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No.8(5)/68-NCL(C)
Government of India
National Commission on Labour
D-27, South Extension, Pt.,II

New Delhi, dated the Jan.,27, 1969.

To

The Chairman and Members of the
National Commission on Labour.

Subject: Meeting of the National Commission on Labour with Central Ministries and Members of Parliament on December 5-7, 1968. - Record of discussions.

Sir,

I am directed to forward a copy of the Record of discussions of the Commission with Economic Secretaries of the Govt. of India, Central Ministries, Members of Parliament and other organisations, held at New Delhi on December 5-7, 1968, as approved by the Chairman.

Yours faithfully,

P.D. Gaiha

(P.D. GAIHA)
DEPUTY SECRETARY

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NATIONAL COMMISSION ON LABOUR

(New Delhi)

Vide NCL Ref. No. DL-VI.218

5.12.1968 11 A.M. to 12.00 Noon

Record of discussions with ICFTU - Asian Regional Organisation represented By:

1. Mr. V.S. Mathur,
   Asian Regional Secretary.

2. Mr. Bo Carlson,
   Director,
   Asian Trade Union College.

3. Mr. E. Kristofferson,
   Asian Trade Union College.

4. Mr. V.B. Dixit,
   Asian Trade Union College.

5. Mr. V.K. Goel ICFTU,
   Asian Regional Organisation.

6. Mr. S.M. Durve,
   Asian Regional Organisation.

7. Mr. D.M. Sawhney,
   Asian Regional Organisation.

The ICFTU is an independent consultative organisation of the U.N.O. It has a membership of 63 million spread over 94 countries. I.N.T.U.C. and H.M.S. are its two main affiliates in India. A number of national/central organisations of workers in other Asian countries like Pakistan, Ceylon, Japan, Korea, Indonesia, Malaysia, Singapore, Hongkong, etc. and Australia and New Zealand are its members.

2. The ICFTU believes in the decentralised working of the trade union movement.

3. Financially it is a poor organisation.

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4. ICFTU believes in Freedom of Association as outlined by the I.L.O. Convention No.54. Because of stresses and strains in the economy of leveloping countries, some restrictions have been placed by the State in this regard; Burma and Nepal are cases in point. According to it, the two ordinances recently passed by the Government of India have restricted the right of workers to strike.

5. The approach of different constituents of ICFTU on the system of collective bargaining and arbitration varies. A categorical answer in the Indian context is difficult to give. There is much scope for free collective bargaining in India. But free collective bargaining is contingent on the existence of a strong union, and in India there is considerable scope to develop such powerful associations.

6. Legislative measures and other measures should be so geared as to facilitate the development of strong unions. Such unions should develop without any political interference. Provisions similar to National Labour Relations Act of U.S.A. which inter alia spell out unfair labour practices may prove useful in the Indian context as well.

7. In case of ordinary industries, emphasis should be on collective bargaining rather than on compulsory arbitration. In case of failure of collective bargaining, recourse should be taken to voluntary arbitration. The Government should make a provision for voluntary arbitration. No distinction should be made between public or private sector industries.

8. Some restrictions on the right to strike enjoyed by workers employed in public utility services and by employees of the Government may be permitted. For the settlement of disputes in these services there should be a provision for compulsory conciliation as prevailing at present in Canada. If no settlement is reached at the conciliation stage, there should be a provision for compulsory arbitration, and the award of an arbitrator be binding on the parties.

9. Government should not be permitted to avoid the implementation of the award on the plea of budgetary limitations. The Government should evolve a system of compulsory arbitration which gives justice to the workers. This is necessary because workers in the public utility services and employees in the Government Departments have to be compensated for sacrificing the right to strike.

10. Workers' right to strike and employers' right to lock-out cannot be placed on equal footing; there cannot be

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any reciprocity between right to strike and lock-out. Right to strike flows from the Freedom of Association, and workers cannot secure justice unless they enjoy right to strike. If employers want to bring in some changes they can do so simply by passing an order. Workers should have right to strike though such a right may not be availed of by them as in Sweden; there has not been any strike in that country for the last 20 years.

11. The systems at present prevailing in different countries in regard to recognition of unions point to the fact that no single system of recognition operates in all countries. In Australia, the system recognises only one union. In America, Canada and Phillipines, the method of secret ballot to ascertain the majority union is in vogue. In France, attempts have been made to recognise more than one organisation as the most representative union and to bring them together in a joint commission for the purpose of collective bargaining. Such a practice is also in vogue in the Benelux countries. In U.K., the question of Freedom of Association is not considered an issue separate from the right to recognition.

12. The question of recognition was also discussed by the Donavon Commission, 1965-68 (U.K.). Amongst the various suggestions it considered a proposal put forth by Mr. Allan Flanders for the constitution of an independent tribunal to which the recognition disputes might be referred. The Royal Commission accepted the essentials of the proposals put forth by Mr. Allan Flanders and recommended that the question of trade union recognition should be dealt with by an Industrial Relations Commission.

13. There is need to introduce a similar system in India. The Industrial Relations Commission, if established, should be left free to select and apply any of the methods viz. secret ballot, verification or any other method according to the situation obtaining in an establishment, industry or region. In a case where there is already an established union its status may not be disturbed; the recognition based on voluntary system may continue. In cases where there are two unions and both agree to secret ballot, it may be permitted. However, there may be cases where more than one union operates and no agreement is reached between the parties in regard to the system that should be adopted to verify the membership. Such cases may be taken up by the Industrial Relations Commission and the Commission should be free to use any method to ascertain the membership of different unions. The Commission may send their own investigators to verify the membership from the registers/ records maintained by the different unions. They may be

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free to take the opinion of the employers and the workers about the strength of different unions; if necessary, the Commission should be free to conduct a sample survey to ascertain the general opinion of the workers. The proposed Commission may also judge the strength of the union from its general activities.

14. In a nutshell, no single method can be recommended in the Indian Context. In a big country like India with diversity and local variations, a combination of various methods may be tried. It is possible that in certain situations the Commission may come to the conclusion that recognition of only one union may not be proper. It should be open to the Commission to take this view. Therefore, it is necessary to leave the issue of recognition to be decided by the Industrial Relations Commission.

15. For the settlement of individual grievances, provision of labour courts similar to the one obtaining in Sweden and Germany need to be introduced.

16. Association of trade unions with politics should be distinguished from their association with political parties. Trade unions are very much in politics. In U.K., the labour movement led to the formation of the Labour party, but the trade unions have a separate identity apart from the party. In Sweden, trade unions have very close relationship with political parties but they are not controlled by the parties. In Austria, a different system operates where three different political factions, viz. Communists, Socialists and Democrats exist within a single trade union, each maintaining the link with its political party.

17. However, trade unions must be autonomous and independent of political parties. This can be achieved by imparting education to workers and by giving them greater protection to organise freely. There should not be any interference by political parties in the working of trade unions. However, political influence becomes necessary at times. A case of Bihar was cited; when seven workers of a unit desired to form a union, their application was rejected by the Registrar of Trade Unions because their employer had dismissed three of them for their activities in sponsoring the Trade Union. This happened a number of times and the union ultimately could be registered only after an M.L.A. was nominated its President. This instance shows how the help of political parties/political personalities becomes necessary.

