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NATIONAL COMMISSION ON LABOUR

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MEMORANDUM FROM THE A.I.T.U.C., MAHARASHTRA STATE

<u>S.No.</u>	<u>Page No.</u>	<u>Points for Elucidation</u>
1.	2 (last para)	Could you cite cases in Maharashtra where you consider there has been injustice to your unions ?
2.		Would you accept electorate of workers who are members of one union or the other ?
3.	3	You have emphasised merely the rights of unions; would you also list the duties which should devolve on them ?
4.	5	Will you support your statement by supplying to the Commission cases where victimisation has taken place ?
5.	6	Will you relate your suggestions to the problem of country's development ? How would you tie up capital formation with the suggestion you have made ?

MEMORANDUM TO THE
NATIONAL COMMISSION ON LABOUR

Submitted by

I

This memorandum is being submitted on behalf of the State Committee of AITUC which represents all the unions affiliated to the AITUC in this State.

Only a few points have been discussed in our memorandum. On all other matters, including those contained in the questionnaire issued by the National Commission on Labour, the State Committee as well as all the affiliated unions endorse the submissions^{made} by the AITUC centrally.

In our view the two most crucial questions which affect industrial relations and the growth and proper functioning of trade unions are the questions of recognition of trade unions and collective bargaining.

II

RECOGNITION OF UNIONS

The _____ State Committee of AITUC is of the considered view that recognition of unions should be based on a free and secret ballot of the workers. Trade unions represent the workers and act as their agents or representatives in matters which affect the vital interests of all workers in the mill/industry/area and it is only fit and proper that the selection of who will represent the particular workers should be left to the democratically expressed will of the workers themselves.

At present unions are either not recognised or they are recognised under the Code of Discipline. In Maharashtra, recognition is granted under the Bombay Industrial Relations Act, so also in M.P. under the Industrial Relations Act of that State, which in effect is the BIRA as made applicable to the whole State after the reorganisation of Maharashtra, Gujrat and M.P.

Provision for recognition under the Code of Discipline is voluntary and the procedure is through verification of membership records of various unions by Government machinery. Apart from the fact that no enforcement is possible under the Code, the procedure is faulty and carries with it all the

defects of the procedure under the BIRA and similar acts.

In any case the AITUC is of the considered opinion that the Code of Discipline has only been applied one sidedly against the interests of workers, and does not any longer consider itself bound by it.

The procedure under the Code and the BIRA act is based on verification of membership records by the State Labour Department. This department has always been and will always be in the complete control of the State Government and is bound to carry out its policies and directives. In view of the fact that State Governments have been and still are in some places run by the Congress party, the policy has been to grant recognition to unions belonging only to INTUC. Even where the overwhelming majority of workers do not belong to the INTUC union, verification is carried out by the Labour Department with the purpose of declaring INTUC to be the majority union thus conferring recognition on it against the will of the workers. Many mill owners, are interested in supporting the INTUC unions for a variety of reasons and in some cases they help in inflating the membership rolls by various methods.

Hence the AITUC does not agree to recognition being made consequent upon a check-up of membership register by the labour department.

It is undesirable on other grounds also that the State machinery should determine the representative character of a union. Verification is only a convenient smoke-screen to hide the gross interference of the Government in foisting a union of its choice on the workers.

The only correct, lasting and democratic solution is to let the workers chose their own representative through secret ballot. All central trade union organisations except INTUC support this proposal. A section of employers also is in its favour. But the INTUC, the Congress Governments and some employers oppose this and the reason for their opposition are not far to seek.

However, workers in various places have resisted and will continue to resist this most blatant, anti-democratic method of selecting a union as the representative union and this has been a cause of several strikes and continued unrest.

In fact there can be no valid argument against the proposal to base recognition on the verdict of a secret vote of the workers who are to be represented. Fear of violence, backwardness of the workers, the 'principle' of quality Vs mere numbers are all outmoded and ill founded excuses. There is no violence worth the name in general elections or even among workers where works committees, housing committees, canteen committees etc. are elected. As for backwardness, the worker is far more enlightened than many other section of the community, which have the right to elect representatives for local governments, State Assemblies and Parliament.

