditional economy. This position has changed during the fifteen years of planning. The engineering, electronics, and other precision industries have expanded by leaps and bounds. The technology required skilled and educated workforce, and this has come from middle class families, often from high castes. The emerging workforce has, thus, a larger percentage of educated, skilled, and young-age people coming from middle class families, more often of high castes. In eastern and north-western India, quite a few are from refugee families. The trade unions which were geared to cater to uneducated, low skilled, and rural background membership have been forced to develop strategies of sensitivity and responsiveness to a new kind of workforce.

3. The advent of political democracy and the building up of democratic institutions and traditions in the country influenced trade union growth in two directions. On the one hand, it exercised pulls towards political unionism. Democracy involved development of policies reconciling the interests of various economic and social groups in the community. Trade unions were required to project themselves at the national scene and interact with other economic groups. For historical reasons, they did this through political parties and paid the price by lending their organisational support to the parties concerned. On the other hand, freedom to organise, existence of multiple political parties each trying to develop a labour front, and the historical use of labour on political fronts made unions subservient to political parties, brought in inter-union rivalry, and fragmented the ranks of labour.
4. Labour legislation is another important influence on trade union growth and organisational pattern. The labour legislation not only sets standards but also provides a context within which unions should act. The law has helped unions by bringing the government power to bear on employers in imposing restrictions on their conduct. The law has also encouraged paper unions. The legal procedures permit even unions that are without internal strength to be effective in processing the grievances of workers and raising disputes. Again, by providing an alternative to direct action, and by requiring union leaders to acquire legal knowledge and skills, the labour legislation has tended to develop moderation and 'proper channel' approach even in the leftist unions. Further, it has shifted the locus of power within the union to the union leader, encouraged a leadership elite in unions, diverted the latter's attention from union

building to legalistic activity, and enlarged the social gap between the member and the leader. Thus the labour legislation has not been helpful to trade union growth and development.

Q.27. What has been the effect of legislative provisions on the growth of trade unions/employers' organisations? (See also Q. 58).

Ans. (Please see part four of the answer to Q. 26).

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

Ans. A cursory view at trade unions would give one a feeling that their modus operandi has undergone a change. A deeper analysis would show a conflict between the formal statements of unions and their actions, the latter suggesting that practices have not changed. The data pertaining to the characteristics of this change are extremely scanty and do not permit significant generalizations. However, the probable changes may be along the following lines.

1. Most of the unions formally subscribe to free collective bargaining and bipartite negotiations but seek government intervention (conciliation or adjudication) more frequently than resolving issues through direct dealings with the employer.
2. Many unions condemn the control of political parties but have done precious little to reduce it. The instances when they did not respond to the call of political parties are rare. On the other hand, there are unions which decry employers, but have concluded effective bilateral agreements and sought adjudication and abjured direct action.

3. The unions are increasingly developing complementariness of roles as an answer to the problems of multiple unionism and non-recognition by the employer. In a plant where several unions exist, one may specialise in agitation to soften employers, another in negotiating an agreement.
4. Industry-wise unions are becoming the effective seats of power in the union movement. The central federations defend the political interests of labour in Parliament, tripartites, and other forums. The plant level unions attend to shop-floor problems and to the servicing of members. It is the industry-wise unions that participate in the decision-making processes pertaining to wage adjustments, working conditions, mechanisation, etc. Plant level unions do not possess the skills, resources, and breadth of knowledge required for issues that are bigger than and outside the plant. Central federations are not equipped for technical discussions on bread and butter problems of the members. The industry-wise unions meet this need, provide the link between the top and the bottom and thereby become more dominant. Technical personnel and staff specialists would be more often found at this level.
5. The unions are giving greater attention to workers' education, leadership training, and such aspects of union functions that promote organisational stability. The realisation that in order to deliver goods, missionary zeal need to be supplemented by technical skills is gaining strength.

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

Ans. The salient features of the attitudinal changes in trade unions towards employers and the government are as follows:

1. Many unions have come to accept that their objectives of changing the society and rebuilding it is good as an ideal. In practice, they have to reconcile their interests with other social groups, work in a democratic manner and develop pragmatic styles of work. Consequently, they are willing, more than ever, to compromise and build self-sustaining mutual relationship at the shop-floor. A corresponding change in employers' attitude, wherever it has occurred, has been of help in this direction. Very often, this attitudinal change varies directly along the internal strength of a union.
2. Most of the unions have been placing heavy reliance on the government for securing basic rights, minimum standards of work and wages, and mechanism to resolve disputes. Second, a parliamentary action through lobbying has been found quicker, cheaper, and more effective than direct action in securing gains. Third, several problems, such as price increase, civic services, social security, computerisation, etc., are too big to be handled through union action alone. There has been no change in this attitude.

Q.30. The traditional role of trade unions/employers' organisations has been to secure protection to advance the interests of their members. In view of the national objectives of establishing a socialist society and achieving planned economic development: (a) What should be the changes in the nature and scope of activities of the trade unions/employers' organisations? (b) What are the changes needed in their organisational pattern and attitudes? (c) What are the fields of activity in which they have an independent role to play? (d) In what others should they function in cooperation (i) between themselves and (ii) jointly with Government? (See also Q. 75).

Ans. Basically, there need be no difference in the traditional role of trade unions. A trade union

must protect and promote the interests of its members. If it cannot or does not do so, it will not be playing an appropriate or significant role. It is only through serving the workers that a union can serve the community.

However, in a socialist society and under a planned economy, while unions should continue to safeguard and promote workers' interests, they must cooperate with managements as well as the government in maximising productivity and, more generally, in restraining inflationary trends.

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

Ans. Maintaining a high level of employment is largely the concern of the government through its economic policies. However, they can achieve sectoral gains for their members and stabilize employment by influencing government policy through parliamentary action and pressure techniques.

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

Ans. Bipartite consultations can become effective only if there is a willingness on both sides for mutual consultation. Sermons and reference to moral codes do not generate willingness. It can come under conditions where either there is an incentive for having it or fear of punishment for not having it. Currently, both the carrot and the stick are missing. The topics on which a union is consulted are marginal and often inconsequential, such as creche, gymnasium, and canteen. It should be made obligatory on employers to consult workers or their representatives on important issues like incentives, automation, housing, productivity, etc.

In the long run, effective bipartite consultation could emerge only in plants and industries that are having strong employers and strong unions.

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

Ans. The extent to which the obligations undertaken by central labour organisations are honoured by their constituents displays a varied pattern. A few commitments are honoured only in letter, and many more are not honoured at all. The remedy does not lie in sanctions but in understanding the structure of the central bodies with a view to finding out their ability to honour the commitments. Unfortunately, the top leadership of most of the central federations comprises political leaders and not trade union bosses. The latter, even where they are represented on the central executive bodies, are less effective due to relatively young age, social distance, and disparate political stature between the top inner group and the wide outer group. And yet, it is the latter category that has the responsibility of honouring commitments. It has been found that where commitments were made by the outer group, or where they were taken into consideration before making such commitments, the commitments have been honoured. If the political leadership went ahead without proper consultations, the obligations undertaken remained undischarged. Therefore, honouring the commitments of the federations by their constituents is more a function of the internal communication system and the decision-making processes of a federation. The remedy lies not in external sanctions but in real democratisation of the internal government system of unions.

Q.38. What should be the responsibility of all-India organisations of employers and workers towards (i) promoting the interest of their constituents in all matters affecting industrial relations, (ii) implementation of laws, voluntary agreements, etc., (iii) training of management personnel, (iv) providing guidance to constituent units, (v) settling of industrial disputes in constituent units and (vi) improving the efficiency of industry? (See also Q. 166) How should they be equipped for discharging these responsibilities?

Ans. The central federations may fruitfully give their attention to the following kinds of activity:

1. Defending stoutly labour's interest by pleading for equity, even if the federation is an 'in group' with the party in power.
2. Securing such laws that help labour without making the state a union substitution agency.
3. Helping constituent units to view their sectarian interests in the broad context of the national economy.
4. Encouraging constituent units to undertake leadership training programmes, in generating such skills as are necessary for the understanding of the legal and political context, economic development and management techniques.
5. Bringing in the prestige of 'big names' on behalf of unions in solving disputes with employers, and mediation in disputes among constituents.
6. Undertaking or sponsoring research on matters of importance to the unions and making the findings available to the constituents.

In most of the other matters listed in this question, the central bodies are structurally ill-equipped to do much and the primary responsibility for them falls on the constituent units.

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

Ans. We are not aware of the prevalence of the system of either 'closed shop' or 'union shop' in any industry in India. The 'closed shop' system might not only be unconstitutional in India but is also impracticable and unsuitable in the present state of unionism in the country.

The 'union shop' system - in its traditional form - may not be workable in view of the multiple unionism in most of the plants. If the system is operated only in relation to a recognised union, it may amount to an infringement of the basic rights of workers and will also contribute to the perpetuation of union monopoly. On balance, we do not regard that the 'closed shop' or 'union shop' in its traditional form is useful or relevant to Indian conditions.

Q.45. Do trade unions have enough income to fulfil their role in promoting members' interests? If not, what steps should unions take for augmenting their resources? Is any statutory provision needed for enlarging trade union finances?

Q.46. What reasons, if any, are there against increasing members' subscription so as to provide an adequate income for trade unions?