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There is also the attitude of some employers who refuse to discuss with their workers. Therefore, at times, it becomes necessary to induct politicians who alone are heard by such employers.

18. Wages and unit labour cost are two separate things. Increase in wages does not invariably push up the unit labour cost. In America, though the wages increased by 19.8 per cent from 1953 to 1957, the unit labour cost in manufacturing industries did not rise actually it remained fairly stable. In the Indian context, because of the small size of the industrial workers, the effect of wages on inflation would be very marginal. In developing countries, increase in wages should first take place; it will be offset by increase in productivity later on. This has been the experience of practically all developing countries; wages have preceded productivity, and the latter has gradually outstripped wages. This is also true of developed countries; in the intial stages wage increases preceded productivity and later productivity, by the large, outstripped wages. Japan is a shining example of this. (It was pointed out by the Commission that in U.K. "Wages, Incomes and Prices Policy Commission" was appointed to specifically study this aspect. The present French crisis was also cited to prove the point that wages do affect manufacturing cost as well as the prices of the commodity. It was also mentioned, as an example, that whenever in the coal industry wages of workers were increased, there was a pressing demand for increase in the coal prices and in/ number of cases the Government had to concede. Since coal is one of the primary products used by many industries any increase in the wage and consequent increase in prices may affect the prices of their goods as well.)

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19. Linking of wages with productivity is a question between an employer and the union.

20. A special investigation should be conducted to determine whether an industry has the capacity to pay need-based minimum wages.

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NATIONAL COMMISSION ON LABOUR

(New Delhi)

Vide NCL Ref.No.LL-X.64

5.12.1968 12.00 Noon to 12.30 P.M.

Record of discussions with the Indian Social Institute, New Delhi, represented by:-

(1) Father A Fonseca

(2) Mr. G.K. Varma

1. In the computerised exercise on need-based minimum wage, the technique of linear programming has been used to find out the minimum cost for workers at selected centres in the country for a diet which will provide a given level of nutrition.

2. The nutritional norms adopted are those recommended by the National Nutrition Advisory Committee. On this basis the need-based minimum wage for Madras city appears to be the lowest.

3. Loss in caloric values in cooking etc. has not been taken into account in the present exercise. The average of 2735 calories per unit was, therefore, gross.

4. Workers' minimum requirements must be met to enable them to discharge their duties efficiently.

5. The nutritional stands suggested by Dr. Akroyd were not considered practicable.

6. Availability of food-stuffs and food habits of workers in different parts of the country have been taken into account in preparing diet schedule adopted in this exercise.

7. The pattern of expenditure as revealed by 1958-59 family living surveys has been combined with prices for 1960 and 1967 for this exercise.

8. The estimates of the need-based minimum wage worked out for different centres are based on the assumption that expenditure on food constitutes 57 per cent of the total household expenditure.

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This pattern was found to prevail in 1958-59 family living surveys. It is possible that because of the abnormal increase in prices of food-stuffs in 1967 the expenditure on other items as estimated in the exercise (with food as an indicator) may be an over-estimate. If a revised exercise is done by taking the expenditure on food as given by this exercise and the expenditure of workers on house-rent, clothing and other miscellaneous items worked out on the basis of price relatives for those items, the results will be different. It is possible that the figures may work out to be lower for most of the centres. An exercise has been done in respect of 'Delhi' by using two sets of price relatives and the results are as follows:

1960	Delhi	1967
Rs.54.90	Food	Rs.103.50
Rs.10.92	Clothing	Rs. 16.05
Rs.6.80	Housing	Rs. 8.70
Rs.18.15	Miscellaneous	Rs. 32.06
Rs.90.77	Total	Rs.160.31
Rs.101.47	Our previous estimates	Rs.191.31

9. The need-based minimum wage in the present exercise is significantly not as high as was expected or apprehended in some quarters.

10. The All India average of Rs.211 for need-based minimum wage is a weighted average with employment as weight.

11. Father Fonseca will discuss the assumptions on which the present exercise was based with the representatives of Employers Federation, INTUC and HMS if the organisations so desired. He also agreed to examine and send his comments on the note handed over to him by Mr. Tata.

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NATIONAL COMMISSION ON LABOUR

Date: 5-12-1968. Time: 3.30 P.M. to 5.00 P.M.

Record of discussions held at New Delhi with the Economic Secretaries of the Government of India.

The following were present:-

(N.C.L. Ref. No. DL-II.29)

(1) Mr. D.S. Joshi,
Cabinet Secretary.

(2) Mr. L.P. Singh,
Secretary,
Ministry of Home Affairs.

(3) Mr. P.C. Mathew,
Secretary,
Department of Labour & Employment.

(4) Mr. B. Sivaraman,
Secretary,
Department of Agriculture.

(5) Mr. R. Prasad,
Secretary (Services),
Ministry of Home Affairs.

(6) Mr. B.D. Pande,
Secretary,
Planning Commission.

(7) Dr. I.G. Patel,
Special Secretary,
Department of Economic Affairs.

(8) Mr. B. Mukerjee,
Financial Commissioner,
Railways.

(9) Mr. M. Dayal,
Offg. D.G.P. & T. & Chairman P&T Board.

On the Chairman making a remark that it appeared that the Secretaries' Memorandum was somewhat negative, the Cabinet Secretary explained that such an impression would be very unfortunate as it was far from their intentions. It is true

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that mainly the economic considerations have been brought out more prominently in the Memorandum, but Government had the fullest sympathy with the interest of the low-paid employees and fully realise the social aspects of the problems.

2. The concept of minimum wage was unexceptionable; the quantification of a minimum wage, however, posed difficulties.

3. Wages should be fair and such as do not lead to exploitation. They have to be fair in relation to particular areas and industries.

4. The norms of a need-based minimum as evolved at 15th Indian labour Conference had, however, not been accepted by the Government, and, therefore, should not be considered binding on Government. The need-based minimum will be higher than the minimum as requires to be fixed under the Minimum Wages Act, 1948.

5. The capacity to pay of the country as a whole has to be taken into consideration in determining the national minimum wage, though for individual industries and employments, the country's overall capacity to pay may not be relevant.

6. It was important to recognise, in so far as Government as an employer is concerned, that considerations other than capacity to pay have to be examined. Government employment has certain special features; and the Government in this regard could not be equated to an industry.

7. The concept of capacity to pay is, however, relevant ... for public sector undertakings engaged in industrial production like private enterprises.

8. Dr. I.G. Patel added that (i) Even in industrial employment the position as revealed by the balance-sheet of a concern cannot be taken as the sole basis for determining wage levels. Other considerations such as need for expansion development, modernisation, rate of return on capital, etc. are equally relevant.

(ii) Capacity to pay should not be viewed merely from a short-term point of view. It was important that the industry continues to pay wages and salaries at given rates over a period of time. The capacity to continue to pay in future also should be taken into account. Capacity to pay can only be interpreted in relation to other important claims besides wages. It was imperative that a reasonable rate of return was ensured to the enterprise.

(iii) Workers must get a fair wage which means a fair share in the capacity to pay. Whether this is lower than the need-based minimum or more, was a different point. In determing the worker's

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16. Settlement of wage disputes through the machinery of Wage Boards was considered appropriate if in fixing wages, the Wage Board is guided by overall considerations.