If the principle of election of representative union by secret ballot is accepted, details can be worked out. These details are regarding what should be the unit for which a union is to be recognised; or mill or the whole industry in the area, etc.; what should be the electorate; all the workers or the members alone; what should be the period for which recognition is given etc. All these points and many others are important. But first the principle must be accepted; then the details laid down.

The AITUC is against recognition being given to craft unions whether of operatives or clerical and other staff etc.

All workers in a mill, whatever their trade or occupation, including clerks are part of the working class which has to ~~deal~~ collectively with the employers. In actual fact also more and more unions are becoming all-inclusive, uniting the so-called white collar and blue overall workers in one entity. This healthy trend must be encouraged and any plea for craft unionism rejected.

A point which is very important is that voting must be conducted outside the premises of the mill by a committee consisting of one representative each of the unions participating and a representative of the labour department of the State.

The union which secures the largest number of votes should be declared as representative for a fixed period. After that term fresh elections should be held if only interested union s demands in writing.

The representative union should be compulsorily recognised by the employer as the sole bargaining agent on all matters affecting the generality of the workers in the mill or any department/section of the mill. It must have the right to represent the individual grievances of all its members. The other unions should have the right to represent the individual grievances of their members.

The representative union should have the right to have a furnished office provided by the mill and a notice board. It should have the right of entry to the mill quarters at all times and to the mill in case it is necessary to do so for investigation of any claim or complaint. It should have the right to collect union dues at the place of wage disbursement. But there should not be any check-off, closed shop or union shop.

The recognised union should have the right to receive replies on matters raised by it and to negotiate with employers. Its main officials should have paid time-off for attending to defined union work.

III

COLLECTIVE BARGAINING

This brings us to the second major problem - collective bargaining. In the position existing today collective bargaining is hampered rather than promoted.

The first obstacle is the absence of a union recognised as a bargaining agent. Even where such a union exists nominally, the procedure adopted, as pointed out above, negates the reality and foists a union on workers which does not really represent them. Hence a democratically elected union, nominated by the workers themselves without interference by the Government or employers, is the first necessity if collective bargaining is to be promoted.

Collective bargaining really means that the workers as a class bargains with their employers regarding conditions of service. In such a process interference by Government is a hinderance. Hence the present machinery set up under the Industrial Disputes Act, BIRA etc. are harmful to this process. Conciliation by Government officials, compulsory

adjudication or arbitration are a negation of collective bargaining.

In fact the entire concept of conciliation, adjudication etc. is a class concept by which the bourgeoisie has sought to emasculate the trade union movement, to keep it within the confines of Government offices and court rooms.

The history of the right to strike shows how more and more curbs have been placed on it - first by making a distinction between legal and illegal strikes; then by bifurcating legal strikes into 'justified' strikes and 'unjustified' strikes, and lastly through the restrictions imposed by the Code of Discipline.

The right to strike is fundamental. It is the only sanction behind collective bargaining. To the extent that this right is fettered and curbed, collective bargaining suffers.

Hence the scheme of industrial relations should guarantee:

- a) a union compulsorily recognised as a result of secret ballot of workers;
- b) basic trade union and democratic rights of functioning to such a recognised union;
- c) right to strike and incidental rights like peaceful picketing.

It may be argued that workers cannot be allowed an unfettered right to strike, or at least not in all industries. Arguments in support of such a line of reasoning are not very cogent.

First of all workers will go on strike only if there are much compelling reasons as will force them to resort to such action. Secondly, if negotiations fail and the parties agree they may have recourse to voluntary arbitration.

But in any case compulsory adjudication with its ban on strikes is totally unacceptable as it constitutes a direct negation of collective bargaining and substitutes it by litigation.