Q.47. Is the introduction of 'check off' **system advisable in Indian conditions? If it is, should the privilege of the system be given to recognised unions only or to all registered unions?

* 'Closed shop' is an establishment where only members of a union in good standing are hired or retained as employees.

'Union shop' is an establishment in which the employer has agreed to keep only union men on pay-rol and in which non-union men may be hired on a stipulation that they join the union within a specified time.

** 'Check off' is the practice in which employer deducts union dues from pay and hands over these deductions to the union.

Ans. The trade unions do not have adequate income to properly discharge their functions. In fact, this is one of the major bottlenecks in their growth and development. The rate of membership subscription is scandalously low, collections are poor, and expenditure is not always judicious.

The Indian Trade Unions Act, 1926, should be amended on the following lines:

1. Registration:

In order to be eligible for registration, a trade union

- a. should have been in existence for at least a period of one year prior to the date of application; and
- b. all signatories to the application for registration should have been employed for wages in the industry or the undertaking in respect of which the union is to be formed, and they should be persons who are engaged in industrial relations and trade unionism in the past.

However, if a recognised union exists in a plant/industry and is also the sole bargaining agent, no registration to a new union shall be granted till three months prior to the date on which the recognition is to terminate.

2. Membership:

Every worker with the current employment standing of six months in the enterprise should be required to exercise his voluntary right of joining a trade union. He should state (a) whether he wants to join any union or wants to join no union, and (b) in case he wants to join a union, which of the one or more existing unions does he want to join.

3. Subscription:

A union member should pay subscription to his union at the rate of about one per cent of his total remuneration (which may be defined) provided that those whose total remuneration does not exceed Rs. 100 shall pay only 50 paise per month.

4. Collection:

The system of negotiated 'check off' for recognised unions with the option of contracting in should be introduced.

5. Expenditure:

The bye-laws framed under the Trade Unions Act should be modified providing a detailed list of the items to substitute the heading 'Miscellaneous'. Currently, more than half of the expenditure is booked under this heading and no details are available. It should be further provided that trade unions should get their accounts audited by the authors certified by the Registrar of Trade Unions.

6. Cancellation:

The procedure for the cancellation of registration for default should be made more rigid, self-enforcing, and automatic.

TRADE UNION--LEADERSHIP AND MULTIPLICITY

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

Ans. Please see answer to Q. 26.

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

Ans. An outsider in trade unions is a person (a) who holds a position of office in a union without giving any time or attention to it on a day-to-day basis, and is active in some other profession or activity, or (b) who is engaged in trade union work on a full-time professional basis but is not/has not been an employee in the industry/undertaking in respect of which he does union work.

The outsiders of the first category are generally the 'big name' prestigious persons who lend their name and patronage of their status to the union. They may occasionally do lobbying for the union or mediate in factional disputes within the union. The outsiders of the latter category are the persons who organise unions and give sustenance to them. Often their names are synonymous with those of the unions that they run. They are also largely responsible for union rivalry and politicisation of trade unions.

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

Ans. Internal leadership in trade unions is an ideal that requires concerted efforts over a long period of time. In a real sense, the significant point is that there should be 'professionalism' in union leadership, and insider or outsider does not have much relevance. Therefore, the main thrust of government policy should be the development of professional leadership in unions. In the meantime, trade unions could undertake educational programmes for their active cadres, and managements could meaningfully involve shop floor level union leaders in plant matters.

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

Ans. Please see answers to questions under section VII.- Labour Legislation

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

Ans. This code remained a dead letter from the day it was announced to have been adopted. The best solution is to forget it.

TRADE UNION RECOGNITION

Q.55. Has there been a change in the attitude of employers towards trade unions, particularly in the matter of recognition of unions? If yes, what have been the contributory factors?

Ans. It appears that the change in the employers' attitude towards the recognition of unions varies according to the ownership, age, and size of undertakings. Those companies where professional management plays a dominant role show a more positive attitude towards unions and their recognition. Foreign-owned companies or those with foreign traditions show a greater acceptance of unions than those run by managing agencies or proprietary concerns. Bigger undertakings of older age where professional management function is both necessary and formalized have shown greater acceptance of unions than newer or smaller plants. On the whole, the business as an institution has come to realise the inevitability of trade unionism as an institution and is adjusting to it. The democratic form of government, tripartites, and successful and happy experience with unions in many leading corporations are some of the principal contributory factors for this.

Q.56. Has the Code of Discipline in Industry (Appendix III) contributed towards securing recognition for trade unions?

Ans. No. If one were to ask the question, "If the Code of Discipline were not to be in existence, would the number of recognised unions be less than what it is today?", the answer might not be in the affirmative.

Q.57. Do the existing provisions under the Code of Discipline in regard to recognition of unions provide a satisfactory arrangement in this regard? Specifically, are the provisions regarding (i) the procedure for verification, (ii) the procedure for grant and withdrawal of recognition, (iii) the period of recognition and (iv) the rights of the recognised unions (Appendix IV) satisfactory? If not, what improvements would you suggest in them? (See also Q. 111)

Q.58. Would you suggest giving effect to the provisions of the Indian Trade Unions Amendment Act, 1947 in the matter of recognition of unions? Or, should provisions similar to the Bombay Industrial Relations Act, 1946 or similar Acts elsewhere in India for recognition of unions (Appendix V) be written into the Indian Trade Unions Act, 1926? Are there any other suggestions in this regard? (See also Q. 27)

Ans. We prefer the full enforcement of the Indian Trade Unions (Amendment) Act, 1947 read along with our previous answer, to the Code of Discipline or any other legislation dealing with the subject.

Q.59. What are the advantages of industrywise unions? What will be the difficulties in their recognition? How should the subjects to be dealt with by unions at the plant level and by the industry union be demarcated? (See also Q. 86)

Ans. There are no special difficulties in recognising industry-wise unions. In fact, some such

unions do have recognition. The advantages are obvious. Industry-wise unions tend to bring in uniformity in wages and working conditions in the industry, equalise labour costs and thus reduce competitive disadvantages to manufacturers of some products. They are also more aware of the problems of the industry and are better equipped to take a broad view of the issues involved. In view of the increasing centralisation of unionisation, the staff specialists, technical experts, research aids, and union bosses are more often found at this level only. Thus, the industry-wise unions can bargain effectively, compromise gracefully, and also fight valiantly.

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

Ans. By recognising the most representative union as the sole bargaining agent, an industrial unit can hope to secure orderly, healthy, and meaningful industrial relations. It will make unions feel and act responsible, save money and effort of the government which currently goes into providing machinery and operating procedures to settle disputes, reduce the number of paper unions, minimise the charges of favouritism against the party in power, result in pragmatic agreements and their better implementation, and provide training in democratic functioning. On the negative side, it could lead to union monopoly over plants and self-perpetuation of recognised unions. But, in view of the fact that the community has exposed itself to this risk in the affairs of the government, we see no reason why this risk could not be taken in the industrial relations area, where the harm could be relatively less injurious.

However, mere recognition of a union without taking other steps (some of which are outlined in the answer to questions 44-47) would not bring in the desired results.

Q.61. For determining the representative character of a trade union for purposes of grant of recognition, should the method of election by secret ballot be adopted? If so, explain the details of the method and the administrative arrangements necessary for the purpose. (See also Q. 86)

Ans. The election should be by secret ballot. As regards administrative arrangements for the purpose, the working of the National Labour Relations Board in the U.S.A. be considered and adopted with such modifications as may be warranted.

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

Ans. The other unions shall have no right to bargain. They can enroll members, carry on responsible opposition to the employer, process grievances and raise issues through the bargaining agent, honour their obligations arising out of the bargaining agent's commitments.

Q.63. Considering that categorywise unions, particularly of technicians, are assuming greater importance how should their rights and obligations be defined in relation to (a) the employer and (b) unions of other categories of employees?

Ans. If technicians and others of the kind choose to form separate unions, they are entitled to it. Their rights and obligations shall, however, be restricted to their own category. As such, their relationship with employers could not be problematic. Insofar as their relationship with workers' unions is concerned, they perceive themselves as competitors to the latter and employers see this as an opportunity to divide and rule, and thus serious problems could occur. However, this is unlikely to occur in the present day context and we do not consider this as a problem situation.

Q.64. What facilities should an employer extend at the work-place for the activities of unions?

Ans. The question has been discussed at the Indian Labour Conference (20th Session) and its recommendations, if implemented, should be sufficient.

Q.65. What has been the attitude of the Government as employer towards trade unions?

Ans. Essentially, the government as an employer can be seen at three levels, viz. the public sector undertakings, the departmentally run industrial activities, such as Railways, Posts and Telegraphs, Ports and Docks, Ordnance, etc., and the civil services.

The attitude of the public sector undertakings towards unions is no different from, or better than, that of the private sector. In fact, it has been sometimes hostile and often unrealistic leading to disastrous conflicts in some places. This has been mainly due to three reasons. First, workers and unions expected a much better treatment from the public sector as they were led to believe that the government was a model employer. But, soon they found that their hopes were false and expectations were too high. The technology and productivity did not respect government more than the industrialists. Pressures in either case were of the same nature. Second, the executives chosen to run the public sector plants did not have the right attitude towards labour. The civil servants were procedure-oriented and file-conscious and missed the human factor. The army men were used to the authoritarian form of organisation. Either of the two had to re-learn a good deal and they have been slow in this process. Third, the unresolved conflict among the 'service' ministries, such as the Industries, Petroleum, Mines, Steel, etc., regarding the applicability and enforcement of labour laws, wage structure, bonus, etc. has vitiated the atmosphere wherein even the motives of parties - managers and union leaders - have been questioned. It has also been alleged that the government has been partial

to one particular organisation of workers, and it has not been able to dispel this doubt.