17. As a long-term objective there is no objection to a need-based minimum.

18. Dr. I.G. Patel observed (i) the concepts of sweated labour and a need-based minimum wage were altogether different from each other. The statutory minimum wage as provided in the Minimum Wages Act, 1948 is intended to check exploitation due to the superior bargaining power of the employer.

(ii) To suggest that in all industries there should be a minimum wage which will be determined ab initio taking into consideration the needs, industrywise or centre-wise, and that any body who cannot afford to pay that wage has to go out of business, would be a risky proposition to accept.

(iii) If the wages are pushed beyond a point it is possible that there will be more unemployment. It is, however, difficult to bring about a point of equilibrium between the two.

(iv) There is indeed no intention of going back on whatever has already been done in the form of the Minimum Wages Act, 1948, and awards of tribunals, etc.

19. The question of exploitation comes in particularly when employer has the capacity to pay but does not pay. Human exploitation or degradation must not be allowed. But economic considerations will decide how far we can go in this regard.

20. The consensus was that in case of Government employees, Parliament should be the deciding authority for the quantification of the need-based wage as also the capacity of the Government to pay.

21. If there is a situation in which there is no agreement, between the Government and its employees on the quantification of a need-based wage or the capacity to pay it the Government will have to justify their stand before the Parliament. Even if the Government appoints a Commission and accepts or rejects its recommendations, they have to justify their stand in the Parliament.

22. Differentials in wages of different categories of workers in the same industry are a relevant factor which should be considered by the wage fixing authorities along with other considerations.

23. One of the reasons why a minimum cannot be fixed only on the basis of needs is that it will require revision in

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share the totality of circumstances has to be considered.

9. The quantification of the minimum wage will, in the very nature of things, vary from period to period and place to place. In order to judge whether a certain minimum wage was feasible under given circumstances it was necessary to know the precise implications and quantification of the same.

10. When social considerations enter into fixation of wage the idea of needs of wor ers inescapably comes in. In India, social considerations have to be taken into account and, therefore, the needs of the employees cannot be kept out. The Government accepts this position without reservation.

11. There could be no quarrel with the general idea of the minimum needs. If exoerience elsewhere is any guide, there should be no rigidity in this regard. Instead the norms should be flexible enough and should indeed change with time and according to circumstances.

12. Dr. I.G. Patel added: (i) In quantifying the minimum, the earnings of self-employed in the neighbourhood cannot be totally ignored and this consideration will be specially relevant in juding what the obligations of the Government should be.

(ii) Viewed in this context the wage level in agriculture does have a relevance for wages in an industrial unit in the area.

13. The 15th Indian Labour Conference quantified the needs, but having done this they put in a proviso which opened up the whole question again. The Government's view-point in this regard was a little different. While they accepted the concept they did not accept the rigidity of the specifications implied therein.

14. The Second Pay Commission went into the recommendations of the 15th Indian Labour Conference and sought a clarification from the Government about its stand regarding the recommendations of the 15th I.L.C. The Government clarified at that time that the recommendations of the 15th I.L.C. should not be regarded as decisions or as the views of the Government and they have not been formally accepted or ratified by the Central Government.

15. Minimum wage may be looked at as: (i) an absolute minimum, (ii) a national minimum and (iii) a need-based minimum. The idea of an absolute minimum could be accepted. But the idea of a national minimum wage was not considered practicable.

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wages of other categories of employees, and the total impact will be more than that of giving the need-based wage to the lowest category.

24. The Second Pay Commission accepted that social considerations cannot be ruled out. The needs, therefore, come in. The Commission accepted in principle that needs are important and on the basis of independent evidence arrived at the needs. But in quantifying the needs, they did take into account some general considerations such as the over-all availability of foodgrains in the country.

25. Minimum wages for different industries could be prescribed. The worry in going beyond that was that some provisions had to be made for tomorrow particularly for expansion of employment opportunities, education, etc.

26. Dr. I.G. Patel stated that (i) even in the private sector the national and overall considerations should be kept in view in fixing wages, (ii) it follows that a unit in an industry should take into consideration the overall capacity of the industry, (iii) unless there is sufficient return on capital the industry can not expand and future employment would be retarded.

27. Government is agreeable to enter into a dialogue with the employees about merger of D.A. with basic pay. The issue can even go for arbitration if no agreement is reached.

28. If the cost of living index rises steeply there is a case for redrawing of grades, even of those who are not getting any D.A. at present.

29. Government have an open mind about appointment of a Pay Commission.

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NATIONAL COMMISSION ON LABOUR

Date:- 5-12-1968 Time: 5.00 P.M. to 6.00P.M.

Record of discussion held at New Delhi with the Ministry of Home Affairs represented by:-

(1) Mr. L.P. Singh, (N.C.L. Ref.No.LL-II.18)
Secretary,
Ministry of Home Affairs.

(2) Mr. R. Prasad,
Secretary(Services),
Ministry of Home Affairs.

(Mr. P.C. Mathew, Secretary, Department of Labour & Employment was also present).

1. In evolving the Scheme of the Joint Consultative Machinery the idea was to keep the scope as wide as possible, so that the representatives of the employees and Government could come together and discuss all issues excepting, of course, individual cases. The Scheme has borrowed heavily from the British pattern. The spirit of the Scheme was one of give and take and of providing a forum where either side could convince the other.

2. The scope for arbitration in the Scheme was limited, and only pay and allowances, weekly hours of work, and leave were made subject to arbitration.

3. The specific position in regard to arbitration was briefly: (i) Whereas the UK Scheme, on which the Scheme evolved in India has been mainly based, included a clear provision that the final decision whether an issue could be referred to arbitration rested with the Government, in the Scheme as adopted in India this clause was in the original draft but was dropped in negotiations. (ii) With the clause as it exists in the UK, the general question of pay and allowances has never been referred to arbitration in that country.

4. The rationale of the Scheme was that on issues on which arbitration was provided for, there should be no strike. If it happened that the representatives of the employees and the Government could not come to an agreement, arbitration would be resorted to, unless Parliament as the sovereign authority decides that there should be no arbitration.

5. When the Government happens to be the

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employer, there are certain special difficulties in making a wide range of issues arbitrable. For private employers it may be possible to determine what issues should go to arbitration or adjudication, as the Government can objectively take a decision. But when Government themselves are the employers, there is no external authority which can do so. That the Government was not averse to arbitration on issues which were arbitrable is shown by the fact that some 16 or 17 cases have been already referred to arbitration after the Scheme came into being.

6. If, in the context of the recent strike of the Government employees the issue had been raised in the form of a demand for a revision of particular scales of pay, that as well as the question of merger of DA with basic pay, would have come within the scope of arbitration as provided under the Scheme.

7. The Constitution provides that any citizen of India should be able to secure employment in any part of the country. This fundamental approach should not be given up in considering the claims of local people for employment even in lower categories. However if the problem was viewed in a practical way, a large part of the employment opportunities, specially in the unskilled categories, would in the normal course go to the local people.

