Government Documents on Industrial Relations

Foreword by

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ALL INDIA TRADE UNION CONGRESS

AITUC PUBLICATION

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FOREWORD

In this booklet we are publishing five documents on the question of Industrial Relations Policy.

Document one is "Labour Ministry's Proposals for a Comprehensive Industrial Relations Law." This was circulated to heads of departments of various ministries and public sector concerns for their comments and opinion.

Document three is on the same subject, prepared by an Action Committee of the Bureau of Public Enterprises. This document was put before trade union representatives on 15-16 December 1972 and representatives of public sector managements on 18-19 December 1972. This meeting of trade union representatives was also attended by some Central Ministers.

The procedures followed in the case of Document One and Document Three deserve some attention.

The Labour Ministry chose to circulate its proposals on Industrial relations, as a *secret document* and that, too, only to heads of ministries and departments.

But the other document in whose formulation the ministries concerned with the Public Sector and Ministers C. Subramaniam, Mohan Kumaramangalam, D. P. Dhar, Mohan Dharia and others seem to have lent their counsel was *openly* put before the representatives of seven central TU organisations.

Why was the document of the Labour Ministry muffled in secrecy, while the other was opened up for discussion by the trade unions?

Obviously it was due to the fact that the secret proposals of the Labour Ministry's draft are so anti-working class and reactionary that they had to be secretive about it, until they gathered enough support from the employing heads of Government for their proposals. The Labour Ministry knew that most

of the trade union representatives would reject its draft as being a blueprint for "industrial disturbances policy".

The other document is in some vital respects a departure from the old diehard thinking of the Government and employers, though this document also emanates from the advisers of the public sector enterprises, who are not outside the pale of governmental thinking. But these ministries had at least the fairness to put their proposals to the trade unions for discussion and not be secretive about it.

The two lines followed by different sections of the same Government of India, even on the simple question of preparing and circulating "proposals" show the contradictory processes in governmental thinking. It is, therefore, no wonder if nothing gets settled in the sphere of industrial relations until the workers are forced to go on strikes, even to open negotiations or conciliation, as is happening today in many industries and services.

This much about the origin and methodology of the two documents.

One might say that the two approaches, both in method and content are due to the fact that one document has to cater to the private sector mainly, while the other comes up from the public sector. But the introduction to the public sector Document says, inter-alia: "The Industrial Relations Policy particularly if it is sought to be comprehensive, cannot distinguish the public sector from the private sector." (p. 25)

There is no doubt that the Government of India's policy on Industrial Relations is undergoing some rethinking, the reason being that the old anti-working class policy has been fought out and defeated by the working class struggles in all major areas of the economy and its industrial relations.

But some conservative sections of the ruling Congress Party and its Governments at the Centre and in the States do not want to change their old line as it will anger the vested interests, weaken the power of their bureaucracy and open the road to the democratic challenge of the workers to bourgeois dictatorial policies.

The secret document of the Labour Ministry repeats the main ingredients of the old discredited policy. Hence the Joint

Statement of the AITUC and HMS (Document II) characterises them as follows:

"These proposals which increase the powers of the bureaucracy over the formation, existence and functioning of trade unions, seek to put even more restrictions on the workers' right to strike, curb collective bargaining in favour of compulsory adjudication and make recognition of unions dependent upon the goodwill of the employers and the government, are reactionary, anti-working class and anti-democratic." (p. 23)

The Document of the Public Sector represents a manner of democratic thinking on the question of recognition of trade union inasmuch as it straightaway provides for their positive recognition by the employer and the method of ballot to decide their representative character. This document lays stress on methods of direct collective bargaining, as well as an interchange of thought and communication between the worker and the management on the shop-floor itself, besides top-level bargaining across the table.

At the same time, it overestimates the effectiveness of dialogue, the interchange of thought and the efficacy of bargaining to such an optimistic extent that it presumes the inevitability of agreement and the virtual ruling out of strikes. Though it does propose their banning as such, it comes to it by suggesting compulsory arbitration or what is called "third party intervention."

The Public Sector Document also reveals some naive faith in the so-called "science of behaviourism" that is being investigated and used by some of the bourgeois theoreticians in the West to overcome working class struggles and make the worker harmonise not only with the workshop and his labour but through that door with the capitalist system itself.

This is expressed in an alluring para in Document Three as follows:

"While it is essential to establish an institutional framework for bringing about a new pattern of relationship between organised employees and the management, attention is being increasingly focussed now on an area so long neglected even in the industrially developed societies. This is the area of the democratisation of the work process itself so that the employees' problems expressed in explicit behaviour, alienation from

job, absenteeism and indiscipline, can be dealt with in a manner that all levels of employees are helped to become motivated, committed and responsible without any feeling of pressure of exploitation." (p. 36)

Of course, if all the remedies suggested for the "democratisation of the work process" help to give some nervous relief to the worker, we have no objection—except to fomenting the belief that this is the real and final solution to the problems of capitalist exploitation.

The conclusions, which the trade union representatives drew on Document Three are given on p. 58 as Document Four.

It is necessary here to point out the agreed statement made therein that:

"...all trade unions present in the seminar are committed to make the public sector a success." (p. 59)

And it is also necessary to point out that:

"2.1 The concept of recognised union was accepted by all unions present."

But it is unfortunate to note in 2.2 that:

"There was, however, no agreement on the method by which the recognised union will be selected."

This disagreement, we think, will be used by the reactionary elements in the Government of India and the Labour Ministry not to endorse the proposal of the Public Sector document to provide the ballot method for choosing a union for recognition and thereby resolving the age-long deadlock and doing away with "patronised" unions.

We do not wish to go into any further analysis of the Documents as such. The clash of ideologies and approach that they represent is welcome and worth studying. Hence this publication.

S A Dange

New Delhi,
15 January 1973

(S. A. DANGE)

DOCUMENT I

LABOUR MINISTRY'S PROPOSALS

for a Comprehensive Industrial Relations Law (comprising machinery and procedure for dispute settlement, procedure for strike/lock out, recognition of trade unions, unfair practices, standing orders and trade union law).

I. MACHINERY AND PROCEDURE FOR DISPUTE SETTLEMENT:

The following new proposals are made regarding the machinery and procedure for dispute settlement, *in lieu* of the existing arrangements under the Industrial Disputes Act, 1947 and the relevant State Industrial Relations Laws:

(1) All Industrial disputes shall be settled by direct negotiations with the recognised union, or along with other union(s) as indicated under item III below. Where such negotiations fail, the parties shall settle the disputes by reference to mutually accepted arbitrator(s).

(2) Where there is no agreement for reference of a dispute to voluntary arbitration, the parties shall utilise the conciliation service provided by the appropriate Government, for the settlement of their dispute.

(3) In the event of failure of direct negotiations, and failure to settle a dispute in a non-essential service/industry by voluntary arbitration or by conciliation, either party (i.e. employer or the recognised union) may request the three-man Industrial Relations Commission (IRC), which may be set up by the appropriate Government in a prescribed manner, to adjudicate in the dispute.

Provided that the appropriate Government may also intervene in a dispute at any stage and, if necessary, refer it to the IRC in a case where, in the opinion of the appropriate Government, the dispute is likely to endanger the national economy or security or the health of the community or where there is

no recognised union. In disputes having wide repercussions in more than one State or affecting the national economy the Central Government shall have the right to refer them to the National Industrial Relations Commission. In all such cases the appropriate Government or the Central Government, as the case may be, may, after referring the dispute to the concerned IRC and recording the reasons for its intervention, prohibit the commencement or continuance of a strike or lock-out.

Provided further that the IRC shall take up only specified types of disputes for adjudication such as those relating to the creation of interests, such as wages, allowances and bonus, conditions of service and work, rationalisation, retrenchment and closure.

(4) In the case of essential services/industries specified in law, on the failure of negotiations and failure to settle the dispute in voluntary arbitration or by conciliation it shall be open to either party to request the IRC to take up the dispute for adjudication.

Provided that where there is an apprehension of a strike or lock-out, the appropriate Government shall refer the dispute to the IRC for adjudication; after such a reference has been made the commencement or continuance of any strike or lock-out in an essential service/industry shall be prohibited:

(5) The list of essential industries/services shall be short and as at Appendix I. The recognised union and the management may, however, by mutual agreement, agree to treat certain sections or operations in any undertaking/industry as essential services and exempt them from strike or lock-out action.

(6) IRCs shall be set up by the appropriate Government; wherever necessary more than one IRC may be set up. A National IRC shall also be set up at the Centre by the Central Government. Each IRC shall comprise one judicial person as Chairman and two non-judicial persons, well versed in problems relating to industry; labour or management; these persons shall be appointed by the appropriate Government, in consultation with the Chief Justice of the Supreme Court or the High Court in the case of judicial persons, and in consultation with the Chairman of the Central or the State IRC, so appointed, as the case may, in the case of non-judicial persons. Non-judicial members after appointment, shall sever all connections, if any,

with their interests and shall function as independent members and on a full time basis.

(7) IRCs shall be entrusted with the functions of—

i) adjudication of industrial disputes referred to them;
ii) certification of unions for recognition as a collective bargaining agent as well as deciding all other matters relating to recognition such as the level of recognition, whether plant or industry-wise or in multiplant undertakings and composition of a union for its eligibility to claim recognition;
iii) disposal of matters relating to unfair practices and inter-union rivalries; and
iv) such other functions as may be assigned to them.

(8) For the purpose of verification of membership or for organising a secret ballot for determining the representative character of unions for recognition or for investigation or complaints of unfair practices, the IRC shall utilise the field agency of the appropriate Government concerned such as the organisation of the Labour Commissioner.

(9) IRCs shall be deemed, under the law, to be courts for the purpose of the Contempt of Courts Act and shall also be vested with powers of attachment, issuing injunctions etc.

(10) Unanimous and majority recommendations/awards of the IRC shall be binding on all the parties; where no two members of an IRC agree, the Chairman's decision shall prevail and be binding on all concerned. An award/recommendation shall not be invalid merely for the reason that it is not signed by one of the members.

(11) All collective agreements between employers and the collective bargaining agent shall be registered with the appropriate IRC and a copy sent to the concerned Labour Commissioner of the Centre or the State.

(12) An IRC shall ordinarily dispose of an adjudication reference within a period of six months; if, however, this time limit is to be exceeded, the reasons therefor shall be recorded in writing by the IRC.

(13) An IRC may, if necessary, provide arbitrators from among its members/officers in cases where parties might agree to avail of such services.

(14) Labour Courts shall be appointed in each State to deal with

(a) Interpretation and implementation of Standing orders and awards;

(b) claims arising out of rights and obligations under the labour laws and agreements;

(c) cases of discharge or dismissal of workmen;

(d) applications for declaration of strikes/lock-outs as illegal; and

(e) such other matters as may be assigned to them.

(15) Members of a Labour Court shall be appointed by the appropriate Government in consultation with the High Court concerned; these may not necessarily be judicial persons, and other suitable persons with adequate qualifications and experience may also be appointed to Labour Courts. The strength and the location of a Labour Court shall be decided by the appropriate Government.

(16) Labour Courts shall have appropriate powers to execute their decisions and impose penalties.

(17) Employers and recognised unions, in common with the appropriate Government, shall have the right to approach a Labour Court for decision with regard to any of the matters specified in sub-para (14).

(18) A Labour Court shall ordinarily dispose of a case, referred to it, within a period of three months; if, however, this time-limit is to be exceeded, the reasons therefor shall be recorded in writing by the Labour Court.

(19) All cases pending at present with Labour Courts/Industrial Tribunals/National Industrial Tribunals shall be transferred to the proposed IRC/Labour Court as the case may be.

II. PROCEDURE FOR STRIKE/LOCKOUT:

The Industrial Disputes Act may be amended to provide that —

(a) a prior notice shall precede every strike/lock-out; the notice period may be 14 days as provided for, at present, in respect of public utility services; and

(b) before every strike action, a strike ballot shall be organised which shall be open to all members of the

union employed in the unit concerned and that the strike decision shall be supported by two-thirds of the total membership of such union. The ballot shall be organised in the presence of such authority as may be specified in the Act or the rules framed there under.

III. RECOGNITION OF TRADE UNIONS:

The following scheme of recognition of unions in an industrial unit/plant; or in an industry in a local area, may be incorporated in the proposed Industrial Relations Law.

(i) *Conditions for recognition*

(1) For being eligible to claim recognition as a sole bargaining agent in a plant/unit or industry in a local area, union —

(a) should have been functioning for at least one year after registration under the Trade Unions Act, 1926;

(b) should not have been found responsible for any unfair practice, as determined by the Chairman of the Industrial Relations Commission, during the period of 12 months preceding the date of preferring the claim for recognition;

Explanation: *The period of 12 months of disqualification of a union from claiming recognition on the ground of an unfair practice shall be counted from the date on which the last of such practices is alleged to have been committed.*

(c) should have its membership open to all categories of employees of the plant/unit or the industry in the local area, as the case may be;

Provided that in the case of an industrial union its rules shall provide for the setting up of sub-committees for important crafts/occupations to deal with their problems.