In the Railways, Posts and Telegraphs, and Ports and Docks, the government shows a healthy acceptance of unions and of developing good working relations with their leaders.

Insofar as the civil services are concerned, their agitations particularly on the eve of general elections display a deep discontentment among the ranks of employees and smart strategies of their associations to raise disputes at a time when the government is most vulnerable. It seems the government frowns upon trade unionism amongst civil services, and at the same time has not been able to provide alternatives that could satisfy employees.

IV. INDUSTRIAL RELATIONS

INTRODUCTORY

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

Ans. In order to determine the effectiveness of the government's industrial relations policy, the following question may be asked:

To what extent has it contributed to

1. productivity in industry?
2. equity amongst and as between employers and workers?
3. industrial peace?
4. workers' involvement in industry?
5. structuring of viable and efficient labour-management relations at the plant, industrial, regional, and national levels.

In terms of these criteria, the industrial relations policy of the government has succeeded, to a point, in contributing to productivity and equity. It has not been very effective in promoting industrial peace. Statistically, the number of disputes has not gone down over the years. Industrial peace, which is a dynamic concept involving a continuing balance among different institutions and power centres in industry, still remains a far cry. The policy has failed completely in promoting workers' involvement in industry. Workers' involvement implied that (a) they had much greater stakes in industry, and (b) they had executive responsibilities in selected

aspects of the functioning of enterprises. Both the conditions remain unmet. The legal framework has its own limitations in creating efficient and viable structures of labour-management relations at the plant, industrial, or regional level. As such, no self-sustaining system of industrial relations has been built up in the country.

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

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

Ans. Some of the significant changes in the pattern of industrial conflict are stated below:

First, the frustration among workers has increased over the years. This is manifested in several ways. Industrial indiscipline has increased. In showing frustration, workers choose such techniques that do not easily jeopardise job security and have a high annoyance value to employers. Such techniques are "go slow" "work to rule", and token, lightning, and short duration strikes. The number of such incidents has gone up significantly. Higher expectations after freedom, built due to the unkept promises of leaders; inability of unions to deliver goods due to weaker strength, rivalry, and other causes; poor administration of labour laws leading to delays in resolving conflicts and implementing decisions, faulty and unfair administrative practices; inequity in sharing gains of development and productivity, rising cost of living, and strains of developing democratic institutions and of human adjustment involved in the transition of authoritarian cultural patterns into democratic living are some of the major factors causing worker frustration.

Second, the concept of "class" and its struggles against the other classes has become more popular. This has been more due to the economic stratification in the country, political parties, and more recently the coming into power of the leftist parties in some States. Third, employers have become more organised, and the existing organisations have achieved a greater coordination. The chambers of commerce and industry and other similar organisations have become more powerful. This has introduced uniformity in the employers' response to labour but also made them more rigid and legalistic which is not good management per se.

Q.72. What is the role of fact-finding enquiries in improving industrial relations?

Ans. The inquiry committees and other fact-finding bodies that examine a complicated problem in all its aspects bring in additional data and analysis of the inter-play of forces at work are helpful to those entrusted with the task of attending to industrial relations problems. However, such committees should not/a regular part of the process of regulating industrial relations. /become

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

Ans. The non-existence of union in a plant would amount to the lack of legitimate protection to workers employed therein. A weak union means tensions, irresponsibility, indiscipline, disorderly bipartite relations, and low worker morale. A strong union will contribute to labour discipline, orderly bipartite relations, quicker settlement of disputes and grievances and responsible union and worker behaviour.

Q.74. What has been the contribution of factors like (a) recognition of union, (see also Q. 54 to 65) (b) arrangements for dealing with individual and collective grievances, and (c) strengthening bipartite consultative arrangements, in promoting industrial harmony?

Ans. The experience of working with recognized unions is limited in the country and is insufficient to make a general statement. Several companies which have such experience report that if a union is recognized by applying fair, objective, and impartial methods and is strong, it leads to quicker settlement of disputes and grievances and strengthen bipartite relations.

Q.75. In maintaining and promoting harmonious employer-employee relationship, what should be the respective obligations of (i) Central organisations of employers and workers, (ii) local management, (iii) local union and (iv) the Government—Central or State? (See also Q. 30)

Ans. The central organisations of employers and workers, and the government where it itself is not an employer, can promote harmonious employer-employee relations by creating norms of work and conduct and procedures to channellise interactions among the parties. They could also undertake educational research, training and publicity work, gear to the achievement of the above stated objects.

The employer-employee relations in a given situation depend more on the local level managements and unions.

The employers' organisations can play an effective role in labour-management relations where they have been duly authorised by the constituent units to perform those functions. Leading instances are Indian Jute Mills Association (Calcutta), Millowners' Association (Ahmedabad, Bombay, Coimbatore and Kanpur). Where this is not done the central organisations are purely advisory bodies and communication

channels for transmitting the views of the respective parties to the government.

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

Ans. Barring a few exceptions, the labour/personnel officers are used by managements to execute policies in whose formulation, the former have no hand or voice. The legalism has made them rigid and devoid of flexibility so vital to good management. Insofar as the evaluation of their work and promotions are dependent on the legal battles they win for their employer, the labour officers can make little contribution to good industrial relations in their plants. Professional training and a more judicious utilization by employers of their expertise can improve the effectiveness of personnel officers.

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

Ans. Proper communication in a plant is dependent upon the willingness of employers to communicate, willingness of employees to receive and perceive it clearly and the significance of the subject-matter communicated. In the final analysis, no communication system in a plant could be effective, despite scientifically evolved procedures, unless a climate of good labour-management relations prevails therein. Quite often the problem is not that workers are in dark about the employers' intentions, but the other way round.

Q.82. Has the Model Grievance Procedure (Appendix VI) evolved under the Code of Discipline served its purpose? If not, is there need for statutory provision for the formulation of an effective grievance procedure? What should be the main

elements of such a provision? How would it affect existing bipartite arrangements?

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

Ans. If the model grievance procedure as incorporated in the Code of Discipline was designed for a speedy and judicious handling of grievances, then it has failed to serve its purpose. Undertakings which successfully operated a grievance procedure were doing so even before the Code. Many companies formally accepted the Code but seldom implemented the grievance procedure in letter and spirit. These should be incorporated in collective agreements.

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

Ans. Facilities for training in industrial relations prior to the entry in the profession exist at labour schools and schools of social work in the country. These training programmes vary considerably in purpose, focus, content, and standards. The annual intake of these institutions is more than the absorption rate in industry resulting/unemploy- /in ment and rate cutting in the profession. Here the main problem lies in improving and unifying the standard of training and regulating the intake of these institutions.

Facilities for training in industrial relations for employed persons are inadequate and undertaken by different agencies on an ad-hoc basis. Usually, all such programmes are fully subscribed. By and large, the teaching and training of industrial relations personnel should be done in the institutes and departments of management education. So

far as the trade union personnel are concerned, the training should be entrusted to unions themselves. At the same time worker education programme should be modified and strengthened in the area of training of trade union personnel.

COLLECTIVE BARGAINING

- Q.85. What is the extent of prevalence of the system of collective bargaining in this country? How far has it succeeded? What has been the effect of legislation on the growth of collective bargaining? (See also Q. 193)
- Q.88. What should be the role of (a) collective bargaining and (b) adjudication as methods for safeguarding industrial peace in the years to come?
- Q.90. What should be the limits of collective bargaining under conditions imposed by planned development? (See also Q. 193)
- Ans. Please see answer to Q. 193.
- Q.86. If collective bargaining has to be encouraged at the industry level, how should the representative character of the bargaining agent for workers be determined? (See also Q. 59 and 61)
- Ans. Please see answers to questions 58, 59, and 61.
- Q.87. Do you agree with the statement that (a) collective bargaining has its uses when unions have sufficiently built up their strength and even for strengthening unions and (b) adjudication system provides an arrangement by which satisfaction can be given to parties without open industrial conflict as also for protecting the weaker party?
- Ans. We do not agree in full. Collective bargaining is most effective in situations where unions are strong. But without it, weak unions will stay weak. The opportunity given to weak unions to engage in collective bargaining will help them in either

growing strong or going out of existence. On the other hand, adjudication system helps weak unions to engage in industrial relations. However, if the crutches provided by this system to weak unions are allowed to stay longer, it will make such unions forget how to walk and sap their vitality, whatever existed.

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

Ans. It should be open to the parties to do so if they so desire. Efforts of a third party or a statutory provision will not help.

JOINT CONSULTATION

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

Ans. The works committees have not generally functioned satisfactorily. In exceptional cases where they are reported to have been successful, the functions assigned to them were clear and categorical and the employer accepted all unanimous ~~of~~ decisions of the works committee. Most often, the plants where the works committees succeeded had also recognized unions and a tradition of bipartite negotiations and less resort to adjudication.