8. It is prudent for industry to give employment to local people: there are no particular problems of housing, need for long leave, or special training for getting local language etc. On the other hand, if the demand for preference to the employment of local people is taken to the extreme, it would lead to an irrational location of industries irrespective of economic and other considerations. There would be difficulties even within a State, each region or district pressing for preference to the local people.

9. But for a few sugar factories, there was no industry in the Gorakhpur District. The District had a large surplus landless population which for quite some time has been migrating to Bihar, Andhra Pradesh and West Bengal, and even outside India in search of employment. The Vishnu Sahai Committee made certain recommendations and these have been implemented. (The subject will come up for a more detailed discussion with the Labour Ministry).

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10. For the recognition of unions of Government employees no set procedure has so far been evolved. Recognition has been accorded on ad hoc basis. Each union was expected to have representation of at least 15% of the employees of the category represented. In one case there was a dispute about the majority union. The matter was referred to the Chief Labour Commissioner (Central) for advice. Even as his investigations were going on, representatives of different unions were called in and were persuaded to agree to a basis on which recognition was granted. No specific rules have yet been formulated for this purpose. In some cases the Government deals with more than one union.

11. There is no objection to the existence of more than one union representing the same class of employees, if their membership is above the minimum prescribed percentage of employees. If the minimum required for representation is low, there should be no ban on more than one union. The minimum limit of membership for purposes of recognition should, however, be raised.

12. Both secret ballot and verification have merits and demerits; but on a balance of considerations Government favour verification method in giving representation to the unions of its employees.

13. It is important to ensure that the working of the trade unions is fair and on healthy lines. Elections of the union office bearers, for instance, should be held at regular intervals and in a fair manner.

14. The Railways as also the P&T employees are subject to both the Joint Consultative Machinery of the Government and the Industrial Disputes Act. If the Joint Consultative Machinery works well, it may be possible to take them out of the purview of the Industrial Disputes Act.

15. The present Bill replacing the Ordinance was introduced in the Parliament by the Government because of the threat of another indefinite strike to be launched by the employees sometime later when the Parliament would be in session. The question of replacing the present legislation and making a comprehensive law providing for compulsory arbitration in case of failure of settlement is under consideration of the Government.

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NATIONAL COMMISSION ON LABOUR

(New Delhi)

NCL Ref. No. DL-II.20

6.12.1968 9.30 A.M. to 12.30 P.M.

3.15 P.M. to 4.30 P.M.

Record of discussions with the Department of Labour and Employment represented by :

1.	Shri P.C. Mathew	Secretary.
2.	Shri P.M. Nayak	Additional Secretary.
3.	Dr. S.T. Merani	Joint Secretary.
4.	Shri R.B. Shukla	Director of Industrial Relations.
5.	Shri Dharni Dhar	Deputy Secretary.
6.	Shri B.N. Chakravorti	Deputy Secretary.
7.	Shri H.P. Duara	Director (Welfare).
8.	Shri L.R. Varma	Joint Director.
9.	Shri H.K. Choudhry	O.S.D.
10.	Shri C.R. Nair	Under Secretary.
11.	Shri K.D. Hajela	Under Secretary.
12.	Shri J.D. Tewari	Under Secretary.
13.	Shri H.R. Chhabra	Under Secretary.
14.	Shri Balwant Singh	Under Secretary.
*15.	Shri O.P. Talwar	Under Secretary.
16.	Shri K.M. Tripathi	Deputy Director.
17.	Shri A. Krishnamurti	Deputy Director.
18.	Shri S.N. Sharma	Deputy Director.

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* Present only in the forenoon session.

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19.**	Shri S.S. Mukerjee	Deputy Director.

ATTACHED OFFICES

1.	Shri S.K. Mallick	D.G., E. & T.
2.	Shri T.C. Puri	D.G. ,E.S.I.C.
3.	Shri H.B. Ghose	Deputy L.G., Mines Safety.
4.	Shri B.J. Ramrakhiani	Deputy D.G.,F.A.S.L.I.
5.	Shri O. Venkatachalam	C.L.C.
6.	Shri K.K. Bhatia	Director, Labour Bureau, Simla.
7.	Shri P. Sadagopan	C.P.F.C.
8.	Shri S.N. Pande	C.M.W.C.
9.	Shri P. Chandra	C.M.P.F.C.
10.	Dr. M.A. Chansarkar	Director, C.B.W.E.
11.**	Shri R.J.T. D'Mello	Deputy C.L.C.
12.**	Shri O. Maheepathi	Deputy C.L.C.
13.	Shri K.B. Sharma	Director of Employment Exchanges
14.*	Shri A.S. Lall	Director of Training.
15.	Shri Jagannathan G.	U.S., Dte. G.E. & T.

It is not the form but the substance which should be taken care of in drafting a common labour code. The Study Group on Labour Legislation has made departures from the existing law. 'Labour' being a subject on the concurrent list it is axiomatic that we cannot have identical laws in every State. If we try it, modifications would be required sooner or later. We may have a common labour code covering certain crucial matters. The difficulties in having a common labour code would be as follows:

(i) States would have authority to change it as the subject 'labour' falls in the concurrent list;

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* Present only in the forenoon session.
** Present only in the afternoon session.

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they may like to have variations to suit local conditions; This however, is not an unsurmountable difficulty. Some changes can be made to suit local conditions.

(ii) It may not be convenient to refer to a common code because of its bulk when dealing with specific matters. There will be dangers of inconsistency in an overall code.

(iii) Definitions would vary in different contexts; and they should be allowed to vary. For example, the definition of industry adopted in the Industrial Disputes Act may not be suitable for other enactments such as the Employees Provident Fund Act. One may take out a section of the working class from its purview while another could be more comprehensive in coverage e.g. Provident Funds Act can cover all employees Public and Private and even Government employees whereas an Act like the Industrial Disputes Act may prefer to exclude Government employees. A uniform definition would create difficulties in such circumstances;

(iv) From the point of view of actual working and needs of a situation it would be necessary to have separate enactments on different subjects.

2. It may be possible to bring together the enactments which have something in common. Apart from the question of definition of basic terms, some general principles and norms may be laid down in respect of certain other matters like trade union organisation and registration, principle of recognition of unions, procedure for selecting the representative union, standing orders, settlement of disputes etc.

3. A uniform procedure should be adopted for selection and appointment of labour judges. It is important that the procedure is such as to bring satisfaction and inspire faith in the parties. Adjudicators need not necessarily be judges. Persons with experience in management, trade unions etc., and with legal qualifications should also be eligible. However, the tribunals which interpret agreements, awards etc. and enforce penalties should have persons with judicial qualifications and experience.

4. The appointments for such tribunals could be made by the appropriate Governments from a panel of judges given by the Chief Justice. The method of appointing labour judges should in any case be such as would inspire confidence and ensure maximum impartiality and independence. If non-judicial members were to be appointed as adjudicators, etc. consultation with the Chief Justice would not arise.

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5. There is already a provision in the Industrial Disputes Act for the appointment of assessors. Making any other provisions for tripartite tribunals will not make a material change as in case of the difference of opinion between the representatives of the parties the decision will be that of the Chairman. It is a fact that the present provision for assessors has not been made use of by parties.

6. Revival of Labour Appellate Tribunal was not favoured as there was little advantage in it, so long as it was not the final court of appeal.