Note: *No recognition shall be granted to any craft/category-wise union.*

(2) Where there is only one union in a Plant/Unit or in an industry in a local area functioning for more than one year after registration under the Trade Unions Act, 1926 and it otherwise fulfils the conditions laid down in para (1) above, such union

shall be recognised by the employer as the collective bargaining agent provided it has a membership of 20% of the workers in a plant or 15% in an industry in a local area.

(ii) *Procedure for recognition*:

(3) Where more than one union claims recognition in a plant/unit or industry in a local area their relative membership shall be determined by verification of paid membership of each of the contending unions; the criterion for determining membership shall be paid membership for 3 months during a period of six months immediately preceding the date of reckoning which shall be the first of the calendar month in which an application for recognition is made to the Industrial Relations Commission.

(4) Where, on verification, a union is found to have a membership exceeding 50% of the total number of workers employed in the plant/unit, or is found to be the largest union with a membership exceeding 40% of the total number of workers employed in the industry in the local area, it shall be recognised as the collective bargaining agent for the plant/unit, or for the industry in the local area, as the case may be.

(5) Where, however, the verification results show that the membership of the largest union is 50% or below in the case of plant/unit or 40% or below the case of the industry in the local area, such union shall still be recognised as the collective bargaining agent for the plant/unit or the industry in the local area, as the case may be.

Provided that such a collective bargaining agent shall associate, during negotiations with the employer, other union(s), also whose verified membership is above 25% of the total number of workers in the case of a plant/unit or above 20 per cent in the case of an industry in a local area.

Provided further that only the collective bargaining agent shall be competent to raise demands, refer disputes for arbitration or adjudication, sign settlements with the employer or give a call for strike.

(6) Where the verified membership figures of the two largest contesting unions in a plant/unit or an industry in a local area show a difference of less than 10 per cent of 5 per cent of the respective total number of workers employed in a plant/unit or in an industry in a local area, all the workmen employed in the

plant/unit or in the industry in the local area shall elect, through secret ballot, one of the two contesting unions as the recognised union to be the collective bargaining agent.

Provided that where the results of such secret ballot showed that one of the two unions has secured more than 50 per cent of the total number of workers in a plant/unit or more than 40 per cent of the total number of workers employed in the industry in the local area, such union shall be recognised as the collective bargaining agent.

Provided further that where the result of the ballot showed that no union has secured more than 50 per cent of 40 per cent of the total number of workers employed in the plant/unit or in the industry in the local area respectively, the union securing the largest number of votes shall be recognised as the collective bargaining agent but it shall associate, in negotiations with the employer, such of the unions as may have secured more than 25 per cent or 20 per cent of the number of workers employed in the plant/unit or the industry for the local area respectively.

(7) Where an industrial union for a local area is recognised as the collective bargaining agent, it shall represent the workmen in all establishments in the industry in the local area concerned; in such a case no plant-wise union in the industry in that local area shall be accorded recognition and where there is already a plant-wise union, recognised in a plant/unit in the industry in the local area its recognition shall be withdrawn.

Provided that where an industrial union has been recognised as a collective bargaining agent for an industry in a local area, a union with the largest membership but representing more than 25% of the workers in a unit of the industry in the local area concerned shall have the right to represent to the management matters of local interest.

(8) All claims for recognition as well as other connected matters shall be dealt with and decided by the concerned Chairman of the Industrial Relations Commission, who shall associate the representatives of the contesting unions as assessors.

(9) Where no union is recognised in a plant/unit or in an industry in a local area, all unions eligible for recognition shall be given equal facility for collecting subscription for membership for a period of one year from the date of receipt of a claim; after expiry of the period of one year the process of recognition

as outlined here-in above, shall be resorted to for determining the sole bargaining agent in the plant/unit or industry in the local area.

(10) Where a union is already recognised, either under the Code of Discipline or a collective bargaining agreement, or under any other basis, other than that mentioned in para (11) the recognition of such a union shall be liable to be challenged only after a period of two years from the date of last recognition.

Provided that all contending unions in such a case shall have equal facility for collecting membership subscription for one year after the challenge is made, commencing from the date of such challenge. All other privileges of the recognised union, shall, however, continue till it loses recognition on the result of fresh determination of its representative character in accordance with the procedure indicated herein above.

Provided further that any bipartite agreement, providing for recognition of a union after the date of enforcement of the central law on recognition, shall not entitle such union to the benefit or recognition for two years and that its recognition shall be liable to challenge under this law at any time after the said agreement.

(11) Unions granted recognition under the respective state laws shall continue to be governed by the provisions of the said laws for a period of one year from the date of enforcement of the provisions on recognition in the Central Law.

Provided that all contending unions in such a case shall have equal facility under the respective State Laws, for collecting membership subscription for one year after a challenge, if any, is made, commencing from the date of such challenge. All other privileges of the recognised union, under the State Law concerned, shall, however, continue till it loses recognition on the result of fresh determination of its representative character in accordance with the procedure indicated herein above.

Provided further that any State Government, if they so desire, can, by issuing a notification in an official Gazette, apply the provisions of the Central Law to areas/industries covered by the State Law in supersession of the latter even before the expiry of the period of one year.

Provided further that after expiry of the said period of one year the relevant provisions regarding recognition of unions con-

tained in the State Laws shall stand superseded by the provisions contained in the Central Law;

(12) All claims of verification shall be finally disposed of by the Chairman of the IRC, as early as possible and in any case within a period of six months of the receipt of an application for recognition or re-recognition, as the case may be.

(iii) *Rights of Recognised Unions*:

(13) (i) The rights and obligations of a union recognised as the collective bargaining agent, whether under sub-para (5) or (6), shall be as in Appendix-II.

(ii) Recognition once granted shall be valid for two years and shall continue to be effective even thereafter until the representative character of the union is successfully challenged before the Chairman of the concerned Industrial Relations Commissions or it is otherwise derecognised at any time during the period of two years in accordance with the provisions in the Central Law.

(iii) An agreement entered into by an employer with a collective bargaining agent shall be binding on him and all the workmen of the plant/unit or industry as the case may be.

(iv) *Rights of Unrecognised Unions*:

(14) Unrecognised (but registered) unions shall have the right to represent cases of individual workmen regarding dismissal or discharge of retrenchment or termination of service before a Labour Court.

(*Individual workmen concerned shall also have the right to approach a Labour Court in respect of the cases mentioned above*).

Provided that in accordance with sub-paras (5) and (6) unions with a verified membership of more than 25 per cent of the workers in a plant/unit or more than 20 per cent in an industry in a local area shall have the right to be associated, in the negotiations, between the collective bargaining agent and the employer, though they shall not be competent to enter into any agreement with the employer, nor shall they be competent to challenge any agreement entered into by the employer with the collective bargaining agent.

(v) *Conditions for derecognition*:

(15) A Union recognised as the collective bargaining agent shall be liable for derecognition if —

(i) It ceases to be registered Union under the Trade Unions Act, 1926;

(ii) It is found responsible for an unfair practice, as determined by the Chairman of the Industrial Relations Commission;

(iii) On the claim of a rival union, after two years of its recognition, it is found, on verification of membership by the Chairman of the Industrial Relations Commission, that the Union has lost its representative status of the collective bargaining agent.

Explanation: *For technical or temporary contraventions of the Trade Unions Act, under item (i), or for minor unfair practices under item (ii), the IRC may not recommend derecognition of a recognised union for twelve months but award lesser penalties such as suspension of recognition for a specified period, withdrawal of certain facilities like the right to check-off and fine of a prescribed amount not exceeding a sum of rupees one thousand.*

(vi) *Re-recognition*:

(16) A union, the recognition of which as a collective bargaining agent has been cancelled, may at any time after the expiry of a period of 12 months from the date of its de-recognition apply for re-recognition if it is otherwise eligible to claim recognition and if there is no recognised union or the union recognised has completed a period of two years of recognition.

(17) The provisions proposed in sub-paras (3) to (6) above for recognition as a collective bargaining agent shall apply in respect of an application for re-recognition also.

IV. UNFAIR PRACTICES

The following proposals are for consideration —

(i) Unfair practices listed in Appendix III may be suitably incorporated in the proposed Industrial Relations law

with powers reserved to Government to add to or make deletions from the list.

(ii) A complaint of unfair practices may be made to the IRC by an employer or recognised union and unrecognised union may also make a complaint to the appropriate Government which may refer it to the IRC for disposal.

(iii) Matters relating to unfair practices, including enquiries into complaints and their disposal may be dealt with by the proposed IRC—The IRC shall be empowered to take any action against the persons concerned for resorting to unfair practices including the imposition of reasonable compensation or relief, if any. The normal provisions for imposition of penalty of imprisonment or fine upto rupees one thousand or both, as contained in Chapter VI of the I.D. Act may be extended to cases of established unfair practices as may be awarded by the IRC.

(iv) On the enforcement of the Central Law, the provisions regarding unfair practices, if any, in a State Law shall stand superseded.

V. STANDING ORDERS AND GRIEVANCE PROCEDURE:

The Industrial Employment (Standing Orders) Act, 1946, may be incorporated in the proposed industrial relations law and the definition of 'workman' in the I.D. Act may be made applicable to this Act also. The Act also needs to be amended in the following respects:—

(i) Sub-Section (3) of section 1 of the Act provides that it shall apply to every industrial establishment wherein 100 or more workmen are employed or were employed on any day of the preceding twelve months. Sometimes employers reduce the employment level to escape coverage under the Act. Besides, it also creates uncertainties for the workmen if the establishments once covered go outside the purview of the Act because of changes in the employment limit. The matter was considered at the 24th Session of the Standing Labour Committee (February 1966) and it was agreed to amend the Act to provide that the standing orders once made applicable to an industrial estab-

lishment should continue to apply irrespective of any subsequent change in the number of workmen. It is accordingly proposed to amend sub-section (3) of section 1 for this purpose.

(ii) Sub-section (3) of section 5 of the Act requires the certifying officer to send copies of the certified standing orders to the parties concerned within seven days after orders under section 5(2) of the Act are passed by him. The period of seven days is not considered practicable in all cases. It is proposed to insert a proviso that if for some reason this time limit is found to be inadequate the certifying officer may, for reasons to be specified in writing, extend this by a period not exceeding 20 days.

The National Commission on Labour had recommended (Recommendation No. 200) that workmen should be entitled to the payment of subsistence allowance during the period of suspension, pending domestic enquiry, as was agreed to at a tripartite meeting. The Model Standing Orders provided under the Industrial Employment (Standing Orders) Central Rules, 1946 have already been amended to make such a provision but these rules are applicable only to undertakings for which the Central Government is the appropriate Government. It is, therefore, proposed to make such a provision in the Act so that it could be applied uniformly to the entire country without every State amending their rules.

The National Commission on Labour had recommended that an effective grievance procedure which should be simple, flexible and more or less on the lines of the 'Model Grievance Procedure under the Code of Discipline', should be incorporated in law. For this purpose it is proposed to define a 'grievance' in the Act and to provide for the setting up of a grievance machinery in every industrial establishment employing 100 or more workmen; the details of the procedure, broadly on the lines of the Model Grievance Procedure, may be provided for in the rules.

VI. TRADE UNION LAW:

The National Commission on Labour reviewed the working of the Trade Unions Act and made a number of recommendations. These were considered at various tripartite meetings. However, at the 29th Session of the Standing Labour Com-

mittee some consensus was reached on the changes suggested in the Trade Unions Act. On an examination of the recommendations of the Standing Labour Committee, it is suggested that the following changes may be made in the Act and the Act itself incorporated in the proposed Industrial Relations Law:

(i) All unions should get themselves registered under the Trade Unions Act. The minimum number of members required for registration of a union should be raised to 10%, subject to a minimum of ten, of the employees of a plant, or 100, whichever is lower. The basis of employment, for determining the above percentage, would be the average employment of the plant during the calendar year, preceding the year of application for registration provided, that, in the case of seasonal industries, the percentage will be determined with reference to the average employment during the season immediately preceding the date of application for registration.

(ii) The Registrar of Trade Unions should complete all preliminaries regarding grant or refusal of registration within 30 days from the receipt of an application, excluding the time which a union might take in answering his queries. The Registrar may be instructed, through departmental orders, to specify and intimate to the applicant all defects and mistakes in an application for registration as soon as possible after the receipt of the application.

(iii) Registration of a union may be cancelled if—

(a) the annual return discloses that its membership has fallen below the minimum prescribed for registration of it on a complaint by a rival union, the membership of the registered union concerned is, on, verification, found to have fallen below the prescribed minimum;

(b) the union fails to submit its annual return willfully or otherwise within the prescribed period;

(c) the annual return submitted by it is defective in material particulars and these defects are not rectified within the prescribed period; and

(d) for contravention of any of the conditions laid down for registration or any of the rules of the union.

(iv) An appeal shall lie to the Industrial Relations Commis-

sions against the Registrar's order of refusal or cancellation of registration.

(v) Provision may be made in law for regulating applications for re-registration of unions; such applications for re-registration may not be entertained within six months of the date of the cancellation of registration.

(vi) The minimum monthly membership fee of a union should be rupee one for the organised sector, 50 paise for the unorganised sector, and 25 paise for agricultural, farm and forest labour.

(vii) The Central Worker's Organisations should normally settle intra-union disputes, if any, in their constituent unions, but where a Central Organisation is unable to resolve such a dispute within a period of two months, the matter may be referred to the Industrial Relations Commission for a decision, by either party to the dispute or by the appropriate Government.