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

Ans. Even if the illustrative list of functions of works committees as evolved by the Indian Labour Conference could serve as a basis for the demarcation of functions between the trade unions and works committees, the latter will not work successfully. The assumption is made on reasons which are not correct. The works committee is neither a rival nor a competitor to the trade union. The latter should perceive it as such. Unless unions feel that the works committee is attending to work which they have given to them, the latter will not succeed.

Q.95. Have joint management councils and emergency production committees been successful in achieving the objective of better industrial relations and increasing production/productivity? Have they created a climate of mutual trust between employers and employees? (See Appendix VIII for functions of Joint Management Councils)

Ans. The Joint Management Councils have neither been successful nor made any contribution to better industrial relations. The Emergency production committees did succeed for a while but we attribute their success more to a feeling of patriotism amongst workers aroused by the aggression than to its structure, procedure, or functions.

Q.97. (a) Is it feasible to introduce a scheme of workers' participation in management by making the workers shareholders?

(b) If it is considered feasible, what steps should be taken to facilitate the introduction of such a scheme?

(c) Does such shareholding give adequate voice to workers in running of the establishment?

(d) Are there any other methods by which workers can participate in management?

Ans. In our view, an experiment of this kind to succeed calls for a structural rearrangement in the institutional framework of the community, which is neither possible nor desirable.

CONCILIATION

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

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

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

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

Ans. The available statistics show that the conciliation machinery has been instrumental in settling a large number of disputes. Without prejudice to the work of this machinery, it might be stated that insofar as this machinery is used to record the settlements under the Industrial Disputes Act and the Bombay Industrial Relations Act, and for attending to all kinds of apprehended disputes, the number of cases handled successfully is bound to be high. At the same time, there is no denying the fact that the conciliation machinery has done a good job.

We feel that the conciliation machinery should be further strengthened. This might be done by raising the quality and scope of the service. We suggest that the appointment of specially trained officers in preference to routine departmental promotion, upgrading conciliation officers and assigning to particular officers the arbitration functions in all disputes which arise out of the interpretation of statutory provisions, judicial decisions, and standing orders.

ADJUDICATION

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

Ans. The criteria for assessing the suitability of the present system of adjudication should be the following:

1. Is it responsive to the needs of efficiency and productivity of a growing economy?
2. Has it promoted equity and social justice in industry and community?

3. Has it helped in the growth of responsible and strong trade unions?
4. To what extent is this system self-eliminating?
5. How speedily is justice given to the aggrieved parties?

Considering the current adjudication system on the basis of the above criteria, we think that, on balance, the system has not worked well.

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

Ans. None whatsoever. All discharge and dismissal cases should be handled through arbitration.

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

Ans. So far as the Industrial Disputes Act is concerned, it is not satisfactory. We suggest a modification on the lines of the Bombay Industrial Relations Act, 1946.

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

Ans. No. It should be with the appropriate judicial authorities.

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

Ans. We consider that the present procedure for the settlement of industrial disputes is lengthy and causes delay. We suggest that particular conciliation officers should be named arbitrators in respect of disputes involving interpretation of existing statutory provisions (Please see answer to Q. 101) and there should be no adjudication available for such cases. Of the rest, a way need to be found making conciliation unnecessary for some types of dispute so that they could be referred to adjudicators straightaway. Again, a time limit should be fixed which a conciliator, arbitrator, and a tribunal must dispose of the dispute.

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

Ans. Yes.

Q.108. How should the cost of adjudication to the parties be reduced?

Ans. There should be a time limit within which the adjudicators must settle a case.

CODE OF DISCIPLINE

Q.110. Has the Code of Discipline served its purpose?

Ans. No.

Q.111. Which provisions, if any, of the Code of Discipline should be given a legal shape? (See also Q. 57)

Ans. None. (Also please see answers to questions 57, 58 and 82)

VOLUNTARY ARBITRATION

Q.112. What is the role of voluntary arbitration in the achievement of good industrial relations? In what way can the Central Organisations of employers and workers promote voluntary arbitration? Should a provision for voluntary arbitration be incorporated in all collective agreements?

Ans. Voluntary arbitration could contribute to good industrial relations more effectively than any of the methods provided in the current adjudication system for resolving industrial disputes. There is not much that the central organisations of employers and workers could do to promote voluntary arbitration other than publicity and propaganda.

It should be a normal practice to incorporate a clause on voluntary arbitration in all collective agreements.

Q.113. Please indicate the areas of industrial disputes where voluntary arbitration could be preferred to adjudication.

Ans. Generally, all matters that are scheduled in the Industrial Disputes Act for labour courts could be settled through voluntary arbitration.

Q.114. Are you in favour of setting up standing arbitration boards? If so, indicate (a) their composition, (b) procedure for setting up of such boards and (c) subjects to be referred to them.

Ans. No. In due course of time such boards will become procedure-oriented, action delaying and legalistic. We suggest a panel of arbitrators in each State for the purpose.

Q.115. What professional group provides the best arbitrators? Civil servants? Lawyers? Academics? Businessmen? Trade unionists? Technicians? Others?

Ans. Retired judges, academicians, retired civil servants, and non-political social workers, and Sarvodaya leaders.

Q.116. What should be the arrangements for meeting the expenses of arbitration?

Ans. It should be borne by employers and workers involved in the case in such proportion that finds wide acceptance.

STRIKES AND LOCKOUTS

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

Ans. No modifications are needed. (See also answer to question 126)

GENERAL

Q.124. What has been the role of tripartite committees like the Indian Labour Conference, Standing Labour Committee, Industrial Committees, etc., in evolving through mutual discussions and agreements acceptable arrangements in the various fields of labour relations? (See also Q. 31)

Ans. The tripartite system has played a very useful role in the field of industrial relations in India. The system has been helpful in bringing out the points of view of labour and employers on various social, economic, and occupational matters. It has been influential in evolving consensus among parties, in establishing norms and procedures of

work and work relations more realistically, and in giving a feedback to the government on the working of the labour policy. However, over the years there has been a progressive deterioration in the usefulness of the tripartite, particularly the Indian Labour Conference and the Standing Labour Committee. From the mid-fifties the government has tried to enforce consensus rather than to evolve it in a manner that it wanted. Still more recently, it appears the government was more concerned in giving an opportunity to parties to score debating points over each other. There was no attempt to bring in the spirit in which the Indian Labour Conference should have functioned.

Q.125. Are you in favour of Central Government being made responsible for industrial relations in public sector undertakings under the control of the Central Government?

Ans. No. The public sector undertakings should be treated like other enterprises in the private or cooperative sector and be held responsible for all their obligations. The effect of the Central Government's taking over responsibility for industrial relations will be that the undertakings will become less responsible in honouring their obligations. The experience shows that the remote control of the central authorities is seldom effective.

Q.126. How should public utilities be defined in the context of a planned economy? Should there be any special provisions for avoiding work stoppages in public utilities?

Ans. The scope of the term 'public utility' should be limited only to such undertakings wherein work-stoppage is likely to disrupt civic life, endanger national security or might prove injurious to the national interests at a given point of time. Such industries should be named and incorporated in the statute. There should be no administrative discretion in respect of the definition of public utility

on the period for which an enterprise can be treated as one.

Q.127. What steps should be taken to minimise industrial conflicts in (a) the public sector, (b) the cooperative sector?

Q.128. For the purpose of labour-management relations, is there a case for treating the public/cooperative sector differently from the private sector?

Ans. Insofar as the enforcement of labour legislation and labour management relations are concerned, there should be no differentiation between the public and the private sector. They should all be treated in a like manner and the situation will improve.

Q.129. Has collective bargaining been possible in the small-scale sector? To what extent does this sector make use of the industrial relations machinery?

Ans. The collective bargaining has not been possible in the small-scale industry. The law discourages it and other pre-conditions necessary for collective bargaining are missing in this sector.

V. WAGES

INTRODUCTORY

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

Ans. The current availability of unskilled labour has a depressing effect on the level of wages: an opposite situation would be the relative scarcity in the availability of skilled labour with levels of wage being "pulled up".

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

Ans. There is no significant relationship except that the relatively more attractive wage situation in industry does have some bearing on the deployment of labour from agriculture to industry.

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

Ans. There is not much positive correlation between the two: the factors which bear heavily on wage fixation in industry differ significantly in their impact and influence on wages in agriculture and unorganised industries. It is conceivable though that movement of wages in industry may be allowed to influence wages in agriculture especially where (agriculture) raw materials are linked up with the product-industry.

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

Ans. Very little. The existing levels of wages have mostly resulted from either forces of custom, or verdicts of arbitration or industrial tribunals or recommendations of wage boards. In the overall wage situation of the country traditional modes such as collective bargaining have had only a limited impact.

MINIMUM WAGE

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

Ans. The concept of minimum wage as enumerated by the Committee on Fair Wages, 1948 does not appear very practicable in the contemporary context of Indian conditions. In view of the very low level per capita income in the country, it is difficult to see how the concept of minimum wage could work. The implication would be raising up of earnings' level of most of the workers. For some time to come, this concept may be shelved for reasons of both its implications for the national economy and its impracticability.

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

Ans. It is very difficult to quantify in exact terms the ideal size of workers' family and minimum requirements. The norms accepted by the 15th session of the Indian Labour Conference are seemingly desirable to be looked at as the minimum. Besides the difficulties raised in question 134, the whole concept of minimum requirements is dynamic and is subject to change from time to time.