7. There are advantages and disadvantages of selecting a sole bargaining agent and of different methods viz. secret ballot and verification used for the purpose. However, there should be one recognised union as distinguished from a sole bargaining agent; the latter concept may include a person as well.

8. Functions of a union are more than merely bargaining with the employer for its members. As such the objective should be selection of a union and not merely a bargaining agent. A recognised union should be responsible to employer and should be able to deliver goods.

9. Government have been so far following the method of verification and they are not yet convinced that secret ballot would be a better method. This is not peculiar to India. To make verification more acceptable, the task should be entrusted to an independent body. The main idea of entrusting the verification procedure to an independent agency was that there should be some impartiality inducted into the system and to insulate the verification procedure against certain allegation of extraneous influences. If an independent agency is to be established, a very large discretion should be left to that agency; and if that agency decides on a particular way - verification or secret ballot if found necessary, for ascertaining membership, it should be open to that agency to do so.

10. In case secret ballot is preferred, the right to vote should be given to all the workers, without compulsion to become member of any union, as any agreement arrived at by a representative union affects all workers equally.

11. The present verification procedure was accepted by the four representative central organisations of unions at the tripartite meeting and if now the unions decide in favour of another procedure the Government would consider it.

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12. Check-off is an advantageous system and should normally be welcome to the unions. But it need not be imposed on a trade union if it does not want it.

13. Regarding the functions of the minority unions, it was suggested that they should not bargain or enter into an agreement on matters affecting all the workers; they may undertake welfare activities and should have right to represent individual grievances.

14. Collective bargaining is not feasible at this stage as the sole method of settling disputes and the Government should not be kept out of industrial relations scene. If collective bargaining is to be introduced as the sole method of settling disputes a clause for compulsory arbitration should be agreed to by the parties in the event of failure of collective bargaining. The two methods, collective bargaining and adjudication, can co-exist without difficulties. In case of any dispute in regard to selection of an arbitrator, a senior judicial authority should have the power to nominate an arbitrator.

15. The parties to a dispute should not be given the right to go to the Labour Court directly because in that case there will be too much litigation. Reference to adjudication must be made by the Government. This is also necessary to ensure harmony amongst the parties and to enable the Government to screen cases and decide the merits of the issues for reference. In the matter of creating new rights the elected Government of the people cannot be left out altogether; the anology of civil courts cannot hold in this case. However, in case of non-reference of a dispute or some issues, the Government should give its reasons for non-reference. It will also be appropriate that some guidelines are laid down on the basis of which the Government should decide the suitability of the cases to be referred to compulsory arbitration.

16. In case of the public sector undertakings, if the Government is given the powers to decide whether a case is fit for reference or not, it may be construed as amounting to vesting the powers of reference on the employer as the line that divides the Government's functions as government and as employer may not be distinguishable. In such cases, some improvement in the present method of reference is necessary. The Government (Labour Ministry) should exercise special care to see that the decisions are not coloured. Even at present Labour Ministry in such situations acts as Labour Ministry and not as a government (in its capacity as employer).

17. No distinction should be made between the private sector

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and the public sector in the matter of reference making.

18. Often there are a number of issues in a particular demand. The Government should have discretion to refer all the issues or select some issues, as there is danger in the unrestricted reference of issues.

19. The statute already provides that the Government can intervene if there is a threatened strike or lock-out. It should be left to the judgement of the Government whether it intervenes before the strike actually takes place or afterwards. The country cannot afford the luxury of allowing a 'cooling-off' period, following a dispute as is the practice in U.S.A. In our country strikes are always in key sectors. They have a greater leverage on that account. In judging the effect of a strike calculations of direct loss alone will be unrealistic.

20. Only those issues which affect employment, unemployment conditions of service could be referred for adjudication. A dispute relating to automation if it affects the employment of workers in a particular case then alone it should be adjudicated by a court and not otherwise.

21. It is necessary to have a clear definition of the term 'outsider'. Trade union work requires full time workers. A person who resigns his job to be a whole time trade unionist should not be considered an outsider. No categorical reply can be given about about a politician becoming an office-bearer of a trade union. If an employer can be a member of a political party there is no reason why a trade union leader cannot be a politician.

22. If an insider is elected as an office-bearer and works as a whole-time employee of a trade union, he need not be treated on leave with pay. Grant of leave with pay to an employee taking to full time trade union work should not be regulated by law. It should be a part of the contract between the employer and his union.

23. There are many instances where a strike or agitation has been resorted to not entirely for a particular economic demand but for something else. Economic betterment is a complex problem and is generally mixed up with social and political issues. However, unions should be prohibited from giving a strike call for achieving collateral objectives. Strikes should not be allowed for anything other

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than industrial disputes as defined in the present Industrial Disputes Act.

24. There should be a prohibition on the right to strike on the issue of union recognition if in a plant/industry a trade union is recognised according to the prescribed statutory procedure. Care should be taken to see that a 'Company union' does not prevent other unions to come in.

25. A filter is provided by interposing the Government in making the reference to a tribunal in cases of discharge or dismissal, by not making the reinstatement obligatory and prohibiting admission of fresh evidence before the tribunals.

26. The decision should rest with the tribunal as to whether it would order reinstatement for a wrongful dismissal. Ordinarily reinstatement is to be ordered and payment of compensation awarded only in special circumstances. The compensation visualised here is a penal compensation which would discourage unfair and wrongful dismissal. The decision should be left with the tribunals and no provision need be made in the law on the criteria to decide this issue.

27. The criterion should be the interest of the concerned worker. In many cases payment of compensation would be in the interest of a worker himself, since an employer can always build up a case against a person whom he thinks to be undesirable and turn him out later if he is imposed on him against his wishes. Even in such cases the worker or his union may insist on re-instatement merely to continue the fight. The employer's fear that the order of reinstatement would be frequent is not well founded.

28. The ILC Resolution on Need Based Minimum Wage applies only to industrial workers and does not include non-industrial workers. Secretariat employees of the Government are not covered. A distinction between the P & T and Railway employees on the one hand and the Secretariat employees on the other is justified . (Shri Nayak added that it would not be open to a modern enlightened Government to say that it will not pay a need-based minimum to its civilian employees but in a developing country the problem of resources had to be considered).

(ii) The proviso given in sub part 3 of the Resolution underlines the importance of capacity to pay of the industry

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and it will therefore, be more apprcpriate to call it "minimum needs plus capacity based" wage; N.B.M. Wage should take into account both the need of the worker and capacity of the industry.

(iii) It is not clear whether the Resolution was intended to be applied to departmental undertakings also but as it stands it is applicable to P & T and Railway employees. It is purely a matter of form and historical accident that P & T and Railways are managed departmentally. They could as well have been under a different from of management.

(iv) The proviso says "Wherever the minimum wage fixed went below the recommendations, it would be incumbent on the authorities concerned to justify the circumstances which prevented them from adherence to the norms laid down." The circumstances as mentioned in proviso are invariably interpreted to include the capacity to pay. The question whether the interpretation of the circumstances should include the requirements of savings, investment, profits etc. should be left to be decided by the wage fixing authority.