(viii) On the enforcement of the Central Law the provisions regarding registration, if any, in a state law shall stand superseded.

The definition of 'workman' in the Trade Unions Act is very comprehensive and includes all persons employed in trade or industry whether or not in the employment of the employer with whom the trade disputes arise. The definition of 'workman' in the Industrial Disputes Act is not so comprehensive. As a result a union can be formed by all employed persons in an undertaking, whether or not they are 'workmen' under the I.D. Act. In the past, such composite unions have agitated on behalf of non-workmen also and created many a difficult situation. It is, therefore, proposed to adopt the definition of 'workman' in the I. D. Act for purposes of the Trade Unions Act also so that only members of a registered trade union could agitate and get the benefits that may be available to them under the I. D. Act.

The entire administration of the Trade Unions Act is entrusted to the State Governments. The use of the words "appropriate Government" in the Act is, therefore, superfluous. It is proposed to substitute the words 'appropriate Government' in the Act by the words 'State Governments concerned'.

VII. OTHER AMENDMENTS:

The working of the I. D. Act has made it necessary to amend it in certain respects. Some of these are discussed below:

(i) The definition of 'appropriate Government' under the I.D. Act is different from that in the I.E. (S.O.) Act; the main difference is that while industrial relations in most public sector companies and corporations of the Central Government under the former Act fall within the State sphere, for purposes of certification of Standing Orders under latter Act they come within the jurisdiction of the Central Government. In the past attempts were made on several occasions to secure the concurrence of the State Governments to the transfer of industrial relations in such Central Public Sector Undertakings to the Central Government, but State Governments have always opposed the proposal. As it is now proposed to enact a comprehensive Industrial Relations Law which will comprise both the enactments it would be logical to have one common definition of the term 'appropriate Government'. If the definition given in the I. E. (S.O.) Act is adopted for the purposes of the I. D. Act it would mean extension of the jurisdiction of the Central Government to public sector companies and corporations run under their control. If on the other hand, the definition in the I. D. Act, is adopted for the I. E. (S.O.) Act also, part of the Central jurisdiction under the latter will get transferred to States. In the recent payment of Gratuity Act, 1972, the definition of 'appropriate Government' is somewhat similar though it extends the jurisdiction of the Central Government still further. On the analogy of the above Act and for the sake of uniformity it seems advisable to adopt one common definition of the term 'appropriate Government' on the lines of that prescribed under the I.E. (S.O.) Act.

2. Section 9A prescribes notice by an employer before he proposes to effect any change in the conditions of service, of his workmen. It is proposed to provide that an employer shall not effect such a change also during the pendency of conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

3. Section 23 uses the term 'industrial establishment' which is not defined. It is proposed to add the following explanation at the end of this section.

Explanation: *'Industrial establishment' means any establishment engaged in an industry as defined in section 2(j) of the Act."*

4. Section 25H provides that an employer shall give the first opportunity for re-employment to retrenched workmen. There is, however, no time limit for this purpose. It is proposed to provide that the responsibility for offering re-employment to retrenched workmen shall rest on an employer only upto a period of three years from the date of their retrenchment.

5. Section 33C(i) provides for a limitation period of one year for the recovery of money due from an employer. However, under Section 33C(2), which provides for computation of the amount due to a workman, no time limit has been prescribed. Accordingly, some times workmen come up with very old claims whose computation involves practical difficulties. It is proposed to provide a time limit of three years under section 33C(2).

6. Section 33C(i) provides for the recovery of money due to a workmen under a settlement or award or under chapter VA (i.e. lay off and retrenchment compensation). The use of the word 'money' in subsequent sub-sections has to be interpreted in the context of the scope defined above. It is proposed to include 'bonus' under the purview of 'money' appearing in Section 33C(i) so that it can also be recovered, wherever due.

7. Section 33C (1) entitled a workmen himself or any person authorised by him in writing in this behalf or in the case of his death, his assignee or heirs, to apply for the recovery of any money due to him. In section 33C(2), however, only the word 'workman' has been used. It is proposed to amend Section 33C(2) so that the heirs or assignees of a deceased workman can also secure the benefit under the Act.

Appendix I

ESSENTIAL INDUSTRIES/SERVICES

1. Manufacture, generation or supply of electricity, gas or water to public.
2. Any system of public conservancy or sanitation.
3. Any service in hospitals and dispensaries.
4. Fire-fighting services.
5. Any railway service or any transport service for carriage of passengers or goods by land, water and air.
6. Any postal, telegraph or telephone service.
7. Any service in or in connection with the working of any port or dock.
8. Defence establishments.
9. Banking.
10. Watch and ward and security services.

Appendix II

RIGHTS OF RECOGNISED UNIONS

1. to raise issues and enter into collective agreements with employers on general questions concerning the terms of employment and conditions or service of workers in an establishment or, in the case of a representative union, in an industry in a local area;
2. to collect membership fees/subscriptions payable by members to the union within the premises of the undertaking; or demand check-off facility;
3. to put up or cause to be put up a notice board on the premises of the undertaking in which its members are employed, and affix or cause to be affixed thereon, notices relating to meetings, statements of accounts of its income and expenditure and other announcements which are not abusive, indecent, inflammatory or subversive of discipline;
4. to hold discussions with the representatives of employers who are the members of the union at a suitable place or places within the premises of office/factory/establishment as mutually agreed upon;
5. to meet and discuss with the employer or any person appointed by him for the purpose, the grievances of its members employed in the undertaking;
6. to inspect, by prior arrangement, in an undertaking, any place where any member of the union is employed;
7. to nominate its representatives on the grievance committee constituted under the grievance procedure in an establishment;
8. to nominate its representatives on statutory or non-statutory bipartite committees, e.g. works committees, production committees, welfare committees, canteen committees, and house allotment committees.

Appendix III

UNFAIR PRACTICES

1. *On the part of the Employers*:

(1) To interfere with, restrain or coerce employees in the exercise of their right to organise, form, join or assist a trade union and to engage in concerted activities for the purpose of mutual aid or protection, that is to say—

(a) threatening employees with discharge or dismissal, if they join a union;

(b) threatening a lock-out or closure, if a union should be organised;

(c) granting wage increase at crucial periods of a union organisation with a view to undermining the efforts of organisation.

(2) To dominate, interfere with, or contribute support—financial or otherwise—to any union, that is to say:

(a) an employer taking an active interest in organising a union of his employees; and

(b) an employer showing partiality or granting favour to one of several unions attempting to organise or to its members.

Note: *This will not affect rights and facilities, if any (arising out of the fact of recognition) of recognised unions.*

(3) To establish employer-sponsored unions.

(4) To encourage or discourage membership in any union by discriminating against any employee, that is to say:

(a) discharging or punishing an employee because he urged other employees to join or organise a union

(b) refusing to reinstate an employee because he took part in a lawful strike;

(c) changing seniority rating because of union activities;

(d) refusing to promote employees to higher posts on account of their union activities;

(e) giving unmerited promotions to certain employees, with a view to sow discord among the other employees or to undermine the strength of their union;

(f) discharging office bearers or active union members, on account of their union activities.

(5) To discharge or discriminate against any employee for filing charges or testifying against an employer in any enquiry or proceedings relating to any industrial dispute.

(6) To refuse to bargain collectively in good faith with the union certified as a collective bargaining agent.

(7) To coerce employees through administrative measures, with a view to secure their agreements to voluntary retirements.

II. *On the part of the Trade Unions :*

(1) For the union to advise or actively support or to instigate an irregular strike or to participate in such strike.

Note: *'An irregular strike' means an illegal strike and includes a strike declared by a trade union in violation of the rules or in contravention of its conditions of recognition or in breach of the terms of a subsisting agreement, settlement or award.*

(2) To coerce workers in the exercise of their right to self-organisation or to join unions or refrain from joining any unions, that is to say:

(a) for a union or its members to picket in such a manner that non-striking workers are physically debarred from entering the work place;

(b) to indulge in acts of force or violence or to hold out threats of intimidation, in connection with a strike against non-striking workers or against managerial staff.

(3) To refuse to bargain collectively in good faith with the employer.

(4) To indulge in coercive activities against certification of bargaining representative.

(5) To stage, encourage or instigate such forms of coercive sections as wilful 'go-slow' or squatting on the work premises after working hours of 'gherao' of any of the members of the managerial staff.

(6) To stage demonstration at the residence of the employers of the managerial staff members.

(7) To resort to 'work-to-rule' which is likely to or actually does result in substantial retardation of work.

III. *General Unfair Practices*:

(1) To discharge or dismiss employees:

(a) by way of victimisation;

(b) not in good faith but in the colourable exercise of the employers' rights;

(c) by falsely implicating an employee in a criminal case on false evidence or on concocted evidence;

(d) for patently false reasons;

(e) on untrue or trumped up allegations of absence without leave;

(f) in utter disregard of the principles of national justice in the conduct of domestic enquiry or with undue haste;

(g) for misconduct of a minor or technical character, without having regard to the nature or the particular misconduct or the past record of the service of the employees, so as to amount to shockingly disproportionate punishment;

(h) to avoid payment of statutory dues.

(2) To abolish the work being done by the employees and to give such work to contractors as a measure of breaking a strike.

(3) To transfer an employee malafide from one place to another under the guise of following management policy.

(4) To insist upon individual employees, who were on legal strike, to sign a good conduct bond as a pre-condition to allowing them to resume work.

(5) To show favouritism or partiality to one set of workers, regardless of merit.

(6) To employ employees as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workers.

(7) To fail to implement award, settlement, agreement or to pay statutory dues and earned wages.

Note: *The word 'employee' used in the List No. III above does not include an employee whose duties are essentially managerial.*

DOCUMENT II

AITUC—HMS STATEMENT ON LABOUR MINISTRY'S PROPOSALS

On 14 November 1972, S. A. Dange, general Secretary, All India Trade Union Congress, and Mahesh Desai, general secretary, Hind Mazdoor Sabha, issued the following statement to the press:

"The All India Trade Union Congress and the Hind Mazdoor Sabha strongly condemn the proposals being circulated by the Government of India regarding the comprehensive Industrial Relations Bill, which, it is said, will be introduced in parliament during the next budget session.

"These proposals, which increase the powers of the bureaucracy over the formation, existence and functioning of trade unions, seek to put even more restrictions on the workers' right to strike, curb collective bargaining in favour of compulsory adjudication and make recognition of unions dependent upon the goodwill of the employers and the government, are reactionary, anti-working class and anti-democratic. In fact, the proposals would end genuine, democratic trade unionism and introduce controlled trade unionism. Naturally, the AITUC and HMS cannot accept this. The entire concept of legislating a so-called code of unfair practices is a clumsy device to kill workers' struggles and put them at the mercy of the employers.

"The AITUC and HMS call upon all sections of the trade union movement to reject these proposals which, if enacted, would sound the death-knell of trade unionism in India, and to unitedly fight government's efforts to impose a controlled trade union movement on the workers and mobilise the workers to enforce a law which compels the employers to grant unconditional recognition to unions who really enjoy the confidence of the workers and which also protects and enlarges all democratic rights of trade unions and workers."

DOCUMENT III

ACTION COMMITTEE ON PUBLIC ENTERPRISES' ACTION PLAN FOR EFFECTIVE INDUSTRIAL RELATIONS IN PUBLIC SECTOR

Preface

The Action Committee on Public Enterprises set up in January, 1972, under the chairmanship of Shri M. S. Pathak, Member, Planning Commission, has been examining, in addition to other key matters, the problem of industrial relations in the public sector. For a thorough study of the problem, the Committee had set up a working group comprising of some of the students of the subject. The membership of the group was determined on the strength of their professional interests rather than on their professional identities. The group is still at work.

In the meanwhile, Prof. Nitish R. De, a member of the Action Committee, had prepared a draft document in early September which was submitted to a group of 30—odd critics drawn from diverse sources—trade unions, managerial group, personnel field, academicians and civil servants, on September 19th, 1972. The participants made their comments and observations in their personal capacity and *not* as representatives of any interests.

At the instance of the union minister for Industrial Development and Science and Technology Shri C. Subramaniam, a drafting committee consisting of Shri V. Krishnamurthy (Coordinator), Shri N. P. Dube, Shri N. Vaghul, Smt. Kamini Adhikari and Prof. Nitish R. De was set up to integrate the consensus of the Seminar into the Report. The Drafting Committee assembled in Delhi on October 29, and has produced this Report (Shri N. P. Dube and Shri N. Vaghul could not attend the meeting).

The revised Draft will now be submitted to a cross section

of the national and industry-based trade union leaders and to a select group of chief executives from the public sector for their responses in the light of which the document will be finalised for consideration of the Government.*

AN ACTION PLAN FOR EFFECTIVE INDUSTRIAL RELATIONS IN THE PUBLIC SECTOR

Introduction

The public sector, understandably, belongs to the industrial ethos of India; as such its industrial relations system cannot be looked up as an "isolate" from the overall industrial relations climate. While this is so, the public sector enjoy a milieu distinct from that of the private sector. Not only the ownership pattern is different, in size and complexity, in the nature of technology and in administrative practices, the public sector offers a more complex picture than the private sector.