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

Ans. It is difficult to see how the worker's standard of living depends, inter alia, on the level of productivity, stage of economic growth of the country and fair distribution of national income. A phased programme for implementing the need-based minimum as recommended by the ILC will be faced with the inherent difficulties but may be worth trying.

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

Ans. The ideas of the Committee about minimum wages are not merely applicable in the case of non-industrial workers.

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

Ans. In the present context of our economy, the idea of fixing a National Minimum Wage is inapplicable. The only way to raise the workers' standard of living to a minimum is through raising productivity - both industrial and agricultural - and thus sharing in such gains.

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

Ans. This poses another problem in the practicality of a National Minimum Wage.

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

Ans. There is a fine distinction made among 'minimum', 'fair', and 'living' wages. The concept of 'living wage' as given by the Committee on Fair Wages is quite impressive and needs no modification. But in the present circumstances it can only serve as a 'beacon light' to all concerned.

DEARNNESS ALLOWANCE

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

Ans. It is imperative that real wage levels must be protected from erosion by price increases. It is doubtful if much would be gained by a wage policy in this regard. Considerations must be given to a price policy in this sphere. There are two alternative and better ways for protecting the wage levels from deterioration. If price stability is maintained there would be no danger of the standards of living falling. Though the importance of price stability has been recognized by the planners, it is yet to be made effective in a significant way. This could be done by the use of suitable monetary policy and fiscal measures. Second, through the instrument of price policy, fluctuations in prices could be kept under control and strict supervision.

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

Ans. The system on a uniform basis should be preferred to a variety of considerations governing payments with respect to changes in the cost of living. But it may not be feasible to have a complete uniformity of basis. It may be reiterated that through the measures to achieve and sustain price stability, the question of compensation for increases in cost of living can be made redundant to a large extent. It may not be possible, however, to have complete price stability. In that case, neutralisation ranging between 80 and 100 per cent of the increase in consumers' price index may be effected. An approximate suggestion would be that income brackets up to Rs. 300 p.m. may be given 100 per cent neutralisation, those between Rs. 300 and 499 may be given 90 per cent neutralisation and those earning Rs. 500 and above (to a certain maximum income point that is to be decided) may be compensated to the extent of 80 per cent. There could be arguments in favour of full neutralisation for all income groups, but the repercussions on the economy may be inflationary. This 'progressive' system is suggested on the ground that low income groups bear the maximum brunt of rise in price of essential commodities; also, they tend to spend a very large portion of their income on essential commodities and services.

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

(a) Which index number viz.,

- (i) All India
- (ii) regional or
- (iii) local should be preferred?

(b) What should be the frequency at which revision should be made—monthly/quarterly/half-yearly, etc.?

(c) What should be the extent of change in the index which should warrant such revision in dearness allowance—each point/slab of 5 points/slab of 10 points, etc.? Give reasons.

- Ans. (a) Since prices differ from region to region, it is suggested that regional index number should be preferred, and
- (b) the frequency should be quarterly,
- (c) a change in price index to the extent of 10 points should warrant revision in dearness allowance, for two reasons. First, it is expected that a change in 10 points would confirm, beyond doubt, a positive upward trend in prices and would indicate the high extent of hardship to the consumers, and second, it can be believed that this (considerable) rise in prices was not of a very temporary nature.

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

Ans. The impact that rising price index has on different income groups, and which group suffers the most. (Please also see answer to Q. 142)

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

Ans. Broadly speaking, the industry's or unit's capacity to pay would certainly be a relevant consideration, but this consideration cannot go very far if uniformity in the principles governing the payment of dearness allowance is to be maintained. We may remind ourselves that the best way to protect real wage is through price stability.

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

Ans. Broadly speaking, this would depend on the kinds in which wages are paid. It would certainly be difficult to make adjustments of this part of wages towards payment of dearness allowance.

FRINGE BENEFITS

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

Ans. We favour the following definition of the concept 'fringe benefits'.

"The term means those benefits, social and other, which can be expressed in money terms, can be enjoyed as a direct result of particular employment, and which are granted by managements over and above normal wages and salaries - including benefits required to be paid under various statutory provisions."

Such benefits have a positive bearing on production costs.

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

Ans. A great merit of fringe benefits lies in their being non-inflationary in character. They are more in the nature of supplements to higher money earnings rather than substitutes.

WAGE DIFFERENTIALS

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

Ans. The existing wage differentials in different plants do have partial reflections by the considerations mentioned in the report of the Committee on Fair Wages, but certainly the reflection is not complete and total. A possible explanation may be the fact that wage differentials have evolved gradually rather than as a result of consciously planned and implemented job-evaluation formula. Wage differentials have resulted from a variety of factors - customs, market forces, competitive position, profit levels of the industry/unit, etc.

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

Ans. The effect of the existing systems of dearness allowance, by and large, has been narrowing or "compression" of wage differentials. The ideal way to rationalise the whole of the arrangements would be through achievement of 'price stability'.

METHODS OF WAGE FIXATION

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

Ans. It appears from the past experiences and current situation that no single method of wage fixation would ideally suit the Indian conditions. In the years to come we may have to continue with statutory methods, wage boards, adjudication, etc. The ideal situation would be the determination of wages through bilateral relationship, i.e. voluntary collective bargaining between trade unions and employers' associations. But a successful relationship depends on a mature labour movement and development of responsible trade unions and employers' associations. The present situation in India is far from being satisfactory in this respect. It is heartening, however, that importance of collective bargaining is being recognised at different levels. But in the foreseeable future, different methods of wage fixation have to co-exist.

Q.152. In collective bargaining for wage fixation, should the principal emphasis be laid on national agreements? If so, what adjustments should be made to meet local needs?

Ans. The question does not have much relevance in the contemporary situation. It may be stated, however, that the British scene is marked by the predominance of national (industrywide) agreements. Even there, despite the presence of a

strong and mature labour movement, problems of local application result in wage-drifts and inflationary pressures. In the American scene, on the contrary, there is the predominance of plant-wise agreements and contracts. Such agreements disregard the interests of the national economy and the community at large. Thus, both the systems have their merits and weaknesses. Given the current situation in India, it is difficult to see how national agreements, arrived at through collective bargaining, could be made to work taking into account of the local needs.

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

Ans. The expectation can be said to have been fulfilled to a certain extent in the sense that most of the recommendations of the wage Boards, which comprise representatives of both workers and employers, are accepted for implementation.

Q.154. (a) In what respects should the operation of wage boards be modified to improve their working?

(b) Should wage board recommendations have legal sanction?

Ans. (a) The major way to improve the working of the wage boards would be to let them work on a continuous basis rather than as ad hoc boards. Continuity would, besides lending them stability, give the boards a perspective. Further, they may be extended to cover those industries too where there is a need for them.

(b) Giving legal sanction to wage boards would defeat the very purpose of setting up the wage boards. The boards were originally thought to

provide a platform, inter alia, to enable the two sides of industry to develop and exercise responsible joint decision-making in matters of wages, etc. This could prove to be an effective channel for developing collective bargaining. It is more important to have a framework of negotiations in which recommendations arrived at jointly (with independent members, of course) would be acceptable to the two parties rather than make them legally binding.

WAGE POLICY

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

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

Ans. (a) It is difficult to see how different considerations of fairness to labour, development of industry, capital formation, return to entrepreneur, etc. can be reconciled under a wage policy. Theoretically speaking, it is possible to visualise a situation where gains in productivity (important criteria for grinding increases in all incomes) can be shared by workers to improve their living standards, by entrepreneurs for plough-back, and by consumers in the form of lower prices for commodities. Higher wages given to workers would not meet the needs of capital formation because workers have a very low propensity to save; higher returns on capital (i.e., dividends) would boost capital formation and investment effort but would deprive workers of their legitimate share in prosperity; consideration of social justice calls for elevation of the workers' level from the subsistence stage. It is not possible to give a formula for

universal application where it will take account of all considerations in wage policy. It is suggested that each case needs examination in the light of the merits and circumstances of individual situation.

(b) The criticism is not entirely invalid because consumers' interests are not always given due consideration. The situation can be remedied by passing on the benefits of prosperity to consumers in the form of lower prices for commodities.

Q.156. In the context of planned development, the question of taking an integrated view of policy in regard to wages, incomes and prices is often emphasised. What should be the objective and scope of such a policy? Indicate the guidelines for such a policy in the light of the perspective for the growth of the economy. Changes in the existing institutional arrangements for implementation of such a policy may also be indicated.

Ans. The overall objective of an incomes and prices policy is to meet the goals laid down in the economic plan, viz., higher output and faster economic growth, greater employment opportunities, reducing income disparity, maintenance of price stability, etc. The guidelines for such a policy as laid down in the Report of the Reserve Bank of India on a "Framework" for policy on Incomes and Prices" (published in 1967) may be treated as comprehensive and appropriate.

Any proposal for a change in the existing institutional arrangements would depend on whether the policy for Incomes and Prices is to be implemented on a voluntary basis, or a statutory basis, or a basis combining the two systems. It is doubted if a completely voluntary or regimented system would work in a democratic society like our's. There shall ^{have} to be a mixed framework.