(v) The capacity to pay seems to mean the capacity to pay of an individual employer. Nature of an industry is also a relevant consideration. It is not possible to lay down any uniform formula by which capacity should be judged. It must provide for remuneration to other factors of production including capital. It is also to be seen that the need based wage fixed does not create disharmony in the region. However, it would be appropriate to leave this issue to the wage fixing authority.

29. The name, 'Department of Labour', is actually an abbreviation of Department of Labour and Employment but it really looks after industrial relations, labour welfare, employment and training. It would be wrong to think that since Department is named as a Department of Labour it will act against the interests of employers.

30. It is incorrect to assume that in the determination of wages and industrial relations only the interests of two parties are to be taken care of; there is a third party, viz. the 'community' whose interests are as much involved. If a Wage Board recommends increase in wages the representatives of workers & employers often make a joint recommendation that the additional cost may be passed on to the consumers by way of increase in prices. Coal and electricity are cases in point. Such a situation may be justified but it is clearly Government's duty to

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ensure that the consumer is not exploited. In an economy, employers' workers' and consumers' interests are all interlinked - the structure of modern economy is such that no one industry can work in isolation and what happens in one has its repercussions on others. In a modern economy where many industries and services are interlinked any disruption of work in one may adversely affect the whole community. As such, there is a point in favour of allowing interference by some authority on behalf of the public. Interest of the community should not be lost sight of in matters connected with wage determination and in dealing with industrial disputes. This gives an added justification for State intervention in the determination of wage levels or in the settlement of industrial disputes.

31. Wage Board system is, in fact, a substitute for inudstry-wise collective bargaining. If the wage board awards are to be made statutorily binding, by implication it means that sufficient care has to be exercised by a wage board to see that the recommendations are within the reach of the majority of the units. For instance, if there is a finding that a particular recommendation is within the capacity of say 95 per cent of the units, it can be made statutorily binding . If such is the finding of a wage board, it is most unlikely that the Government would fail to accept its recommendations. However, if the awards of the wage boards are to be made legally binding certain procedures have to be laid down to be observed by the wage boards.

32. The recommendations of the Donovan Commission that emphasis should be on enterprise level negotiation and not an industry-wise negotiations is worth considering. Element of productivity and incentives cannot be built up in the industry-wise bargaining. However, in India fixation of minimum wage at industry level is important because trade unions at the plant level are not fully equipped to negotiate. In many industries it is difficult to classify the units as is done in case of banks, for fixing different level of wages for different categories of workers.

33. The nomination of independent members on the wage boards may serve some purpose but there would be no harm in dropping the practice. Expert advice can always be obtained by the wage boards.

34. In case there is a difference of opinion between the representatives of employers and employees on certain issues, it may be left to the Chairman to take a decision.

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35. There should be some provision in the Act by which an aggrieved party affected by the non-implementation of awards or agreements, may get some redress. All collective agreements should provide for arbitration on points of implementation, interpretation and even alteration of the agreed terms. In case of non-implementation of awards by employers already there is a provision in the Act for attachment of property, etc. There should be provision to enforce compliance by trade unions also. If a trade union is guilty of breach of collective agreement and goes on strike, the immunity granted to it against civil action by the employer for damages should be removed. De-recognition and de-registration of a union in such an event can also be considered.

36. No union should be allowed to go on strike unless a ballot of all workers reveals that the majority is in favour of the decision. This would prevent strikes being imposed from the top, as has often happened.

37 There is an urgent need to take strong measures for insulating the provident funds being defrauded or employee's share of provident fund not being deposited by the employer or his own share. The present practice is that in case of non-deposit of provident fund it can be recovered from an employer as arrears of land revenue. In some cases the Government took to this strong measure. Generally a lenient view is taken by State Governments. State Governments do not enforce it strictly because of possible unemployment. Law already provides for exemptions. But defaulting parties whether they are non-exempted or exempted establishments should be penalised. There is a need to change the law. In case a company goes into liquidation, provident fund dues should be made the first charge.

38. In case the Commission considers it necessary to recommend that bonus should be at a flat percentage of a net income of a unit, the distinction between capital intensive and labour intensive industries should not be forgotten; there has to be different percentages for different industries. The recommendations of Ceylon Commission on this point deserve considerations.

39. Linking bonus to production instead of profit may be useful. But the practical difficulties involved in measuring production make it difficult to adopt such a system, generally.

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40. The working of Gorakhpur Labour Organisation was explained. The matter whether or not the organisation should be closed down was examined a number of times. In 1954 the Vishnu Sahay Committee made certain recommendations and pointed out infirmities in its working. The Government took steps to remove some of them particularly those relating to discrimination. An Informal Committee of the Members of the Parliament had also gone into the question and recommended some steps to improve its working. In 1963 the matter was again discussed at a tripartite meeting in which, although the employers' and workers' representatives agreed that the system of Gorakhpuri Labour be abolished, the Committee recommended that Government would, in the first instance, carry out its two other decisions , namely, (a) throw open the hostels to all workers and (b) improve the quality of hostel superintendents. The U.P. Government wanted its continuation and at the instance of some M.Ps, M.L.As. and leading people, the then Prime Minister, Late Shri Lal Bahadur Shastri, visited the Depot. The then Labour Minister later also saw the working of the Depot and after careful examination of the matter, the Government finally decided to continue the scheme. The question was reopened and the matter was discussed by the Standing Labour Committee recently which decided that the previous decision relating to the abolition of the Gorakhpur Labour Camp should be implemented by the end of 1968. It was urged that the Gorakhpur Labour Depot had been serving a useful purpose in supplying labour during national emergencies at short notice, in regulating the flow of labour supply to coal-fields, other industries and projects and in providing employment to the inhabitants of the depressed region in the Eastern Uttar Pradesh. At the end of each year amounts of the order of over a crore of rupees are transferred to this area through the work of Gorakhpur Labour. At present there is no unfair labour practice as alleged; those as are there should be amenable to examination. (A note on the Scheme will be submitted by the Director General, Employment and Training, giving the reasons justifying its continuance).

41. The Labour Ministry requested that the Commission should point out to them the specific defects in the system brought to their notice and the points on which the Ministry should give a note. The Ministry also requested the Commission that before a final decision is taken by the Commission about this Scheme, the Commission should have a dialogue with the Government of Uttar Pradesh. As regards the subjects dealt with by the Labour Ministry, a reference was made to the report of the Administrative Reforms Commission which recommended that Manpower should be dealt with by the Labour Ministry.

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NATIONAL COMMISSION ON LABOUR

(New Delhi)

6.12.1968 4.30P.M. to 5.30P.M.

Record of discussion with Shri G.A.Appan, M.P.

1. Mr Appan gave his views in his personal capacity and not on behalf of the D.M.K. Party to which he belongs.

2. The present labour policies of the Government of India are immature. The present labour legislation might be all right for enlightened workers or those led by enlightened leadership. Though the Government has provided a number of facilities and labour legislation in the best interests of labour, they have not been fully realised by the labour on account of the unenlightened leadership and 'interested' advice and guidance of a number of union leaders.

3. In the field of labour administration, the lower rung of the officers are not well-trained social workers. They are mostly drawn from lawyers. They are not able to understand the psychology and motivations of labour in their various actions.