Industrial Relations Policy, particularly if it is sought to be comprehensive, cannot distinguish the Public Sector from the Private Sector. There will indeed be some substantive elements of uniformity in the Industrial Relations Policy for the public sector and the private sector. It is, therefore, expected that the Government at the national and the state levels will bear the element of inter-dependence between the two sectors in mind while formulating a new Industrial Relations Policy.

There is also the uniqueness of the Indian scene. In the context of our socio-political structure and processes, we are required to develop a plan of action which may differ from the western or the eastern experiences as well as from those of the communist societies.

The following action plan will take into account the relevant contextual factors including whatever has so far been done in the country over the past quarter century for the public sector in the area of industrial relations. For the purpose of in-

*Two semiuars were accordingly held. The first on 15-16 December 1972, in which representatives of trade unions were invited and the second on 18-19 December 1972 in which representatives of public sector managements participated.—Editor.

dustrial relations policy for the public sector the entire range of enterprises including the nationalised banks and the departmental undertakings such as the Railways, Ordnance factories, P & T, Ports and Docks etc. will be included. The excluded category will be the Public Sector Undertakings belonging to various State Governments.

Objectives of an effective industrial relations plan:

The action plan will rest on these basic objectives:

(a) that such state of industrial relations do subsist in an enterprise as will facilitate the continued fulfilment of its stated objectives and concrete goals;

(b) that all sections of employees will enjoy terms and conditions of employment *consistent with* their performance;

(c) that all sections of employees will enjoy intrinsic satisfaction as active members of a national productive system; and

(d) that the enterprise will generate internal human resources and essentially depend on them to revitalise the organisation system. Such an effort will include the management of industrial strife and conflict.

Section I. A reorientation in the public sector policy towards trade unions

Trade unions are essentially a symbol of the representative system. This is so irrespective of whether the enterprise belongs to the public or the private sector.

In the public sector, however, in the context of our parliamentary democratic way of life along with the accent on socialism, a trade union representing its members has a special place. In a pluralistic society like that of ours, there are and will continue to be more than one trade union with politically oriented ideologies.

The complexity of multiple unions is compounded by either an attitude of cynical complacency or of bureaucratic orientation. Some key managers and trade union leaders do believe that in the public sector nothing in the nature of "sensibility" and "maturity" is possible and, therefore, one cannot expect responsible behaviours from the other party. Some others are stepped in "protectionist" culture according to which they are

oriented towards keeping the "records" straight than in getting along with the task.

This reality has so far been dealt with unsatisfactorily, either on a legalistic basis or on the basis of expediency. Some State Acts, such as Madhya Pradesh Industrial Relations Act, have given exclusive recognition to one union for an enterprise for all bipartite and tripartite transactions, leaving practically no room to unrecognised unions.

In most other places the recognition issue has been and is still being dealt with under the code of discipline with verification mechanism made available through the State Government machinery. The experiences of the past two decades point towards three major lacunae in this procedure:

(a) The verification mechanism has not always been able to identify the union which has largest following. The Works Committee elections or elections for the Provident Fund Board of Trustees have often proved that the verification procedure for trade union recognition has been faulty. The result has on occasions been harmful as has been the case at Durgapur Steel Plant and Heavy Electricals, Bhopal.

(b) The existence of unrecognised trade unions has very often been felt at the shop floor particularly in respect of inter-dependent production system. In a large concern like Durgapur Steel Plant, an unrecognised union may have real control over a particular shop. Because of its unrecognised status, it does not enjoy the legitimacy even though it enjoys real power. Such a situation has very often acted as a real hindrance to sound industrial relations practice.

(c) The recognition issue has also failed to take into account the complexity posed by various interest groups organised either on craft lines as in Indian Airlines or on hierarchical lines as in State Bank of India with one federation representing the clerical and subordinate employees and the other representing the supervisory and officers cadre.

In the circumstances, administrative ministries and public sector enterprises have worked out different strategies with

the result that today there is no uniform policy in respect of the handling of trade unions. In many cases, as in West Bengal today, most public sector concerns deal with all the trade unions preferably together to which programme explicit support has been given by the West Bengal Government. There are others who have maintained a distance from the unrecognised unions, sometimes with success and sometimes with undesirable consequences. There are also instances where the personalities in the administrative ministries have adopted a policy of back-seat driving by tendering unofficial directions to local managers in the matter of dealings with the trade unions. There are also instances that the key personalities within the management in the public sector have either fostered the existence of multiple unions or they have sought to utilise the existence of multiple unions for their own purposes. The reality of caste, language and regional loyalties cuts into the union-management dynamics which is often slurred over.

Yet another undesirable development in the public sector is the existence of—either implicity or explicity—a "caste" system which distinguishes between the officers and the workers. Very often the spirit of exclusiveness creates social barriers and mental blocks. Personnel policies are often adversely affected by the existence of a separatist outlook.

Given the reality of the situation, it is suggested that the following policy guides be accepted in respect of the public sector.

1.1 *More than one union and in many cases more than one group with the same union is a socio-political reality in India and it should be recognised as such.*

1.2 *A trade union and an association of employees, even though the employees may belong to supervisory/officers' cadre, are a symbol of representative system. As such, they are a reality representing constituents which may be small or large in number.*

1.3 *A strictly legalistic stand based on the definition of workmen as under Industrial Disputes Act or the definition of the representative union as under certain State Acts will not further the cause of healthy industrial relations in an enterprise.*

1.4 *It will be essential to reorient the Industrial Relations Policy in such a way that dysfunctional distinction between the officers and the other ranks does not persist. Determined efforts will need to be made so that an invidious distinction does not take roots.*

These guidelines are as much for the administrative ministries as for the public sector managements including subordinate layers of managers.

Section 2. *Basis for determination of and the role of bargaining agent.*

Despite the existence of multiple unions and within the same union of multiple splinter groups, it will be necessary for a public sector enterprise to work on the basis of a recognised bargaining agent with certain delimitation of roles.

The present practice of selection has already shown many pitfalls. Many union organisations and rank and file workmen have lost confidence in the verification machinery now in existence. Taking the reality into account the following steps are being suggested:

2.1 *A homogeneous unit located at one geographical centre such as Durgapur Steel Plant or Hindustan Machine Tool Unit at Kalamassery, should be the basis for recognition. The sub-system of the unit, such as the township establishment of the Durgapur Steel Plant should be taken as part of the unit for this purpose.*

2.2 *An industry-wise basis of recognition such as the Iron and Steel or the Machine Tool Industry, or Statewise basis of recognition could be possible should the unions in the individual plants located at different geographical centres opt for this.*

2.3 *As a further clarification of 2.1 and 2.2, a bargaining unit will be selected on the basis of the homogeneity of the technology in conjunction with the intensity of mobility of a cluster of employees, subject to the existing practice. The existing practice will continue till, in the judgement of the Government, it will call for a review on the basis of the emergence of new conditions. Wherever such a review is sought to be undertaken the same will be done by the Public Sector Industrial Relations Commission as mentioned in 3.2 below.*

2.3.1 *According to this concept, the employees represented by the Air Corporation Employees' Union will belong to one bargaining unit i.e. I.A.C.; same will be the case with the clerical employees of the State Bank of India irrespective of their geographical location. These are stated by way of illustration only.*

2.4 *For the bargaining agent election, as defined in 2.2 and 2.3 all permanent relevant employees, employees under probation and temporary employees who will have completed one year's continuous service, are entitled to participation in the elections to be held by secret ballot method. All registered trade unions having been in existence for at least one year and having submitted up-to-date annual returns to the Registrar of Trade Unions, will be eligible for contest. Unions themselves will be the candidates and not the leaders of the unions.*

2.5 *The preparation of the electoral rolls and the conduct of the elections will be in the hands of the Public Sector Industrial Relations Commission (vide* 3.2).

2.6 *Two alternatives are available for the definition of 'bargaining agent' and the choice among the alternatives would depend on a number of factors.*

2.6.1 *Under one alternative, the union/association receiving the largest number of valid votes will be declared as the bargaining agent for the employees for a period of* 3 *years.*

According to the plan, this union will bargain for all the employees who will have participated in the election procedure in respect of their terms and conditions of employment. Broadly speaking, the coverage of industrial disputes as in the Industrial Disputes Act will be the area of negotiations and settlement between the bargaining agent and the management.

There will be scope for two bargaining agents or more located at two or more bargaining units under the same corporation to voluntarily unite to bargain with the corporate management.

The bargaining agent will have the exclusive right to bargain for all the employees and in that sense its operation will extend beyond its own members. The bargaining agent may thus have a narrower membership base and wider constituency base.

Yet another aspect will be to develop a coalition of bargaining agents particularly where trade unions exist on trade/craft line or hierarchical line. In such a case bilateral negotiations leading to agreement will not only cause a good deal of hesitancy and anxiety in the parties concerned but there will continue a perpetual state of disequilibrium in industrial relations. This is evident in the case of Indian Airlines and to some extent in the State Bank of India.

Where several bargaining Agents will exist, it will be necessary for the bargaining agents to enter into a voluntary agreement with the management regarding those items in the terms and conditions of employment which will be negotiated on a collective basis, leaving out certain other items for bilateral negotiations. Should such voluntary agreement fail to materialise, the Public Sector Industrial Relations Commission will be called upon to go into the problem and effect the bifurcation.

2.6.2 *Under the second alternative, the mode of determination of the bargaining agent will be by elections on the basis of proportional representation, provided a union gains at least 10% of the valid votes polled. Under this concept, while there will be a single agency for bargaining, this agency might be a composite agency if in a given enterprise multiple and rival unions are present. In this case, the bargaining agent could be conceived of as a Bargaining Council providing representation to different unions with their respective followers. In units where there is only a single union, the bargaining agent would be a unitary agency. It is not precluded that even where there is a multiplicity of unions, it may be decided by the unions to elect a unitary agency as bargaining agent.*

2.7 *The bargaining agent will negotiate and effect a settlement for a minimum period of two years on the terms and conditions of employment, more or less in line with the coverage of "industrial disputes" under the Central Act.*

2.8 *Wherever there is more than one bargaining agent on account of hierarchically based unions or craft unions the bargaining agent will be required to bargain with the management on selective items collectively leaving aside other items for bilateral agreement.*

2.9 *The division of the items into two categories will be*

done either on a voluntary basis by an agreement entered into between the bargaining agents and the management or by a decision of the Public Sector Industrial Relations Commission.

2.10 *It will be permissible for two or more bargaining agents located in two or more bargaining units under the same corporation to unite to bargain on the terms and conditions of employment.*

Section 3. *Third Party intervention : Appeal procedure*

What has so far been spelled out is based on the premise that a constitutional forum will be created according to which the representative system can deal with the interests of the constituency through the process of negotiations with the executive system. Even when such a system is ushered in, provision will need to be made for the operation of a judicial system free from the legal niceties and the delays and at the same time offering guarantees for fair play and equity. The role of the third party intervention, essentially in the nature of a platform for appeal in the case of a stalemate, will be to provide a mechanism to continue with the spirit of legitimacy of constitutional aproach.

While the higher forums of law such as the High Courts and the Supreme Courts of India will exercise their appellate jurisdiction in terms of the provisions of the Constitution, it is the objective of the third party intervention that neither party to a bargaining situation is forced to seek redress in the higher forums of justice, for lack of a suitable forum which can ensure justice as expeditiously as possible.

Keeping this objective in view the guidelines will be as follows : —

3.1 *The Chairman-cum-Managing Director of the enterprise will be the first level of appeal structure to whom an issue or issues which are the cause of a deadlock, may be referred by either party. He will then dialogue with both of the parties and give his concrete decision. The Chairman in this role will act as the representative of the shareholders and will act in the best interest of the enterprise.*

3.2 *If a mutually acceptable solution could not be found even after the appeal to the Chairman-cum-Managing Director, both parties to the dispute can prefer a second appeal to the Public Sector Industrial Relations Commission. This body will*

be headed by a person of eminence and known for his impartial views, a chief executive of a public sector corporation known for his achievements in the area of Industrial Relations and a senior member of the Trade Union profession; it may include a management specialist or academician with high professional competence. Generally it is desirable to have an odd number of members on this Commission.

3.3 *Should any of the parties to a deadlock situation decided to bypass the provision contained in* 3.1 *it may take up the issue with the forum provide for in* 3.2. *Such a recourse can be taken by the employees in the case of declaration of lock-out or similar other action by the Management and in case the employees resort to strike, go-slow or similar other methods. Notwithstanding anything that is stated above, the Government in the Centre can refer to the Public Sector Industrial Relations Commission any dispute which, in the opinion of the Government of India should be resolved expeditiously in the overall national interests.*

3.4 *An individual dispute such as a dismissal case may still be dealt with by the legal machinery existing now.*

Section 4. *Establishment of integrative collective bargaining relationship*:

While it is one thing to create an institutional base for joint negotiation leading to joint agreement between the bargaining agent and the management, it is quite another to establish a bargaining relationship which is healthy and oriented towards problem-solving. The accumulated experiences in the country today indicate the predominance of stressful, suspense-prone and suspicion-ridden bargaining relationship between the two parties. This is very often reflected in emotion-based deadlocks, long delays, breakdown and subsequent re-negotiation and behind the scene power-based pressure. In the case of the public sector, pressures are at times brought upon the administrative ministries.