Whatever institutional arrangement is proposed - mechanising for controlling and regulating incomes including dividends, renewing and controlling prices, etc. - it is not possible to control thousands of points at which decisions are taken to increase prices, incomes, dividends, etc. Considerable reliance will have to be placed on educating public opinion and cultivating a sense of responsibility in the trade unions and employers.

Q.157. Do you suggest a policy of 'wage freeze'? If so, how can it be implemented under the existing system? What are the implications of this policy for other incomes?

Ans. In the contemporary economic conditions of the country, a policy of 'wage freeze' is not suggested. The political and economic climate is not congenial for the purpose. In view of the mounting inflationary pressures leading to rising cost of living index, economic growth (implying rise in productivity), it is not feasible to put 'wage freeze' into practice. Further, workers, trade unions, and even employers - the essential partners in the implementation of such a policy - would not accept such a policy. It is suggested that fiscal and monetary measures would be more effective in this area.

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

Ans. Wage structures of the private and public sectors are linked in an essential way and therefore a balance must be maintained. The possible way of achieving it is through the public sector wage structure leading the pattern and allowing private sector to follow up. To a very large extent, wage relativities in both the public and the private sectors are governed by similar considerations of market, skill requirements, contribution of labour to productivity, job content, custom, etc. If scientific

relationships within the wage structure are introduced in public sector to a large extent, it may be worthwhile asking private sector to follow suit.

MODE OF WAGE PAYMENT

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

Ans. Payment of wages (a part of it) in kind is more common and widespread in the case of agricultural labour than in the field of industry. Extension of this system to other units is not suggested.

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

Ans. Payment to unskilled workers on time scale is very common. Extension of time scales will be favoured even under incentive schemes where a 'fall back' minimum is necessary.

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

Ans. It would be ideal to incorporate the three components in the total wage packet. But this may not always be possible. Basic wage and the payment depending on price changes present no problem. Payments for productivity can take the form of either productivity bonus or piece rate.

It will be possible to apply the third component only in those cases of individuals or groups where output resulting from each factor of production lends itself to measurement. No universal formula can be prescribed and each occupation will call for individual treatment.

GENERAL

Q.162. How far can the administration of the Minimum Wages Act, 1948 be considered to be satisfactory? Outline in detail the difficulties experienced in its implementation. Offer suggestions against each difficulty on how best it could be overcome. (See also Q.210)

Ans. Broadly speaking the administration of the Minimum Wages Act, 1948 has been quite satisfactory. It is desirable, however, to extend its coverage. The difficulty in the enforcement of minimum wages lies in ensuring their actual operation. Surveillance in this field calls for improvement. It is imperative that minimum wages should be revised at appropriate intervals.

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

Ans. The Scheme for payment of annual bonus embodied in the Act of 1965 is unsatisfactory for various reasons. First, the fixing of (compulsory) minimum and maximum limits is undesirable. The payment of bonus should be a matter for negotiation between the two sides of industry. By law, records of the unit of industry relating to profits should be made open for inspection by labour unions. Second, the question for base year in maintaining a constant ratio of allocable surplus to gross profits is irrelevant. Third, the inclusion of dearness allowance for governing the payment of bonus creates anomaly. By implication this associates, and quite wrongly too, the payment of bonus with changes in consumer price index. The payment of bonus (frequency, amount, etc.) should be a matter for negotiated settlement between the parties.

The recent decision of the Supreme Court (in the case of Jalan Trading Co. (Pvt) Ltd., and others vs. Mill Mazdoor Union and others -

August 1966) does not affect the scheme of the Act in any substantial way. The court has struck down the provisions of sections 33, 34 (2) and 37 of the Act, but the rest of the Act was upheld. The provision relating to base year (and ratio) was struck down. Anybody would contest the fact of giving bonus payments irrespective of whether a company has made profit or loss in the current year.

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

Ans. Bonus can be related to consideration of either productivity or profit. Its payment in future should not be linked with dearness allowance and no minimum or maximum limits are called for. In our country, the payment of a profit bonus has been accepted as a normal component of remuneration but as far as possible matters relating to it should be left to be settled by the two sides of the industries with some legal provisions regarding declaration of company's financial accounts, inspection of records by employee(s) or their representatives.

VI. INCENTIVE SCHEMES AND PRODUCTIVITY

Q.171. What place would you assign to suggestion schemes and institution of awards for outstanding work to improve productivity?

Ans. Suggestion schemes and institution of awards for outstanding work can go a long way in improving productivity, provided a climate of good industrial relations prevails in the enterprise.

Q.172. What are the factors contributing to labour turnover and absenteeism? How do they affect improvement in productivity? (See also Q. 183)

Ans. The factors that are contributing to labour turnover and absenteeism are too well known. A certain amount of absenteeism is unavoidable and some quits are good for the health of the plant. However, the prevailing labour turnover and absenteeism affect productivity adversely.

Q.173. What is the place of the motivation of worker for improving his standard of living in the successful working of incentive schemes?

Ans. One of the basic advantages of an incentive scheme is that it motivates workers to improve their standards of living. An incentive scheme is not just a mechanism to relate additional output with additional payments. It should be considered as a change agent in influencing workers' behaviour in favour of higher productivity and in increasing their stakes in plant prosperity and economic development.

Q.176 (a) What should be the place of 'automation' in the perspective of development?

(b) How would automation affect labour-management relations?

(c) Should there be a special machinery to study the problem?

Ans. A series of studies involving analyses in depth of the social, economic, and technological consequences of automation should be undertaken with a view to understanding the problem in all its dimensions.

VII. SOCIAL SECURITY

Q.178. (a) What effect do the social security schemes have on stability of employment and on industrial relations?

(b) Have some of the benefits, based as they are on a qualifying period for entitlement, led to larger labour turnover? If so, what should be the remedial measures?

Q.183. In so far as the ESI scheme is concerned, there is a view that absenteeism among workers in the factories covered by the scheme has tended to increase consequent upon the introduction of the scheme. No concrete evidence has been forthcoming so far either in support of the above contention or against it. What is the experience in the industrial unit/units within your knowledge? What remedies would you suggest to minimise such absenteeism? (See also Q. 172)

Ans. The data pertaining to relationship of social security measures with the employment and industrial relations are not available. However, we are inclined to think that the social security schemes have stabilising effect on employment and they promote good industrial relations. We are also familiar with the statements that social security schemes, particularly the Employees State Insurance Scheme, have resulted in excessive labour turnover and in the conversion of unemployment into sickness. We only like to state that certain amount of misuse of social medicine and social benefits is unavoidable, as has been the experience of several Western countries. The question whether this misuse has become chronic needs to be further examined and analysed by appropriate research studies.

Q.180. The benefits referred to in question No. 179 are generally available only to persons who are in wage-paid employment; there will still be large numbers of persons like traders, artisans and small shopkeepers who are self-employed and who will remain uncovered by the scheme. What

advance steps should be taken to bring these groups within organised social security schemes?

Ans. Persons like traders, artisans, small shopkeepers, and self-employed people should be encouraged to join voluntary group insurance schemes. The government should have a definite policy of giving encouragement to the institution and development of such schemes. These schemes are forerunners of a comprehensive social security scheme operated by the state.

Q.184. Should the administration of the medical benefits under the ESI Scheme remain the responsibility of State Governments? Or should the Corporation itself take it over? If State Governments are to continue administering medical benefits, what should be done to ensure that a uniform standard of medical benefits is available to insured persons in all States?

Ans. The medical benefits under the Employees State Insurance Scheme should continue to remain the responsibility of State governments. The Medical Benefit Council of the Employees State Insurance Corporation is entrusted with the responsibility of establishing the minimum uniform standards of medical benefit to the insured persons in all States. The extent to which this uniformity is maintained in practice in different States will not be materially different even if the Employees State Insurance Corporation were to take over the administration of medical benefit. Such disparities are inevitable in our existing administrative set-up.

Q.186. Should the Employees' Provident Fund Scheme be continued as at present or should steps be taken to convert it into either a pension scheme or a provident fund-cum-pension scheme?

Ans. We consider that the Employee's Provident Fund Scheme should be converted into a Provident Fund-cum-Pension Scheme and necessary steps should be taken in that direction.

Q.189. Should a part of the provident fund be set apart for giving insurance cover to the members of the EPF Scheme?

Ans. Yes.

Q.190. What should be the place of gratuity payments in an overall social security programme?

Ans. Gratuity payments, by effect, are retirement benefits to workers.

Q.191. Would you suggest any changes in the existing provisions relating to lay-off and retrenchment provided to employees against the hazards of job insecurity resulting from temporary employment and other fluctuations?

Ans. Provisions of lay-off compensation should be made applicable to all factories irrespective of the number of workers employed therein.

Q.192. Should the administration of some of the social security benefits be handed over to trade unions? What pre-conditions should trade unions satisfy for being eligible to take over such administration?

Ans. No.

VIII. LABOUR LEGISLATION

Q.193. To what extent should labour-management relations in a planned economy be governed by legislation/collective bargaining? (See also Q. 85 and 90)

Ans. Labour legislation is a very potent instrument for providing certain minimal norms to rule out avoidable friction between the employers and the employees and also simultaneously ensuring a base level of equity and social justice. Labour legislation can also be utilised by the state to institutionalise the relationship pattern between the parties.