4. Some progressive States have taken trained social workers in labour administration but their number is few.

5. Recently a very constructive programme of workers' education has been introduced.

6. Labour Oificers, Inspectors, etc. are not familiar with labour problems and grievance procedures of other countries. It is necessary to know the procedures in other countries for proper execution of labour policy. Labour matters should be handled by professionals. Foreign technology in this respect should be borrowed freely.

7. Conciliation, mediation, arbitration, etc. are more 'talk' indulged in a casual way without understanding their meaning.

8. It is not possible to give need-based minimum wage to Central Government employees. These employees get wages higher than the employees in many of the

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industries and in the State Governments. Even if need-based wage is paid to the employees, the commodities are in short supply.

9. The Government of India has handled the recent strike of the Central Government employees in an appropriate manner.

10. There must be in the staff at all levels, discipline, control and respect for senior officials.

11. As there is much unemployment, a statutory minimum wage should not be imposed. The Commission should not recommend a need-based minimum wage. It is not time for India to accede to the illegitimate, unfounded, greedy and ill-advised demands of the trade unions. Till our country is economically well off, we should defer all these questions.

12. The procedures for granting maternity leave under the Maternity Benefit Act is not proper. Half of the leave should be given before delivery and the other half after delivery.

13. Women, whether married or unmarried, have no heart in their work and are not able to turn out as much work as is expected of them and for which they are paid.

14. Benefits and facilities provided under the E.S.I. Scheme are misused.

15. Before the workers can claim the right to strike, they must be made aware of their obligations. The workers should not be blamed for going on strike; it is the leaders who mislead them.

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NATIONAL COMMISSION ON LABOUR
(New Delhi)

6.12.1968 5.30 P.M. to 6.00 P.M.

Record of discussion with Shri Arjun Arora, M.P.

1. Need-based minimum wage must be given. No civilised Government or employer can tell the workers to give his full time and yet not meet his needs. Needs have been very moderately defined in the 15th Indian Labour Conference for the purpose of determining the need-based minimum wage.

2. The Indian Labour Conference laid down certain norms for the guidance of the tribunals and adjudicators. The capacity to pay develops as the need to pay arises or is forced upon the employer. There has been hardly any case in a major industry in this country where the industry has closed because it had to pay wages higher than what employer said he could afford to pay.

3. While considering the question of grant of need-based minimum wage to Central Government employees it would be a very unscientific approach to take into consideration certain other factors besides the capacity to pay such as need for investment, need for savings, lower rates paid to unorganised labour, etc. Prevalence of lower wages is never a justification for payment of low wages. If this logic is accepted, no employer can be forced to pay a pie more than what he has been paying becuase there are always other employers who are paying less and each employer has need for investment. If these considerations are applied in the case of Government servants, they will have to be applied to private employees also.

4. The need-based wage is supposed to be the minimum. Even in the case of the lowest minimum wage fixed statutorily, there are disparities. The object should be to do away with the disparities and not to perpetuate them. The process should not stop by giving a little more to one section but should go on till everyone in the country gets the bare minimum.

5. Employment opportunities in this country are not limited; they should not be limited. Our national planning should be employment-oriented. If a correct direction is given to planning and if we concentrate

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on employment-oriented labour-incentive schemes, like road building, canal digging, etc., there will be more jobs.

6. It is not correct to say that if the wages are raised, total employment shrinks. By giving higher wages to people, the standard of the whole country rises.

7. Wages should be linked with production. That should be done in each industry in consultation with unions. Payment by results is a very healthy principle but such payment should not be decided unilaterally.

8. Need-based minimum wage cannot be limited to Class IV employees only. There are differentials between various categories and those differentials should be taken into account in laying down need-based minimum for other categories of employees.

9. Anybody who gets employment should get the need-based minimum wage for his employment. It is the responsibility of the country to give employment to everyone and the country can afford to pay the need-based wage to every person employed.

10. The Labour Appellate Tribunal was a very good institution and was doing good work. It should be revived.

11. The Coal field Recruitment Organisation should be disbanded. It savours of indentured labour. As compared to the total population of Gorakhpur or people from that district who want jobs, the people who get employment through this organisation is very small. Others go to all parts of North India and find employment. People who are employed through this organisation should be permanently absorbed in the coal mines, and regular employer-employee relations established.

12. There should be only one bargaining agent. Representative character should be determined by secret ballot. Verification procedure is very faulty. At present verification is done by some low-paid Government officers who are amenable to political influence. If the work of verification is entrusted to independent agency, that will give encouragement to people who are able to produce fraudulent documents. It is true that as in the case of other elections extraneous considerations may be brought in, in these elections also; but if the Government is elected by ballot, that method should be equally good for electing unions. All the workmen should have the right to vote, because the bargaining agent will represent all the workmen.

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13. Minority unions should be allowed to represent individual grievances of their members.

14. Industrial disputes should be settled by collective bargaining; if it fails, some method of arbitration should be provided for. But where parties do not agree to arbitration, then there should be adjudication rather than strike. Strike should be the last resort and should be avoided as far as possible. If the employer refuses arbitration and Government does not refer the dispute to adjudication, then the employees should have the right to go on strike. If the parties are given the right of direct reference, strikes may be eliminated in practice; but in theory the right to strike (as the last resort) should be recognised.

15. In the present situation in the country, collective bargaining in its naked form will not be advisable.

16. Labour leaders cannot force workers to go on strike; it is generally the workers who force the leaders to lead the strike. Before going on strike, a ballot should be taken by the union.

17. Domestic inquiries are too domestic. The charge-sheeted worker is faced with a battery of lawyers engaged by the employers as Labour Officers. It should be open to the worker to produce fresh evidence before the adjudicator, though in the Bill as passed by the Rajya Sabha this provision does not exist.

18. There cannot be suitable compensation for loss of employment. It may be generous on the part of the employer to offer to pay salary for the entire term for which the workman would have served, but it is not good as a human being to accept such charity. Employer should not have the choice either to reinstate a worker or to pay him compensation. After the worker is reinstated, the employer may negotiate with him and pay him compensation if he accepts it. (Shri Arora promised to send a copy of his speech in the Rajya Sabha on the Bill regarding disciplinary cases).

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NATIONAL COMMISSION ON LABOUR

(NEW DELHI)

7.12.1968 4.00 P.M. to 5.30 P.M.

Record of discussion with Swatantra Party M.Ps represented by:-

1. Mr. J.M. Lobo Prabhu

2 Mr. Sundar Mani Patel

3 Dr. R.K. Amin.

The number of appeals will be reduced if the record at the lowest level of conciliation is as complete as possible. At present conciliation reports tend to confuse the issues. The parties, therefore, should file their statements before the conciliator, witnesses should be produced before him, he should record their evidence and give his findings. He should act as the court of first instance. If any further evidence is to be brought before the tribunal, that should be by special permission. The report of the conciliation officer should be a public document.

2. Collective bargaining has not been sucessful, except where parties are driven sometimes to agree because of the adverse consequences out of failure. When strikes and lock-outs are prohibited by law, collective bargaining is even less sucessful. As soon as the stage of adjudication comes in, collective bargaining is very much circumscribed. But the whole trouble has been that Government has not used its powers for referring disputes to adjudications. As soon as a reference is made to adjudication, a strike becomes illegal. Therefore when the Government finds that there is a dispute, they should make a reference for adjudication.