It will be necessary to disorient the bargaining relationship from this kind of unhappy situation and orient it towards an integrative situation.

The following diagram will indicate as to what are the contributing factors for the development of either orientation:—

Figure 1: *Types of Bargaining Relationship*

Process		Outcome
Attitudinal structuring: activities influencing attitudes of parties towards each other.	→	Distributive bargaining: competitive behaviours to influence division of limited resources.
and		or
Intra-organisational bargaining: culture of consensus or otherwise within the management and within the union organisation.	→	Integrative bargaining; productive behaviours to identify, enlarge and act upon common interests of the parties.

In order that an integrative bargaining situation can develop leading to joint exploration of the problems, identification of the issues and development of solutions that will optimise the use of distributable resources, it will be necessary on the one hand, to erase the past history of relationships so that the structure of attitude of the union leaders towards the managers and vice-versa indicate a change, leading to a more positive attitude towards one another and, on the other hand, development of more effective and democratic decision-making within the management system and within the union system so that when the two parties come together for a joint negotiation they can do so effectively being free from an overlay of internal stress and tension.

This kind of experiment is being carried on with the Award Staff Federation executives and the Supervising Officials' Federation executives in the State Bank of India, among the leadership of the different unions and associations of Indian Airlines Corporation and in Alloy Steel Plant at Durgapur. The results are encouraging. This is being experimented in these places with the consent of the union leaders and in full knowledge of the management by utilising the research based knowledge in the area of behavioural sciences. Admittedly,

the essential expertise available in the country today is very limited. However, attempts are being made by the national institutes of management and some industrial organisations to develop such expertise on the basis of crash programme.

Bargaining relationship between the two parties will, no doubt, evolve some amount of tension and even pressure. However, what is happening today is that the conflict between the two parties occasionally reaches a point of no return or a re-approachment becomes possible only after a good deal of investment of energy. This kind of dysfunctional industrial relations has its roots in the hardened attitude that has been built up on account of many historical factors. The new approach is that the two parties maintaining their distinct identities, may come closer provided that planned efforts are made to soften their hardened attitudes towards each other. The objective will be to lead the parties to a stable bargaining relationship.

In sum, the policy guidelines will be as follows:—

4.1 *It will be necessary to generate a congenial intergroup climate involving the leaders of the bargaining agent and the leaders of the management so that an integrative type of bargaining relationship develops replacing the suspicion based distributive type of bargaining relationship.*

4.2 *The first step towards the development of this constructive relationship will be to initiate, with the agreement of the leaders of the bargaining agent and the management, behavioural science-knowledge-based workshops to foster a culture of joint decision-making. This will be done both for the union group and the management group separately.*

4.3 *As a next step towards the development of integrative relationship, the two parties to the negotiation will be brought together in a series of workshops so as to overcome the hangover of their past history that adversely affects the attitude towards one another.*

Such a programme, it is necessary to reiterate, is a major step towards the changes of attitude without which mere change in the institutional framework will not bring about the desired result in the area of industrial relations.

Section 5. Introduction of work-based participation system.

While it is essential to establish an institutional framework for bringing about a new pattern of relationship between organised employees and the management, attention is being increasingly focused now on an area so long neglected even in the industrially developed societies. This is the area of the democratisation of the work process itself so that the employees' problems expressed in explicit behaviour norms such as low motivation, sulky or apathetic behaviour, alienation from job, absenteeism and indiscipline can be dealt with in a manner that all levels of employees are helped to become motivated, committed and responsible without any feeling of pressure or exploitation. The burgeoning knowledge that has been made available through on-the-shop-floor experimentation in the British Coal industry, IBM, Non-Linear systems, Texas Instrument, TRW systems, American Telephones and Telegraphs and a host of enterprises in the Scandinavian countries through the pioneering efforts of Einer Thorsrud indicates that it is most essential to develop job enrichment programmes for all levels of employees, particularly at the lower levels where job content is very often routinised and prescriptive.

The technology project at Harvard and other investigations have shown that the more routine a work is and the less the personal challenge is for employees in their jobs, the less they enjoy their leisure activity and even the other facilities that are made available to them through the improvement of their socio-economic conditions.

The weight of evidence is thus strong that a planned and consistent job enrichment programme will become necessary for all levels of employees involving the provision of *Variety, Autonomy, Responsibility, Meaningful Interaction* and *Challenge* in the job. For this objective to become a reality, the entire workplace will need to be divided into logical segments. Once this is done, it will be necessary to organise these segments into electoral constituencies. The members of each constituency will then, on the basis of elections by secret ballot method, elect a specific number of representatives for a period of three years. These representatives along with the

members of the management team of the specific constituency will constitute a shop council.

The specific objective of the shop council will be to develop such work norms, systems and procedures as will seek to exploit the technology to its limit through a process of job enrichment programme for all levels of employees.

There will no doubt be some issues which cannot be decided by one shop council as such decisions will be relevant for other shops. To resolve such problems it will be necessary to develop a second-tier with representatives from each shop council to make the unit level shop council. Certain specific issues will be dealt with by this apex council in the first instance and certain other specific issues will be dealt with by this council when the issues will be referred to it by any shop council.

It is to be appreciated that the apex council, as visualised in this scheme, will seek to perform more problem-based futuristic role. The bargaining agent or the bargaining council, as the case may be, will, at least in the initial years, be primarily concerned with the bargainable items. Should the same council be required to perform the task-based futuristic role, the spirit of bargaining may intervene making it difficult to perform the new role. In that context, it is felt, the apex council with a non-bargainable approach may be able to begin with the new responsibility. One such new responsibility will be the initiation of a purposeful education programme for all levels of employees including the managers so that they can respond to many an industrial relations problem in a manner different from the traditional approach. This is only an example and it does not necessarily exhaust what the role of the apex council should be.

These councils will work on the basis of consensus. In Indian Airlines the eight unions/associations and the management have accepted the concept of a joint council which will work on the basis of consensus, which has been explained in these words:

The process of consensus making will involve the followings:

(a) The free expression of views on any item leading to different points of view will be encouraged;

(b) The different points of view will be treated as the start-

ing point of narrowing the differences in a climate of mutuality of understanding and trust;

(c) the process of narrowing the differences will be continued till a convergence of views results in satisfaction for all the parties. The process of 'consensus' building will differ from the 'compromise' process in that it will result in an experience of satisfaction for the participants of the joint council.

"The process of consensus making will not involve the following:

(a) The majority-minority voting procedure;
(b) the thrusting of one's views on others;
(c) the resort to pressure tactics by any party in any form."

The Glacier Metal's Works Council in the U.K. has been working on decision-making by unanimity for over two decades. There was strong scepticism initially about its success. History has proved otherwise. What is being suggested is that the decisions of the council will be on the basis of consensus so that these can be implemented without much hitch. Initially, no doubt, there will be difficulties in developing the new culture but with efforts, patience and skills this will become the way of working the councils.

It is necessary to explain that this type of representative system will not be in clash with the bargaining agent type of representative system. While the bargaining agent will deal with the terms and conditions of employment, this second type of representative system will deal with essentially such work norms and systems as will provide effective working of the shops on the basis of meaningful work for all. Since both systems will involve election mechanism, the members of the bargaining agent will also find positions in the shop councils and the apex council. The common membership will also be provided by the management.

This second type of representative system will have another major additional advantage. The minority unions, which may otherwise be left out of the bargaining agent role, will be able to participate in the work democratisation process leading to broad-based decision-making system in the enterprise by getting

an opportunity to participate in the elections for shop council. Such an opportunity will keep these unions into the picture instead of the denial of that opportunity under the present legal and quasi-legal framework.

It is necessary to recognise that the possibility of jurisdictional conflict between the two types of representative system cannot be completely ruled out. Should such a situation arise, the dispute will in the first instance be sought to be resolved by a joint conference of the bargaining agent and the apex council. Should such attempts fail, the matter will be referred to the Public Sector Industrial Relations Commission for a decision.

5.1 *A second type representative system will be established so as to involve the rank and file workers in the decision-making process concerning work through a participative machinery.*

5.2 *The primary objective of this participative machinery will be to constantly strive for job enrichment for all levels of employees with a view to enhancing the motivation and commitment of the employees.*

5.3 *The participative mechanism will work through shop councils which will then create a second level apex council so that the enterprise-wise work issue can be dealt with by the apex council.*

5.4 *Each shop, delimited on the basis of the homogeneity of the work process, will act as a constituency and specific number of representatives will be elected on the basis of elections by secret ballot.*

5.5 *Should a jurisdictional conflict arise between the bargaining agent and the shop councils, the same will be sought to be resolved through a joint conference of both, failing which the matter will be resolved through the Public Sector Industrial Relations Commission.*

5.6 *The decisions of the shop councils and the apex council will be on the basis of a consensus so as to avoid majority-minority voting system and concomitant tension building. Decisions once made will bind the parties concerned.*

It is necessary to reiterate that this form of representative system will provide an opportunity to the minority trade unions

to participate in the decision making process along with the majority union thereby providing an opportunity to all the representative unions to contribute towards the effectiveness of the public sector enterprises.

6. Employee representation on the Board of Directors:

It is not altogether an unfamiliar idea in India and abroad that representatives of labour will have a place on the Board. In some public sector enterprises this is being experimented upon without any noticeable change in the industrial relations climate. Experiments in Israel, West Germany, the Scandinavian countries, and even in some of the East European countries have also failed to produce any significant changes in the situation. Very often the labour director is torn by conflicting loyalties in addition to the fact that in a formal role as Board member he will at the most carry one vote as against so many. On the other hand, the possible gain seems to be the availability of a different point of view in the deliberations of the Board thereby making a significant contribution to the decision-making process through a subtle form of informal influence. However, the world-wide experience is that such an experimentation has not yielded any significant positive results.

There is also a view that a better course would be to have this Director elected by the employees themselves. While this course may have the merit of choosing the employees' representatives by direct election, there are doubts about the effectiveness of such a Director on the Board. Role-conflict may develop and the elected representative may tend to drift away from the main stream of the employees.

There is another complicating factor in the case of multiple bargaining units of corporation such as Hindustan Aeronautics, or Fertilizer Corporation of India. Yet another difficulty in choosing an elected representative will be in respect of hierarchy-based constituencies as in the State Bank of India or in craft-based constituencies as in Air India or Indian Airlines.

There is, however, no doubt that the employees in the Public Sector should have full scope to participate in decision-making at every stage. Full use of the Works Councils/Apex Councils in the various units should be made to have free and

frank discussion of the problems and total operations of the Undertaking with the different sections of the employees.

Until such time a more satisfactory method of ensuring direct representation of labour on the Board of Management is ensured, it may be advisable to obtain from the bargaining agent of each of the Undertakings a panel of names who, in its opinion, will represent the cause of labour. The fields of choice may include Trade Union Leaders and recognised specialists who have done work on industrial relations. Government may choose from this panel a representative to serve as a Director on the Board.

It should be recognised that the nomination of a Director on the Board representing employees interests will not by itself ensure satisfactory industrial relations. It is not to be regarded as a substitute for effective interaction between management and employees in the different units.

In sum, the policy guides will be as follows:

6.1 *The bargaining agent or the bargaining council, as the case may be, may draw up a panel of names which may include trade union leaders and recognised industrial relations specialists.*

6.2 *The Government will appoint one among the names recommended in the panel as a member of the Board for a period of three years.*

6.3 *In respect of multi-unit corporation, the Chairman of the Corporation will include in the unit management committee one amongst the names recommended in the panel for a period of three years.*

7. *Development of effective communications system:*

Various studies and reports in the public sector have pointed out the lack of effective communication between different hierarchical levels and also between the top level and the floor level employees. In large corporations employing large number of employees, the situation is even more complex. Very often the effective implementation of many a rational and useful decision becomes frustrated on account of the communication blockade giving rise to unintentional distortion and misrepresentation.

The various representative systems that are being planned, for which outlines have been presented above, will go a long way in institutionalising communication flow between the management and the representatives who man the representative systems. But this forum alone will be inadequate in establishing effective communication link between the rank and file employees and the top tier management. A recent research project carried out in a private sector concern in Bombay employing over 4000 employees indicates that an institutional forum binding the management and the representative system, although in existence for over three years, has failed to become an effective communication link between the policy enumerated and the rank and file employees.

It is thus felt that managerial employees should utilise any rightful facility to communicate directly with the members of the executive system. It is to be appreciated that employees can be and in fact are members of two systems. They are members of the representative system as well as members of the executive system. While their representatives are under obligation to communicate with them on matters of interest, the managers are under similar obligation to communicate with the employees who belong to the same executive system. Managers are accountable to their superiors for the fulfilment of allotted tasks and objectives and they will be ineffective in performing this role unless they can communicate with their subordinates even on matters which will be the subject matter of discussions and negotiations with the bargaining agent and in shop councils and the apex council. In respect of bargaining issues, the management system cannot legitimately expect the bargaining agent to be the conveyor of the management case to the members. Management will be required to perform this role provided that the same is done in an open manner *without* in any way provoking the employees to take a stand against the case of the bargaining agent. In other words, managers including the chief executive will enjoy the right and the obligation to communicate with the members of their executive system, by what is known as Communication by Contraction. This will, on the one hand, overcome the pitfall of distortion and, on the other, keep the managers under obligation to explain a particular stand of the management to

the employees. This system—an innovation—introduced by Wilfred Brown—has been having successful run at Glacier Metal Co., in the U.K. for many years.