Labour legislation should be supportive of and complementary to this institution rather than being super-imposed as a substitute for their bilateral relationships. It would thus seem that the pattern of labour management relationships in a planned economy of the Indian brand should be governed primarily by collective bargaining within the broad framework provided by labour legislation. The legislation should be used as an instrument of (a) creating a base level of conditions of employment, (b) providing an enabling and supporting framework for the parties to bargain fruitfully, and (c) vesting in the state the right to interfere in the event of a threat to the larger economic and social interests.

Q.194. What have been the factors that have affected the proper and effective implementation of the various labour laws? (Appendix XII). Have these laws achieved the purpose/objectives for which they were enacted? If not, what factors have hindered the achievement of these objectives? (See also Q. 12)

Ans. For the purpose of assessing the effectiveness with which labour laws have been implemented, the total body of legislation has to be viewed in two broad categories. In the first category fall the statutes providing (i) the basic labour standards

in factories, mines, plantations, etc., (ii) regulation of the quantum and payment of wages, and (iii) social security and welfare measures. Some of the major factors that have hindered the proper and effective implementation of these laws are:

- (a) The organisation, the work distribution pattern, the quality and number of inspecting and enforcement personnel, the procedures, etc. in the Labour Commissioner's establishments in different States.
- (b) The sanctions available for enforcing implementation are not adequate. In many cases, the cost of compliance is much higher than the penalties for non-compliance. Also the chances of getting away with lapses are quite substantial.
- (c) Trade unions, which can be the watch-dog of workers' interests, are not adequately associated in the enforcement process by the labour administration authorities.

In the second category fall various statutes regulating labour-management relations. The process of enforcement in this category, particularly of the Industrial Disputes Act, 1947, is by and large initiated by the employees/unions or the managements themselves. The State administration and judicial authorities act mainly as responding parties. Among the major factors that have affected the proper implementation of this class of legislation are:

- (a) The element of discretion inbuilt, particularly for reference of disputes for adjudication.
- (b) The delay involved in the settlement process.

(c) The quality of judicial personnel appointed on tribunals and their inadequate conditions of employment.

Q.195. (a) How have the existing legislation and other provisions for protecting the interest of labour worked in practice?

(b) To what extent have the above provisions helped to implement the Directive Principles of State Policy on labour matters as embodied in the Constitution?

(c) What changes or further improvements in the existing arrangements would you suggest for fuller realisation of the Directive Principles (Appendix XIII) keeping in view the present state of our economy and the country's development in the foreseeable future?

Ans. Considering the substantive provisions of various labour statutes, there has been substantial advancement in the direction of achieving the coveted goals set in the Directive Principles of State Policy. Particularly in the area of providing basic labour standards, social security, etc. the achievements, within the present economic framework, are quite encouraging. The enforcement in this area has also been less weak than in some other areas. However, there is the need to extend such legislation to other groups of labour like the casual and contract labour, agricultural labour, etc.

An unintended consequence of labour legislation has been that whereas the statutes are meant to lay down the minimal standards, these are identified by the employers as being ideals.

Q.196. Are the present constitutional arrangements under which labour is a concurrent subject satisfactory, particularly from the point of view of the administration of labour laws? Are any modifications by way of centralisation/decentralisation of certain activities and functions necessary?

Ans. In the given Indian socio-economic and political set-up which represents unity in diversity, the present constitutional arrangement of vesting jurisdiction of legislating on labour matters concurrently in State and Central legislatures is useful. It provides for an amount of flexibility within a wide framework that is necessary to cover diverse situations.

However, the implementation of a few Central statutes poses certain problems in the public sector undertakings. But the remedy for this does not lie in changing the legislative arrangements.

Q.197. What has been the influence, direct or indirect, of international labour conventions on the progress of labour legislation in India? To what extent has the Constitution helped or hindered such progress?

Ans. The conventions and recommendations of the International Labour Organisation have had a substantial influence on the nature, content and pace of labour legislation in India. The Constitution of India has provided a fillip as well as the framework either to ratify the conventions or to incorporate their contents in the indigenous legislation to the extent warranted by the economic and social realities.

Q.198. On the basis of the principles evolved out of case law over a number of years, what are your suggestions for reviewing and amending labour legislation in this country?

Ans. In our view there is the need to review and recast the existing industrial relations legislation. Among the major points that need to be legislated upon are:

- (i) Providing for a system of 'check off'. This facility should be made available to the recognised trade unions with the requirement to contract it.

- (ii) Providing for the determination of a representative bargaining agent by secret ballot. The 'recognition' thus granted may be at the unit, industry, or region level. However, in one bargaining unit there should be only one bargaining agent of the workers. Recognition once granted should last for a period of two years, after which it could be decided again by the workers through secret ballot.
- (iii) Every management should be required to negotiate in good faith with the representative union.
- (iv) An agreement negotiated between an employer and the representative union should be binding on the employer and the entire body of workers.
- (v) It should be made possible for the representative union to negotiate the standing orders with the employer.

Q.199. Has there been too much legislation in the field of labour? If so, what are the aspects in regard to which there is over-legislation?

Ans. The term 'too much legislation' is being currently understood in two different dimensions. First, the coverage of labour legislation is so wide that the prerogatives of employers and the responsibilities of unions have been substituted by legal limitations or remedies. Moreover, since the implementation machinery is so inadequate it gives a feeling that probably we have more law than we can really handle effectively.

Second, particularly in the area of labour-management relations, the legalism that has evolved as a consequence of the working of the Industrial Disputes Act has virtually removed the issues of mutual concern from the bargaining table to legal forums. As such, very little

is perceived as achievable by the spontaneous and collaborative efforts of the primary parties in the available over-legalised framework of industrial relations.

If these two types of feelings are any index, then action is needed in both streamlining the implementation machinery and re-orienting the industrial relations policy, particularly the legal aspect of it, of the state.

Q.201. Since 1958 the general emphasis in labour policy has been on voluntary approach in preference to legislation. This has resulted in fashioning tripartite instruments like the code of discipline, industrial truce resolution, etc. Has this policy been successful? Should it be continued?

Ans. This policy has not achieved the objectives that it set out to attain. No. It should not be continued. We favour the collective bargaining approach. (Also see the answer to question 24)

Q.202. Please comment on the suitability of (i) Labour legislation so far enacted and (ii) voluntary arrangements so far built up.

Ans. Please see answers to questions 195 and 201.

Q.203. What is the extent of enforcement of labour legislation in public sector? Are exemptions from the applicability of certain provisions of labour laws more common in the public sector? What is the rationale for claiming such exemptions?

Ans. The enforcement of labour laws in the public sector undertakings is considered to be worse than it is in the private sector establishments. The public sector managements probably expect a differential treatment in this regard. Operationally, the status conflict between the State government officials who are responsible for administration of labour laws and the executives of big industrial establishments deputed by the Central

government, makes the former very ineffective.

Exemptions and relaxations from the provisions of various statutes are very frequently solicited and actually granted to public sector enterprises. The reasons put forth for claiming these relaxations are not always appreciated by the union leaders or managements in the private sector.

X. LABOUR RESEARCH AND INFORMATION

Q.212. Most of labour statistics are a bye-product of labour legislation. They suffer, therefore, inter alia, from the limitations arising out of lack of uniformity in the concepts, coverage and frequency of collection. The time-lag in their publication, non-response from primary units, inaccuracy of returns, changes in industrial classification are further difficulties in making labour statistics more useful. What steps should be taken to remedy the situation? Is the implementation of the Collection of Statistics Act, 1953 the answer?

Q.213. There is a feeling that the practice of entrusting the administration of labour laws to different officials, the statutory requirements of maintenance of different registers and sending of different filled-in returns under these Acts, result in a good deal of unproductive work and unnecessary duplication. If this feeling has a basis, what steps should be taken to improve the situation?

Ans. The problems involved in data collection and limitation of such data have been brought out in the questions. We suggest the following measures to improve the quality, reliability, and comprehensiveness of these data.

1. To the extent possible, labour statistics should become independent of labour legislation. The economic and social statistics could be taken out of the purview of legislation and collected independently.
2. A technical committee should be constituted and entrusted with the function of reducing the variation in concepts and methods, and of avoiding duplication of efforts by different agencies.

3. The data on employment, earnings, occupation, and mobility are collected by the Employees' State Insurance Corporation and recorded on Contribution Cards and Declaration Forms. Insofar as employers' money and workers' benefits are involved in this data, it could be taken as most reliable. Currently, no research use is being made of these data and the documents are pulped after a few years. The use of these data will give national, regional, and industrial patterns and trends of employment, earnings, occupations and mobility over years. It will not involve any significant additional costs and would save millions of rupees which will have to be spent if these data were to be collected separately.
4. For labour statistics which could not but be collected through labour legislation, the following steps be taken.
 - a. Reduce the number of forms that enterprises have to fill in, and simplify the forms. This could be achieved by setting up Forms Simplification and Unification Committees in each State. It should be possible to reduce 42 to 48 forms that employers have to fill, 6 to 8 forms without jeopardising the purpose and content of any of the forms.
 - b. Set up training programmes for employers' personnel engaged in form filling at enterprise level. These programmes should become a regular feature of the Labour Bureau's functions.
 - c. Currently, the Labour Departments in many States consider statistics as one of their least significant functions. This perception should be changed through appropriate administrative techniques.

Q.214. Does the all-India Consumer Price Index Number currently compiled reflect adequately price changes affecting urban working class? Should consumer price index numbers be compiled for every region of the country for the purposes of wage fixation? What principles should be followed in compiling the 'all-India' and regional indices?