3. Since there are a large number of employees like Government employees in respect of whom Government cannot make a reference to adjudication, the Industrial Disputes Act should be extended to them.

4. When there is a dispute, Government is under tremendous pressure; the weaker the case, the more is the pressure. Therefore, Government should immediately refer the dispute to adjudication on failure of conciliation. The society has to suffer if Government does not refer the dispute to adjudication and employees go on strike, as in the case of the recent newspapers employees' strike. It may be that employees are

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apathetic to adjudication because it involves delays and ultimate approach to the Supreme Court. Therefore, the delays should be reduced to the minimum.

5. On the face of it, arbitration is very attractive. But it is difficult to find a person who enjoys mutual confidence, because against the arbitrator's award there is no appeal. Besides, the arbitrator chosen by the parties might be very reluctant to accept the task. Moreover, parties themselves would be reluctant to go to arbitration. Arbitration should not be ruled out but adjudication is preferred.

6. If the nature of work is of an enduring and permanent character the labour employed for it should not be treated as casual. No subterfuge should be allowed to be used to deny the benefits of labour legislation to such labour by treating them as casual. The irreducible minimum should be treated as permanent. However, where the work is of a casual nature, casual labour may be engaged.

7. A contractor has skill not only to collect labour but also in its management. The employer therefore does not like to deal with the workers and leaves it to the contractor. The more difficult does labour become, the lesser are the chances of its employment; the employer introduces machines to replace labour Employment of contract labour to abuse or evade the law should not be allowed.

8. An outsider is one who does not work at the plant. The ills from which the trade union movement is suffering are due to outsiders. It has led to multi-plicity of unions. The workers are now educated; they should therefore be allowed to look after themselves. Today they resent the outsiders. If the outsiders are prohibited and workers are given a chance, many will come forward to undertake union work.

9. It is true that outsider-politicians have built up the trade unions. A trade union worker should have nothing to do with politics. Just as an agriculturist is defined as a person whose main source of income is agriculture, similarly an insider may be defined as one who devotes major portion of his time and energies to trade union work. All that can be attempted is to reduce the influence of politics on trade unions. The number of outsiders should be reduced. They should have also experience of trade union work and should be full-time trade union workers. The attempt should be to reduce and restrict the purely political influence right up to the apex.

10. The party believes in leaving workers to themselves. The party is building up a labour front, but this is only to weed out 'elements' of other political parties.

11. Reinstatement involves the imposition of a worker who is not desirable from the point of view of the employer. Besides, when he is reinstated, he is likely to create trouble again.

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While dealing with disciplinary matters, the Court should consider the effect of reinstatement on employer-employee relations. This should so even in cases where a worker is dismissed with an ulterior motive, viz., that he is a trade union worker. There are good and bad trade union leaders and workers. To implant a worker merely because he is a trade union worker would not be proper. (Mr. Sunder Mani Patel differed with this view and maintained that office-bearers of the trade unions should be given sufficient safeguards or protection by statute. Such protection should be given to the office-bearers of the recognised union only).

12. If the need-based minimum wage is to be decided by reference to the Report of the Fair Wages Committee, then there will be a big hiatus between the actual needs and the desired optimum needs which are prescribed. That hiatus is too big. There would be no objection if only the minimum needs in respect of food, housing and clothing are taken into account. A survey of the actual standards of all the people should be made and their needs ascertained. The Organised class only should not be favoured; unorganised labour, agricultural labour cannot be forgotten. It is true that the wages of industrial workers have to set the pace for others; but what the agricultural worker is getting has also to be considered.

13. The economic argument is that as long the total national product is not increased, to increase only the wages means taking it from other sections of the population. It also leads to inflation. Further, such increase is ultimately illusory because other classess will also ask for increased wages.

14. The private sector employer is the middleman; the real parties involved are the producer and the consumer.

15. In determining the need-based minimum wages, it is not desirable to start from a priori-needs, but to ascertain from factual data and how it is met at present.

16. The first thing Government should do is to have a reasonable minimum wage; the second is to see that this minimum wage is implemented; the third thing is that there must be unemployment insurance. Effect should be given to the right to work.

17. All strikes without notice are illegal. A strike is a strike against the consumer, the public. Government should refer disputes as soon as they arise and so prevent strikes.

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18. The Fair Wages Committee did not choose the right way. A fair wage should be provided but it should not be at the expense of others. The nation has to move forward together. Labour is becoming a privileged class; they are getting privileges against other workers.

19. The system of payment of dearness allowance was opposed. The mechanism of dearness allowance is a self-defeating process. If wages are escalated prices will be escalated.

20. The Central Government employees is a small section and they are better paid. Everyone has to tighten his belt. As soon as demand is cut because of lack of purchasing power prices are bound to come down. Therefore if the belt is tightened for a short time, prices will come down.

21. The definition of "worker" should be widened. (according to Mr. Patel excepting those who are sick and invalid, all others should be classified as "workers").

22. According to newspaper report, the study made by a team of foreign experts shows that the total unemployed population in India is 70 million. All proposals for wage increases must be related to employment opportunities. All those registered with the Employment Exchanges should at least the provided with job opportunities. The question how the unemployed population in the country will be affected by any rise in wages must be considered.

23. If automation or machines are going to lead to unemployment, they should not be used in a country where there is unemployment. Before automation is opposed, it must be proved that it is going to cause unemployment.

24. It is said that by giving higher wages to labour in organised sector, peace is being set for higher wages for unorganised labour. But by giving higher wages in protected industries, the consumers are exploited. When wages of textile workers are raised, he millowner does not suffer; it is the consumer who has to pay higher prices. The wages in banks are so high that an engineer might be prepared to work as a peon in a bank.

25. The wage boards have not given the same wages for similiar work. Drivers in different establishments get different salaries, though the nature of their work is the same. Uniform minimum wage would be prescribed for all in the same category. Wages should be fixed occupation-wise and not industry-wise. It is necessary to correlate the capacity of the industry to pay to the capacity of the country

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as a whole to pay ~~and higher capacity of the country as whole~~ pay and higher capacity should be mopped up by way of taxation. If higher wages are to be paid for increasing efficiency, such high wages should be paid simultaneously to all. Such action should be collective. Government should make a law about it.

26. The country has a developing economy. Industries have developed in a few big cities and there is need for decentralisation. Government is planning town-centred industries. But how that is going to be done is not clear. This can be done by discrimination in the application of labour laws. Labour laws should not be made applicable to rural areas which are to be developed. In Britain there is no equal pay for equal work. Women are paid less than men. But women themselves opposed equal pay with men because they were afraid that they would lose employment. Therefore labour laws should be applicable to big cities having a particular size of population. In rural areas the question should be left to be decided by the employer and his employees. This type of discrimination should be there, for introducing intermediate technology and developing town-centred industries.

27. Decentralization of industries is very desirable; but that should not be at the cost of production. It should not result in lesser production either.

28. There are certain industries which are protected. In an assured monopoly, the capital will be prepared to pay more to the labour. But that will be at the cost of consumer. In such cases the State should intervene to see that only fair wage is given; collective bargaining should not be allowed in such cases.

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