This type of communication system, which, if explained to the bargaining agent, will be acceptable to it, once the intentions and the objectives are explicitly shared. An additional pay-off of this system will be that the rationale of many policy matters will be made known to the junior managers and the supervisory cadre who are at present mostly left out any communication mechanism.

Yet another matter will be the utilisation of house journals, news bulletins, etc., for communicating basic information to all levels of employees concerning not only the terms and conditions of employment, but also such information as will spark off thinking in respect of waste control, inventory control, preproduction planning and so on—matters which will contribute towards the deliberations of shop councils and the apex council.

In short, the reality today is that the union leadership is the only communication link between the organised employees and the management. While this forum should continue to exist and, in fact, should become more effective, newer forums should be created in the interests of morale, motivation and effective industrial relations. The lead provided by the pioneering effort at Glacier Metal can be utilised in the public sector.

In sum, the policy guides are as follows:-

7.1 *Employees, who will belong to various constituencies, do simultaneously belong to the orbit of the representative system and the orbit of the executive system.*

7.2 *The chief executive of the unit and his subordinate manager will be under an obligation to communicate with the constituents in their role as members of the executive system.*

7.3 *This obligation extends over matters which are bargainable issues and which can form the subject matter of deliberation and decisions in the shop councils and the apex council. It is, however, not the objective to undermine either the authority of the bargaining agent or the*

council but to communicate directly to the members of the executive system the case of the management without in anyway canvassing for the adopting of its case as against the case or cases of the representatives.

7.4 *This "communication by contraction" system should be adopted in an open manner by developing an understanding with the bargaining agent and other representative bodies.*

7.5 *The existing written communication media should be reoriented to include such information as will improve upon the quality of decisions and problem-solving at different representative forums.*

8. *Organisation of the personnel function*

An examination of the industrial relations malaise in the public sector indicates that historically a public sector enterprise has suffered from two type of difficulty in the area of personnel activities. At the initial phase of the new project, personnel function had very often been neglected. A competent and professionally oriented personnel functionary had hardly ever been associated with the project at a sufficiently high level so as to ensure the introduction of sound personnel policies and practices and their continued maintenance. Instead, this particularly vital role had been relegated to subordinate officers often drawn from the junior cadre of officers of the State Secretariat and the Labour Directorate. These officers, deprived of appropriate authority, have invariably suffered from lack of expertise and vision. They have either been legally oriented or have carried on on the basis of common-sense solutions. A systematic orientation based on the systematic knowledge of human behaviour has not been encouraged in personnel area in the public sector.

Even today, very few public sector corporations have professionally oriented personnel directors as members of the Board. This is so, despite the reality that many ills in the public sector have been caused by the absence of a sound personnel policy and/or its implementation.

The second difficulty that persists is the continuance of the secretarial practices in the working of the personnel division

which necessitates the concentration of the personnel officers and their superiors in the administrative office of the corporation or the unit, as the case may be, instead of in the actual production shops. The juniormost of the officers with the minimum of experience are usually put in direct contact with the rank and file workers while the experienced ones are made available for dealing with the problems well after their origin and escalation.

Yet another problem appears to be not only the lack of availability of up-to-date knowledge in personnel discipline, but also the absence of an interdisciplinary approach. The range of possibility in the area of job enrichment programmes, to give an example, is practically unknown to the personnel profession in the public sector. Even the knowledge of the industrial engineers is dated in this area.

Yet another issue is the "loyalty" problem. Does the personnel man act in an "advisory" role to the line man or as an "alter ego" or as a partner in decision and implementation process? More often than not, in the public sector the personnel men put an overwhelmingly "advisory" construct to their role thereby causing a split in the managerial role.

Taking into account a realistic assessment of the problem, the following policy guides are suggested:

8.1 *In respect of a new public sector project, professionally competent personnel men should be associated with the project group from the very beginning so that appropriate personnel policies and practices are developed and implemented.*

8.2 *Training programmes for personnel managers of Public Sector Undertakings should be specially designed by the existing institutes concerned with management education so as to facilitate the infusion of new knowledge of behavioural sciences into personnel practice in the public sector.*

8.3 *Once a public sector enterprise comes in operation, it should be manned, considering the complexities of the enterprise, at the top level by a personnel director or a person of high status immediately below the Board level, as the case may be.*

8.4 *The common practice of inducting government officials with secretarial or distinct experience should be avoided. Instead, persons with an attitude of mind that encourages professionalism, interdisciplinary approach, utilisation of up-to-date knowledge in the area of human behaviour and system orientation should find place in key personnel positions.*

8.5 *The personnel division should be so organised that the majority of officers become available to the line officers in dealing with problems at the first hand while a handful of officers should exist as a staff group on highly specialised functions in the administrative wing to service the personnel manager/personnel director and the top level management.*

9. *Institution of the requisite personnel policy and practices:*

While one element in the problem is to man the personnel division with persons of requisite qualifications and attitude, the other aspect is to lay the foundation of a sound personnel policy on the basis of which desirable practices will be built.

The predominant culture in the public sector appears to be one of organisational "placidity" or its opposite, organisational "machiavellism" rather than one of organisational vitality. There is caution, lack of initiative, sticking to the rule and formalism or a sense of desperation in some functionaries in the form of disregard for quality, fair play and lack of propriety.

It will indeed become necessary to establish such personnel policies as will encourage initiative, sense of responsibility, task performance, spirit of colleagueship and concern for fair play.

Yet another aspect of the culture, may be, an inheritance from our feudal past, is the rigidity of social stratification, often expressed in such group symptoms as engineer-diploma-holder tension, direct recruit-promotee tension or in such practices as the layout of the housing colonies, the floor area of quarters and the reservation of entry gates exclusively for officers. The reformulation of personnel policies will need to take this aspect into account.

At present the various policies and practices are convention-based in the sense that these are either grafted from another place such as the railways, the ordnance factories or the service rules for the government employees, depending on the source of origin of the key personnel installed in a particular public sector enterprise at a historical moment or these are modelled after the compromises worked out as a last minute affect to save a situation. The personnel practices, in the circumstances, are either inappropriate for the particular enterprise or these are of a sub-standard nature developed in a hurry to save a situation. In one public sector, it was pointed out by the chief executive that promotion policy for the subordinate employees has undergone 50 odd amendments over the years to suit the particular needs of particular employees. In another public sector enterprise, the promotion practices governing different categories of workmen have evolved in such a haphazard and complicated manner that not only the representatives of the workmen could not spell out cogently what the practices are, but even the members of the personnel department fumbled a good deal before an explicit picture could be presented.

The impersonal bureaucratic government of a public sector enterprise often gets "life" in the personalities who man the chief executive role at different times. This process frequently makes the working of a "system" a personality-oriented system causing fluctuations in practice so much so that the system gets eroded. Very often the personnel policies, sound in themselves, fail to ensure the continuity and thus maintain credibility.

Often the policies and practices are shrouded in secrecy so much so that the channels of promotion are not made known to the concerned categories. In the light of these experiences, which are by no means rare, it will be necessary to develop system-based personnel policies so that a particular piece of decision whether in the area of promotion or recruitment or training is examined, in the light of its inter-connectedness with those in existence for categories of employees. What is being suggested is a system approach in the evolution of personnel policies.

Yet another requirement will be the need for anticipatory planning, particularly in such organisations where skills development is a time-consuming process and yet vital. In a number of

key public sector enterprises, it has been found that anticipatory measures in training adequate number of artisans have been lacking with the result that additional shifts could not be introduced even though the needs of the country justified such a course of action as a matter of urgency.

Another area is the development of appropriate feedback system on the working of personnel policies and practices. In many large concerns it has been found that the same personnel policy has been implemented in different shops in different manner which remained undetected till such time as trade union had made an issue of it on account of discriminatory practices. It will thus become necessary for the personnel division to develop appropriate feedback systems so that in good time any deviation from the norm will get detected making it essential for appropriate measures to be taken. Such a feedback system will also have another advantage. Should the practice be found irrelevant or obsolescent in the current situation, relevant corrective measures can be taken in time to change it.

Similarly, the career planning programmes for the employees including the rank and file employees in terms of skill upgradation, acquisition of new knowledge leading to vertically upward mobility on the strength of knowledge and performance is an area that has remained consistently neglected. This will become an important role for the personnel division. In this type of work, however, it will be necessary to draw on the expertise of industrial engineers and operation researchers who, should the corporation be a large organisation, will find place in the personnel division itself. Otherwise, the personnel division should utilise such expertise either from other sub-systems of the enterprise or from outside such as the Institutes of Management, Administrative Staff College, National Productivity Council and similar bodies.

Lastly, the personnel policy and practice development can be facilitated by utilising such forums as (a) shop council, (b) apex council, (c) agreements concluded through the interaction of the management and the bargaining agent, (d) decisions of the management committee, (e) decisions of the Board and (f) decisions of the Public Sector Industrial Relations Commission.

It will, however, be the responsibility of the personnel division to take initiative in utilising these forums in the develop-

ment of policies and practices ensuring at the same time that these forums do not work at cross purposes.

In sum, the policy guidelines will be as follows:

9.1 *The personnel division will take initiative in systematising personnel policies and practices and in taking appropriate action so that the policies and practices are evolved on the basis of systems approach.*

9.2 *Once the policies and practices are enunciated these should receive the largest measure of publicity among the concerned employees.*

9.3 *Appropriate feedback system will need to be installed throughout the enterprise to measure the effectiveness of the policies and practices and detect the deviation from the "norms" established.*

9.4 *The deviation, so detected, will lead to either a corrective measure for which the personnel division will take the initial responsibility or it will lead to the re-examination of the policy/practice calling for appropriate amendment and change.*

9.5 *The personnel policies and practices will take into account the provision for anticipatory measures so that skill development, career planning and the overall development of the employees at all levels can become a reality.*

9.6 *It will become necessary to organise behavioural science knowledge-based intervention strategies to work on continuous revitalisation of the organisation systems through what is now commonly known as "organisation development" efforts. The personnel division should take the initiative in organising O.D. efforts by utilising the skills of applied behavioural scientists, O. R. specialists and system analysts.*

9.7 It *will become the objective of the policies and practices to minimise the incongruity of social inequality and, instead, to establish a climate of equality between different organisational hierarchies.*

10. *Development of performance-based reward system:*

The remuneration policies and practices are amongst the most complex problems concerning the public sector today. the problems, reduced to the very basic, appear to be as follows:

a) Existence of too many grades creating too many levels and hierarchies making an effective functioning of the organisation rather difficult;

b) The grades do not follow a well-understood rational pattern. More often than not these grades are the products of historical evolution or of decisions on the basis of management by crisis;

c) The existing grades are not based on an equitable differential system;

d) Promotion policy related to the grades is more often than not linked with length of service, creating expectation that a person will earn promotion not on the basis of performance but on the basis of number of years' service put in in a particular grade;

e) Certain positions are linked with some particular grades irrespective of whether those particular positions have undergone any change in terms of responsibility on account of other objective factors. The creation of positions in a grade and the changes of grades are often done on the basis of traditional industrial engineering technology unrelated to the reality of the situation;

f) Because of the absence of intrinsic motivation as discussed in section 5 above, the employees seek extrinsic satisfaction in salaries, perquisites, overtime and similar other payments;

g) There is absence of clarity and lack of direction in respect of a national minimum wage level. Although there have been discussions and disputes leading to certain ideas incorporated in various reports, a clear-cut policy, even if somewhat flexible, has not emerged. There have been wage boards and national tribunals in the past. A new experiment is also being carried out in the Iron and Steel Industry. Nonetheless, wage policy at the floor level establishing a linkage between one key industry and another has not been attempted. This has resulted in confusion and contradiction.

The essence of the current situation seems to be that the remuneration policy follows a time-honoured pattern unrelated to measurable performances and the absence of intrinsic job satisfaction. This situation creates an almost unbearable pressure for

promotion irrespective of the reasonableness of the case. At times, additional complications are created by the management and the administrative ministries by insistence on uniformity of salary scales even between different enterprises although the measurable performance in two places may be significantly different. The role of the incentive system is still considerably vague in that the system is very often introduced without thoughtful planning or is made applicable to a situation where it is easy to do so thereby neglecting situations which deserve the introduction of such a system on a priority basis.

It is felt that the public sector can no longer ignore the need for a reorientation of the reward policy. Such a policy should take into account the need for time-scale wage and salary grades which will determine the basic earnings for an employee placed in a particular grade. It will be necessary to have minimum number of grades consistent with distinguishable hierarchical levels on the basis of the nature of technology. In this sense, the number of grades will vary from one public sector to another although attempts will be made to keep the number of grades at the minimum. Empirical studies carried out by serious researchers, of which Elliott Jacques is one, indicate that too many hierarchical levels do exist although not necessary.