Ans. Although the All-India Consumer Price Index Number currently compiled is, to a large extent, an adequate reflection of price changes affecting urban working class, there is scope for further improvement in the following areas:

1. The All-India Index is based on the indices for only 27 centres in the country. In view of the fact that new industrial centres are emerging with industrialization, the current method does not form a "representative" sample of industrial centres and urban areas. It is suggested that more centres and areas should be covered.
2. Different base periods are being used for purposes of compiling the All-India Index. Besides creating difficulties of conversion, it is reflective of different circumstances prevailing in different base years. It is desirable, in the interest of both uniformity and simplicity, that a common base year, say 1960, be used for this purpose. The year 1960 is being currently used by the Labour Bureau in the compilation of indices for certain centres.
3. It is anomalous that the compilation of figures for this purpose should be shared between the Labour Bureau (Simla) and various State governments. It is suggested that one body - either separately created or the Labour Bureau itself - should undertake the collection and compilation work.
4. The collection of price statistics also needs improvement. The system of data collection from fixed shops in different centres is not fully reflective of the consumption pattern

and price changes. It is suggested that at short intervals the group of shops used for collecting price information should be changed.

It is desirable to compile price index numbers for every region of the country for the purposes of wage fixation. Theoretically speaking, the need for this would be non-existent if price levels and changes in them would always be uniform all over the country. Since this is not the case, it is sensible to have region-wise collection of price information, and compile indices accordingly. This would ensure an effective and fair linkage, between the payment of extra money to compensate the worker for rise in prices and, the extent of price changes.

The following principles should govern the compilation of All-India and Regional indices:

1. The concentration of industrial and urban workers in different areas should be the basis for selecting industrial centres and urban areas. These centres need not necessarily be co-terminus with political boundaries of States.
2. The concept for the selection of the basket of goods and services for the purpose should be dynamic. In the industrializing society, the consumption pattern is subject to rapid change. This change must be taken into account by periodic family budget surveys.
3. The collection of price statistics must also take into account the changes in product quality and arrival of substitutes in the market.
4. A uniform base year, representative of normal conditions, should govern the All-India and Regional indices.

Q.216. At present statistical data are collected only in respect of work-stoppages arising out of industrial disputes. Is it necessary to collect similar information on work-stoppages due to reasons other than industrial disputes?

Ans. Yes.

Q.219. Are the present arrangements for research and studies in the field of labour adequate to meet the requirements of policy-making in labour and economic matters?

Q.220. What are your suggestions for improving the quality of labour research?

Q.221. What is the present state of labour research undertaken by employers'/workers' organisations?

Ans. The arrangements for research and studies in support of policy formulation on labour and economic matters have improved over the years. But they remain inadequate. Three kinds of activity can be identified. First, labour and social statistics are one of the important requirements of policy formulation. (For further comments on labour statistics please refer to questions 212 and 213). Second, city surveys, area and regional surveys, economic and technical surveys are another area of labour research that has bearings on policy. A large number of such surveys have been conducted by various government departments, Labour Bureau, university departments, and a few research and survey institutes. These surveys have proved useful. They could have been still more useful if they were sponsored as a result of a planned policy rather than as a response to proposals put up by interested parties. The available surveys state different objectives, use different techniques of sampling and data collection, vary considerably in the scope of subject covered, etc. All these difficulties render the results less comparable. These problems came to exist due to lack of a policy. Similarly the Labour Research Centres set up during the Third Plan period have

conceived their work in terms of social surveys only and have undertaken surveys on subjects like student behaviour, tea drinking habits, etc. The lack of policy is again obvious. Third, analytic studies, analysis in depth of the working of several of the policy measures, and studies of evaluative nature have been done mostly by the governmental agencies, particularly by those that were responsible for the implementation of the policy. No wonder, the findings of such studies have gained only limited acceptance.

We concede that the collection of statistics is bound to be the responsibility of the government. However, we suggest that social surveys and survey of labour conditions should be governed by an overall policy wherein the survey needs are concretely identified and the problems of sampling and survey techniques are sorted out by surveyors in consultation with a technical committee which could perceive the utility of a particular survey in relation to the policy needs on a national scale. The analytical and evaluative studies should not be done by the government. This work should be entrusted to non-governmental bodies. A policy on labour research is the first step to improve the quality of labour research.* This could be done by encouraging universities to set up special courses in industrial relations and labour research. Applied social science research, particularly in the field of labour needs to be made more popular with academicians. Independent departments of industrial relations in different universities, institution of scholarships for doctoral research in this field, and special courses in labourses in labour research will go a long way in improving the quality of labour research in the country.

In addition to the above mentioned measures, the policy of Research Programmes Committee of the Planning Commission sanctioning only one project

*The second step is to develop competent research workers interested in labour research.

at a time to a university department needs to be reviewed. The departments are unable to attract competent scholars on a yearly tenure basis. If they succeed, the experience gained by the staff is lost as they shift to other jobs after the project is over. Despite fifteen years of labour research, the cadre of labour research workers is still to be developed.

Q.223. How should labour research be promoted in universities and research organisations?

Ans. The government should establish a policy on labour research and earmark sufficient funds. The execution of this policy and allocation of funds should be entrusted with a top level Council on Labour Research. This Council should be constituted with representatives from universities and research organisations interested in the subject, and the Ministry of Labour and Employment.

Q.224. Are the present arrangements for associating the research personnel outside Government for a deeper analysis of data available with Central and State Governments adequate? What steps should be taken to strengthen this association? Should co-ordination of research work done by different agencies be achieved?

Ans. At present there is hardly any association of research personnel outside government with the latter's research (really survey) work. This association as well as coordination of work of various agencies is very desirable. Some of the steps to strengthen this association are the following:

- a. A positive policy on labour research.
- b. Sufficient funds.
- c. A Council on Labour Research with executive functions.

A NOTE ON CONTRACT LABOUR

(Please see question 16)

The Shri Ram Centre for Industrial Relations has conducted a study on Contract Labour in manufacturing industries with a view to knowing the extent, the nature, and the characteristics of contract labour practices in selected industries, and to providing enough data to policy-makers for taking the most appropriate decisions. The findings of the study are reported in Contract Labour in Manufacturing Industries - a study and an analysis.*

The main recommendations of the study are given below.

1. Contractors' Labour

- (i) The employment of contractors' labour on perennial work of establishments should be abolished.
- (ii) All work of establishments that is perennial, and that part of the principal manufacturing process which is done on the premises of establishments under supervision of the principal employer should be performed by the directly employed workforce.
- (iii) The contractors' labour may be employed on regular and perennial work:
 - (a) in emergencies and other unforeseen circumstances;
 - (b) on occasions when the existing technical and mechanical facilities are inadequate for the jobs on hand;
 - (c) in situations where the regular workforce, including badli and temporary hands, falls short of the required manpower.

* Shri Ram Centre for Industrial Relations, New Delhi, 1966.

2. Job Contracting

- (i) Job contracting such as farming out of work, service or process subletting, should be accepted as a legitimate function in the manufacturing processes.
- (ii) Jobs/work should not be contracted out to persons/agencies that are not legal entities under any of the labour statutes, excepting in the case of such persons who are either self-employed or work with the help of the members of their families. The following illustrations are indicative, but not exhaustive, of the situations where job contracting could be done:
 - (a) intermittent, irregular or surplus work;
 - (b) partly finished components requiring further processing in the establishments;
 - (c) materials supplied by establishments for intermediate labour operations.
- (iii) Most ancillary units would be "legal entities" under the Factories Act, 1948 or the Shops and Commercial Establishments Acts. Legislative action may be taken to make other contractors legal entities and to institutionalise their obligations to labour at par with those directly employed by the principal establishments.

3. Unfair Labour Practices

Unfair labour practices in the contract labour system should be stopped. Employment of labour through contractors in preference to directly employed labour would be an "unfair labour practice" if resorted to

- (i) for cutting wage rates;

- (ii) with an intention to avoid obligations to labour under laws and agreements; and
- (iii) as an anti-union measure.

4. Regulation of Contract Labour

Contract labour practices, wherever not abolished, should be regulated with the purpose of securing for the contract labour such norms of wages, welfare and working conditions as are available to the regular workers of the establishments.

5. Licensing of Contractors

Contractors should be licensed. They should be required to provide wages, welfare and working conditions to their labour at the "scheduled" rates. This should be a built-in system as a condition precedent for obtaining the licence. A licensed contractor should have the status of an independent employer and should be treated as such.

(Fear has been expressed before us that the contractors are not likely to give a fair deal to their labour; hence, the principal employer should be made responsible for meeting the contractors' obligations to their labour. We do not find ourselves in agreement with this logic. Thousands of small firms that exist on orders obtained from big firms have their own obligations to their employees. It is common knowledge that the implementation of labour laws, and employment and wage conditions to workers in small firms are far from satisfactory. Will the principal employers be made responsible in all such cases? It is more a question of proper implementation of the laws. The government machinery responsible for the enforcement and the implementation of statutory provisions should not be substituted by employers.)

6. Responsibility for Implementation

Welfare and working conditions of the contract labour should be the responsibility of the principal employers when they are working on the premises of the establishments; and of the contractors when they are not working on the premises of principal employers.