Having fixed the grade to which cost of living index related dearness allowance is added, it will be essential to develop well-publicised criteria for performance measurement so that all promotions except for those at the lowest unskilled and semi-skilled levels will be on the basis of an open system performance evaluation. It will indeed be necessary to develop equitable criteria in consultation with the employees through various representative systems just as it will be necessary to provide periodical feedback to the employees concernd about their performance with a view to encouraging them to improve upon the actual performance recorded. The cumulative result of this periodical data-based feedback will be entered into the records of the employee at the end of the year. These data will then form the basis for promotion. What is being suggested is that this strategy should become uniformly applicable to all groups of employees except, as already mentioned, for the lowest level unskilled and semi-skilled employees, who can still be promoted on the basis of average performance linked with seniority.

Since the objective of the remuneration policy will be to reward employees for specific identifiable performance, it will be necessary to develop a specific reward system for specific performance above the standard. In other words, apart from the salary progression under the grade system those employees who will have performed in a particular period in excess of the standard agreed upon will be rewarded specifically on that occasion with a monetary reward as part of a well-publicised policy. Such performance-based specific rewards will be an improvement upon the system of accelerated promotion or multiple increments.

Another important element in the reward policy will be to develop such a system as will take cognisance of rewarding requisite behaviour, requisite in the context of the goals and objectives of the enterprise. The system should be such that it will not reward such behaviour which is either non-essential or obnoxious. At present, the practice is usually the other way round. There is at present no provision for encouragement to a conscientious worker. On the other hand, the bully of a worker is often rewarded by tolerating his misbehaviour or even by adopting methods to placate him. The suggestion is that there should be a consistency of policy given to the specific goal of rewarding requisite behaviour which is necessary for the particular work process.

In the light of the analysis carried out above, the policy level guidelines will be as follows:

10.1 *The large number of wage and salary grades will be reduced into the very minimum essential for the purpose of work goals in the particular enterprise. This will be done by specialists who understand the dynamics of work analysis in terms of human motivation.*

10.2 *Employees will be fitted into new grades developed on certain well-understood rationale rather than on ad-hoc or extraneous considerations.*

10.3 *Once placed in the grades, the employees will earn increments as per the provisions of the grade.*

10.4 *Well-publicised criteria for performance measurement will develop for all categories of jobs so that the performance on the jobs can be measured and fed back periodically to the employees concerned with a view to helping them to perform better.*

10.5 *Promotion to higher grades will be entirely on the basis of performance evaluation except for the lowest levels of unskilled and semi-skilled jobs.*

10.6 *Specific measurable performance above the agreed upon norms will be specifically rewarded under an agreed upon policy. Special increments or accelerated promotion for one time performance will be discontinued.*

10.7 *The remuneration system will be such that specific requisite behaviours will be encouraged and rewarded and specific non-essential and undesirable behaviour will be discouraged*

10.8 *The personnel division in conjunction with the expertise available within and outside the enterprise will constantly monitor and review the remuneration policies and practices so as to update these on a planned basis in preference to management by crisis decisions.*

10.9 *Salary grades will be initiated upon a base of national minimum wage level to be determined taking into account the national standard of living, relationship between one industry and another and the parity between one region and another. This will be done by the Government in consultation with the Management and Trade Unions in the Public Sector. The Government can also utilise the public sector Industrial Relations Commission as an advisory forum for this purpose.*

The above guidelines represent the capsule of empirical research in the area of achievement motivation, high-performance and developmental potential of employees. Today the knowledge in the area of motivation and performance is solidly rooted in empirical research rather than in wishful thinking. The new remuneration policies that have been spelled out will reflect the advancement in the area of human resources development. It is no longer impossible to develop criteria for performance measures for different kinds of jobs including the jobs of executives.

11. *Role of Administrative Ministries.*

The elements of the proposed industrial relations policy for the public sector will, indeed warrant support from the Government and its subordinate agencies. It will be relevant to refer to these enabling conditions at this stage.

In the first place, the Government support will be essential to

make the representative system-based institutional framework to function. Neither the intervention of the Government conciliation machinery—central and state—nor the intervention at the ministry level has been built into the model, which is what will be discussed here.

It is the premise of the new strategy that the conciliation machinery will be a welcome aid as a third party *provided* it is willing to play the role of "process help" in facilitating the functioning of the institutional framework more as a "nurse" rather than as a physician." The substantive role in the inter-party dynamics will be taken up by the parties themselves, the only exception being the Public Sector Industrial Relations Commission.

The Ministry in its role as the representative of the shareholders will obviously exercise supervision and control over the objectives, specific goals, the course of development as well as the evaluation of performance. While performing these roles, the ministry will indeed intervene in the industrial relations scene, but essentially at the policy level rather than at the operational level. There have been occasions in the past when operational intervention at the level of the civil servants has been perceived as an interference of a kind which can neither be classified as policy level intervention nor as an effective operational guidance. The new policy seeks to discourage the development of such an eventuality.

In this respect, it will be necessary to spell out the role of the civil servants vis-a-vis the public sector enterprises. In the first place, a more direct role is taken by a joint secretary belonging to the administrative ministry. The current confusion is that this functionary often believes that he represents the shareholders' interests on the Board and arising out of this feeling of responsibility, he may at times behave like a super chairman. Secondly, there is the role of the Joint Secretary from the Finance Ministry as a member of the Board. At times, he believes that he is the custodian of the investors in the Board. Thirdly, there is the role of Secretary to the Ministry who does not have any official role in the Board but who very often remains the key figure in the strategic decision-making area.

In the context of the new industrial relations strategy, it is felt that the joint secretaries belonging to the administrative mi-

nistries and the Finance Minisry have no need to feel individually responsible for the enterprise. Responsibility for the operation of the enterprise and its performance squarely rests on the Board of Directors and, as such, they are responsible to the shareholders. The full-time chairman of the public sector enterprise obviously will carry a load of responsibility which will be more than that of other members of the Board. Given this context, the two Joint Secretaries will need to consider their role as that of equal partnership with other Board members and that the respect for them in the Board will be commensurate with their ideas and contributions rather than on the basis of ranks. It will be necessary for them to accept their role on the Board as having a learning edge as well. Having been steeped in normal working of the Government, the role of the decision-maker in the Board-room will provide them with an opportunity of a new kind and that they may make the best out of it provided there is a desire to learn and grow.

It is felt that the Secretary to the Administrative Ministry can and will bring in unofficial and informal influence on the Chairman and the Board in the context of his administrative experience as well as the intimate knowledge of the political decision-making process, but this informal and useful role need not be overstepped by taking over the Chairman's role in an unofficial capacity. Should he seek to do it, it will be necessary to hold him responsible for the performance of the public sector enterprises concerned. In other words, any intervention by any functionary without the concomitant accountability for performance will make the whole system ineffective and invalid.

It is indeed visualised that the ministry will remain answerable to the Parliament for any development in the industrial relations situations in an enterprise and similarly it will exercise such broad strategic guidance as the needs of the national economy will determine. It is also visualised that the chief executive and the Board will remain accountable to the Government through the Ministry and that this accountability will necessarily include the "performance" in developing and working out effective industrial relations practices consistent with the dictums of sound public policy.

A relevant issue will be as to what extent the Government will exercise specific control so as to ensure the uniformity of

policies and practices throughout the public sector or in a definite wing of the public sector enterprises. The uniformity principle will be necessary, to give an example, in respect of the underlying policy for the reward system. The ministry will have to ensure that the policy is based on performance evaluation rather than on other criteria. Similarly the ministry will have to ensure that the two type representative systems are not only installed in each public sector unit, but that they function satisfactorily.

The Government will also have to examine the necessity for uniform legislative measures covering the public sector. To give an example, the management at HEL, Bhopal, will be unable to follow, if it wants to, the experiment now being conducted at Durgapur Steel Plant involving all the unions at a plant level committee, because of the existence of Madhya Pradesh Industrial Relations Act. Industrial Disputes Act does not create that kind of difficulty for the management of the Durgapur Steel Plant. It will thus be necessary to bring all the public sector concerns under the control of the Union Government within the ambit of one Central Act in so far as the industrial relations are concerned.

In sum, the policy guidelines suggested are as follows:

11.1 *The need to bring all public sector enterprises under the control of the Union Government within the ambit of one piece of industrial relations legislation so as to avoid the anomalous situation created between different public sector concerns in respect of basic industrial relations practices.*

11.2 *The role of the civil servants on the Board will call for re-evaluation in that they will not carry any additional "weight" with them. On the basis of democratic working of the Board, they will be respected for their ideas and contributions to the decision-making effectiveness.*

11.3 *The Secretary to the Government will be discouraged to act as the de-facto Chairman of the Corporation unless he is so in an official capacity. But his informal guidance and influence on the decision-making process will be encouraged and supported provided it contributes towards performance orientation.*

11.4 *The Government, through the agencies of the ministries, will continue to represent the interests of the shareholders and*

the consumers at large and in this role the ministries will provide overall guidance to the public sector in respect of new policies and new directions, particularly in such matters as the remuneration policy for the employees.

12. *The back up system for Industrial Relations.*

The effective functioning of the proposed Industrial Relations Policy for the Public Sector Undertakings would require the fulfilment of the aspirations of the employees for some desirable future which they can look forward to, and a more extended satisfaction of their personal and social needs. To this end, the management of Public Sector Undertaking should undertake to fulfil certain responsibilities inherent in their role of desirable employers although this role can be performed only in the context of overall performance of an Undertaking. It is also implied that should performance become the criterion, all public sector undertakings will not be able to match the employees' personal and social needs on a uniform basis. Some will be able to do better than others over a time period. The policy guides would include:

12.1 *The activities of workers' education and training programmes so as to permit greater vertical and horizontal mobility for the employees.*

12.2 *The development of comprehensive employee welfare schemes which could be extended in defined steps to match the improving performance of the organisation. The components of such a scheme will be the setting up of fair price shops in the township to make essential foodgrains and other commodities available to employees at controlled prices; transport facilities; housing facilities, etc.*

12.3 *Public Sector Undertakings which are effectively meeting their performance targets could set apart some of the available surplus for the education of workers' children, in the form of scholarships, allowances etc.*

DOCUMENT IV

A SUMMARY OF THE ISSUES COVERED IN THE SEMINAR ON INDUSTRIAL RELATIONS IN PUBLIC SECTOR ATTENDED BY TRADE UNION LEADERS

(December 1 -16, 1972)

INTRODUCTION

The following groups/persons participated in the Seminar:

(a) Senior Leaders of the following National Bodies:
   i) All India Trade Union Congress.*
   ii) Bhartiya Mazdoor Sangh.
   iii) Centre of Indian Trade Unions.
   iv) Hind Mazdoor Panchayat.
   v) Hind Mazdoor Sabha.
   vi) Indian National Trade Union Congress.
   vii) United Trades Union Congress.

(b) Leaders of industry-based Employees' Associations/Federations, e.g., Steel, Fertilizer, Banking, P&T, Heavy Engineering, Ports & Docks, Railways, Civil Aviation, Airlines, Mining, Defence Industries etc.

(c) Representatives from Ministries of Labour and Railways.

(d) Shri H. N. Bahuguna, Shri Mohan Dharia, Shri S. Mohan Kumaramangalam, Shri T. A. Pai and Shri C. Subramaniam.

(e) Some specialists to facilitate discussions.

(f) Shri M. S. Pathak and Prof. Nitish R. De on behalf of the Action Committee on Public Enterprises.

* The All India Trade Union Congress was represented by S. A. Dange, general secretary, and Satish Loomba and K. G. Sriwastava, secretaries.—EDITOR

The revised draft document was presented to the Seminar as a Working Paper incorporating certain ideas originating with a number of persons who are familiar with the problems of Industrial Relations in the Public Sector. It was made clear by Shri Pathak and Prof. De that the ideas contained in the document are tentative and subject to change, and in any event these are not the conclusions of the Action Committee. The Action Committee seeks to generate discussions on the key issues in the area of industrial relations with a view to creating keener awareness of the problems and the prospect of their resolution.

Given this brief, the Seminar decided to examine some of the key issues extending beyond the coverage of the paper. It was further agreed that the Seminar would not seek to reach firm agreement on each of the issues discussed. However, it would be one of the objectives of the assembled leadership to develop understanding on those issues which were of particular significance to the public sector. All the issues contained in the Draft Document could not be considered by the Seminar for shortage of time. On many an issue there was agreement; on some there were divergent views, as this report will reveal.

The Trade Union Leaders were in total agreement on the following:

(a) that in respect of the basic industrial relations policy involving statute based institutional arrangements there should be no distinction between the public and private sector;

(b) that all the trade unions present in the Seminar are committed to make the public sector a success.

2. *Union Recognition and Bargaining Agent*

2.1 The concept of recognised union was accepted by all unions present.

2.2 There was however no agreement on the method by which the recognised union will be selected.

2.3 Two broad views, opposed to each other, emerged.

(a) That the verification of membership method should be the basis. According to this view, there is scope for

re-examination of the method of verification. The point was also made that should more than one union have membership close to each other, the ballot method may be utilised for determining the recognition issue.

(b) The predominant view was in favour of determination of the recognition status by the use of the secret ballot method.

According to this view,

(i) The recognised union should secure more than absolute majority of votes cast, say between 60 and 70%, to become the bargaining agent.

(ii) In case a union fails to receive 60 to 70% of votes cast, then a composite bargaining agent involving other unions, should be accepted, subject to each of those unions getting a minimum percentage of votes, say 10-15 per cent.

2.4 All the unions agreed to the following:

(a) The recognised union should have a charter of rights and responsibilities.*

(b) The unrecognised unions will enjoy the right to represent their members in respect of individual grievances and individual disputes.

2.5 The predominant view was that craft unions should be discouraged. Efforts should be made to absorb the existing craft unions into industrial unions.

3. *Bipartite Approach: the basis of Industrial Relations*

It was unanimously agreed that Industrial Relations in an enterprise should be founded on the relationship between Management and the Recognised union. All policies and practices governing Industrial Relations should be geared towards this basic approach.

4. *Third Party Intervention*

4.1 The Trade union leaders did not accept the proposals contained in Section 3 of the draft report.

* The charter of responsibilities of trade unions was not agreed to by the AITUC. — Editor

4.2 Their views, in which all of them agreed, were as follows:

(a) Bipartite relations should be the basic for industrial relations.

(b) In case of a stalemate, voluntary arbitration should be resorted to.

(c) In case of a failure, the parties will be free to take appropriate action.

(d) In case the Bipartite relations are accepted as the primary instrument for Industrial Relations, it will become necessary to develop specific Bipartite agreements to protect specific sensitive plant, equipment and essential operations in the case of disruption of activities due to strike, lock-out etc.

4.3 Some trade union leaders did express a view that the interests of Consumers and that of the Community should be protected in some appropriate manner. There was no unanimity of view as to how to operationalise this concept of protection. The matter thus remained inconclusive.

5. *Participative System — Form and Content*

5.1 There was the unanimity of view that there was a special case in favour of participative system in the Public sector.

5.2 The Trade Union Leaders further emphasised the following:

(a) That employees should have co-control in the productive system.

(b) The participative forum should have a determinative status and not only a consultative status.

(c) That the participative forums should work on unanimity principle, and

(d) That the participative system should work within the framework of the relationship between the Recognised union and the Management.

5.3 There was also the agreement on the following:

(a) At the base level, establishment of Shop Councils for identifiable departments/shops whose functions will be as follows:

i) Implementation of all agreed upon decisions/norms (between the Bargaining Agent and the Management).

ii) Resolution of Individual grievances.
iii) Decision making in work processes.

(b) At the Unit/Enterprise level involving bargaining agent and the management, with the following functions:
i) All bargainable issues.
ii) All inter-shop issues.
iii) All unresolved problems, emanating from the shop Councils.

5.4 As regards the worker participation at the level of the Board, there was no unanimity of views. Some union leaders were in favour of it provided
(a) The worker Director is elected by the Recognised Union,
(b) If the number of worker directors is substantial, and
(c) The worker directors can effectively exercise supervision on problems of the enterprise including the problem of Corruption.

Some Trade Union Leaders thought that the idea of worker participation at the Board level was either premature or of no major consequence in the context of current realities.

5.5 There was an unanimity of views that the participative system will not work satisfactorily unless the following are ensured:
(a) Intensive education for both the sides, and
(b) Change of attitude of managers towards worker participation in co-control.

6. *Personnel Organisation, Policies Practices*

Discussions among the trade union leaders led to the following conclusions:

6.1 The personnel function as it is constituted today is generally unsatisfactory and that it calls for urgent reforms.

6.2 Manning of the personnel organisation by competent professionals, whatever be the source.

6.3 Deputationists, found suitable, to exercise option within a period of two years.

6.4 Depending upon the complexity of the organisation, the head of the personnel function is to be a member of the

Board of Directors or be placed immediately below the Board level.

6.5 Career planning for personnel as well as other employees so that they develop competence for the upward and horizontal mobility. This will ensure, over a period, less dependence on induction from outside at higher levels.

6.6 Planning of personnel function in such a way as to take care of the following:

(a) development of appropriate attitudes in Managers and other categories of employees for commitment to the spirit of public sector;

(b) development of a healthy attitude among the Managers towards the rank-and-life employees;

(c) development of the attitudes among the Managers so as to avoid taking a legalistic view;

(d) development of team spirit among Managers and supervisory cadres.

6.7 In the areas of recruitment, promotion and training

(a) development of norms and guidelines on the basis of joint deliberation between management and the bargaining agent;

(b) performance to be the criteria for promotion in the managerial level. However the criteria to be determined with agreement of the people concerned and its operation should be on the basis of open system.

All in all the recommendations made in sections 8 and 9 of the revised draft document were accepted by the trade union leaders.

7. *Role of the Ministries*:

The discussions led to the emergence of the following views:

7.1 There is a need for a proper balance between accountability and autonomy for each Public Sector Undertaking. Unless responsibility based autonomy is granted to the enterprises, they will be unable to perform effectively.

7.2 The culture of Bipartite Industrial Relations should be fostered by the administrative ministries.

7.3 In the context of what has been stated above, the ministries should lay down appropriate performance criteria and they should ensure that these are being observed. More concretely, the ministerial intervention should be on the matters of policy.

7.4 There is a need to have inter-ministerial co-ordination in the matter of Industrial Relations and in particular between the Labour Ministry and the employing Ministries. A credibility gap exists on account of the lack of co-ordination between these Ministries.

8. *Concluding Comments*:

Tentatively it has been decided to proceed with the following steps as the next phase in developing an Industrial Relations framework for the public sector.

(a) The broad agreements emerging from the Seminars involving the Trade Union Leaders and the Heads of the Public Sector undertakings will be presented to the Ministry of Labour so that it can examine the suggestions and recommendations in the context of its on-going review of the over-all industrial relations scene;

(b) Another Seminar will be organised, probably in February, 1973, involving Trade Union Leaders, Heads of the Public Sector undertakings and the employing Ministries with a view to developing a common approach to Industrial Relations.

DOCUMENT V

A SUMMARY OF THE ISSUES COVERED IN THE SEMINAR ON INDUSTRIAL RELATIONS IN THE PUBLIC SECTOR ATTENDED BY THE PUBLIC SECTOR HEADS (18th-19th December, 1972)

The following persons participated in the Seminar:

I. 23 heads of public sector or their representatives.
II. Six personnel directors/personnel managers.
III. Shri N. P. Dube and Shri R. J. T. D'Mello *from the Ministry* of Labour.
IV. Shri R. C. Jain, Shri Atmaram Saraogi, Shri V. B. Singh, Shri N. Vaghul and Shri M. S. S. Varadan, as specialists to facilitate the deliberations.
V. Shri R. K. Khadilkar, Shri S. Mohan Kumaramangalam and Shri C. Subramaniam.
VI. Shri Nitish R. De, Shri M. S. Pathak and Shri R. K. Ray *on behalf of the Action Committee on Public Undertakings.*

The Seminar did concentrate on some of the issues dealt with earlier by the trade union leaders. A summary of the issues covered in the Seminar attended by the trade union leaders on 15th-16th December, 1972 was circulated. The revised draft document remained in the background to which reference was made as and when any individual participant thought it necessary.

1. *Institutional Framework for Industrial Relations*

1.1 The Seminar agreed, on broad terms, to the following framework:

1.2 That certain formal institutional changes were essential to improve upon the industrial relations climate.

1.2.1 One part of this change will be in the form of changes through statute and other quasi-legal means (for example, registration of unions).

1.2.2 That certain formal institutional changes will be in a non-legal form, particularly where there is a need to develop certain *norms* covering the unions and the management.

1.3 That certain institutional changes will be of a non-formal kind, but of equal importance. This area will cover effective working processes so as to improve upon the effectiveness of collective bargaining process as well as to ensure meaningful and effective participation and decision-making involving middle level managers and the workers.

It is appreciated that in this vital area, legislative changes will be of no avail.

1.4 Essentially the consensus of the Seminar has been that in the area of industrial relations a flexible approach may become necessary to take into account the different types of situations that exist in the country, particularly in the context of the changing environment. Essentially, the feeling has been that a strictly legalistic view will not necessarily provide the desirable response to the challenges in the area of industrial relations.

2. *Registration of Trade Unions*

2.1 It was the feeling that the existing law is most inadequate and that it calls for changes.

2.2 The consensus was that for a trade union to register itself it should at least be able to mobilise support of 10 to 15 per cent of the workmen. The Seminar could not go into the legal aspects of the problem, but, in broad terms, it supported the contention that the mushrooming of trade unions should be discouraged in the interest of all.

2.3 That the Central Government should become the appropriate authority for the registration of trade unions which

will cover the Central Government controlled public sector.

3. *Union Recognition and Bargaining Agent*

3.1 The participants will accept any one of the two proposals presented by the trade union leaders. Ideally, however, the trade union leaders should be able to work out an acceptable formula amongst themselves.

3.2 In case they fail to accept one of the two alternatives, a third alternative is presented for consideration:

(a) Check-off system to be introduced in all concerns.

(b) If no union is found to have support of at least 60 to 70 per cent of the workmen, there should be elections on the pattern of preferential voting to determine as to which of the unions should become the bargaining agent for a specific period.

3.3 Whichever system is adopted for determining the status of a recognised union, the system should be administered by the Central Government in so far as it concerns the Central Government controlled public sector undertakings.

3.4 It is necessary to work out a document on the norms for the role of the recognised unions and the management so that both can work out the relationship on the basis of agreed upon norms.

3.5 The participants accepted the role for the unrecognised unions as spelled out by the trade union leaders.

3.6 A minority view was expressed, but not adopted in the Seminar, that considering the complexity of the issue a more pragmatic approach will be as follows:

(a) To develop a number of specific alternatives for the purpose of recognition.

(b) The parties concerned in any particular enterprise/ industry may avail of any of the alternatives for a particular period and proceed on that basis. If, in the light of the experience, the parties concerned may wish to change to another alternative, this may be allowed.

(c) According to this plan, various alternatives may come into operation in different enterprises in the different parts of the country.

(d) The Labour Ministry may consider including the various alternatives in the proposed legislation making it obligatory on the part of the parties concerned to choose from one of the alternatives within a specified time.

4. *Third Party Intervention*

4.1 The Seminar accepted the principle of:

(a) Bipartitism;
(b) voluntary arbitration;

but *not*

(c) the freedom of action to the parties in case voluntary arbitration is not agreed upon.

4.2 In broad terms, the alternative offered by the Seminar is as follows:

(a) Bipartitism;
(b) Voluntary arbitration not by one person, but by a team of three and that the arbitration should operate on a time-bound programme;
(c) In case the parties are unable to agree on voluntary arbitration, a third party—maybe, IRC type—is to be set up but this third party should not adopt a legalistic approach. This body should also operate on a time-bound programme.

It was felt that such a third step is necessary in the interest of the community.

5. *Participative Management*

5.1 The Seminar accepted the concepts of shop councils and the unit/enterprise councils with a note that:

(a) there was need for further exploration of "co-control";
(b) further exploration of "determinative" status;
(c) further deliberation on the functions and activities of this council; and
(d) development of agreement on the procedure for selecting members to these various councils.

5.2 The Seminar also accepted the concept that the participa-

tive scheme will work in the Indian context only when the unions are a party to the whole experiment.

5.3 There was no agreement on the concept of unions' nominees to the Board of Directors.

6. *Personnel Organisation Policies and Practices*

6.1 The discussions were inconclusive but a consensus emerged in favour of re-oriented personnel policies concerning.

(a) recruitment rules;
(b) promotion rules;
(c) performance evaluation of employees, particularly the managerial and supervisory personnel; and
(d) training and development of all personnel including workmen so that a better career plan becomes possible.

7. *Role of the Ministers/Ministries*

7.1 The Seminar devoted considerable time and energy to this topic going beyond the industrial relations framework.

There was no consensus although certain broad trends emerged as recorded below:

7.2 That the relationship between the chief executive of a public sector and the minister concerned cannot be put down in writing in clearcut terms because there are intangibles involved including the personalities.

7.2.1 It was felt that, depending on the personality of the parties concerned, a minister may be able to perform an effective role if he could provide counsel to the chief executive provided that it was not treated as directive/pressure.

7.2.2 It was felt that there was a necessity to establish clearer performance goals for each public sector enterprise so that the relationship between the enterprise on the one hand and the minister and the officials of the ministry on the other can be worked out in the light of these established goals.

7.2.3 It was felt that the ministerial guidance/directive will be necessary in the matter of policies.

7.2.4 The general view was that a policy document should be evolved to incorporate the following:

(a) An effective management information system on the basis of which a monitoring system can be worked out determining the relationship between ministers/ministries and the public sector enterprises.

(b) The present control mechanisms are perceived as vexatious/dysfunctional for the effective functioning of the public sector enterprises and call for radical review.

(c) Working out some norms determining the relationships between the minister and the officials in the ministry so that a more professional system of administration can be established vis-a-vis the public sector.

In this connection, the Seminar took note of the new experiment that is being attempted in the form of a holding company for the iron and steel industry.

8. *Next Steps*

8.1 It was felt that in early February the next Seminar should be organised involving heads of the public sector undertakings, trade union leaders, officials from the Ministry of Labour and other relevant bodies.

Price : Rs. 1.50

Printed by D. P. Sinha, New Age Printing Press, Rani Jhansi Road, New Delhi 55 and published by Parvathi Krishnan, on behalf of All-India Trade Union Congress, 24, Canning Lane, New Delhi 1

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