Inference by the State through conciliation officers constitutes another hinderance to the development of collective bargaining.

What is necessary is the codification of the various acts which confer rights on workers like Minimum Wages Act, Payment of Wages Act, Workmen's Compensation Act, Factory Act, Trade Unions Act, certain sections of Industrial Disputes Act, P.F. Act, ESI Act, Standing Orders Act etc. Stringent penalties should be provided for infringement of these acts. Special courts should be set up to adjudicate on matters pertaining to these where the parties can directly take the matter. Cases relating to termination of service through any method may also be made justiciable in these courts through a direct complaint lodged by the party concerned. All other matters must be left for collective bargaining between the parties.

IV

FUNCTIONING OF TRADE UNIONS

There is an opinion in government, employer and some other non-union circles that more curbs should be placed in the formation of trade unions and their functioning subjected to more stringent control by government.

Arguments which are usually advanced are that under the present law, it is easy to form unions and this has led to or at least facilitated multiplicity of unions. Some unions do not function democratically, some have malpractices, etc., and therefore, the registrars of trade unions should be empowered to exercise close control with powers to de-register a union, etc.

The AITUC totally opposes all such suggestions. Multiplicity of unions is not due to the fact that any 7 persons can form and get a union registered. The principal reason for this is the absence of statutorily recognised unions based on a democratic ballot. In such a situation, the employers can and do play one union against the other, and conversely since even the most representative union has no privilege, a small union is no handicap. Once recognition is based on vote, and compulsorily granted with rights of sole bargaining agent, both employers and disruptive elements will lose interest in forming small splinter unions.

The best guarantee of effective and correct functioning of a union is emphasis on democratic functioning and not autocratic control by the State. Democratic functioning will receive a fillip if recognition by ballot is granted with rights to minority unions to function in case of grievances pertaining to their members.

Controversy has been raised regarding the participation of "outsiders". The word is variously defined. Some would include ex-workers, others would exclude all but actual workers. The crux of the attack, however, is that "outsiders" are an evil influence, they 'exploit' workers for their own ulterior ends, they prevent settlements from taking place, and they are a hindrance to the growth of healthy trade unions.

The attack is misplaced. Without going into the history of how and why 'outsiders' gained an important position in the TU movement, we submit that one of the primary reasons necessitating 'outsiders' is the system of conciliation and adjudication which has turned trade unionism into a court room battle. Even a highly-skilled and educated workers cannot be expected to conduct court cases against highly-paid lawyers employed by the employers. The alternative would be to engage lawyers - this would ruin the trade unions financially as well as the trade union movement.

There is practically no security of service in industrial employment. Trade unions have not been accepted by an overwhelming majority of employers as a useful institution. Leaders of unions are the first to be thrown out. In such conditions, a ban on outsiders would prove to be very harmful to the TU movement.

There is no principle involved in this question and the issue is strictly related to conditions obtaining in our country and the historical growth of the TU movement. As conditions change, the movement will adopt the form necessary to its growth.

V

WAGES,- D.A. - BONUS

Wages at the minimum level represents the cost of unskilled physical labour to the worker. That is to say, minimum wages must be related to cost of living at a given standard without imparting into its determination any extraneous consideration like capacity to pay, productivity, etc.

This minimum level will differ from time to time and country to country. In our country, at the present time, the agreed norm may be taken to be the definition of its contents in physical terms given by the 15th Indian Labour Conference.

Once an equation between money wages and real wages in these terms has been arrived at, at the minimum level for unskilled work, 100 per cent neutralisation for any rise in cost of living must be provided to prevent any erosion of real wage. In other words, 100 per cent neutralisation merely freezes the real wage at the given ~~max~~ level.

Hence any argument, however learned and profound, about why 100 per cent neutralisation need not be given is merely a plea for wage-cut and if allowed, in practice, over any length of time in a period of sharply rising prices will drive the real wage much below the subsistence level.

The seemingly profound argument about wage-price spiral is factually nonsense. Prices always rise first and wages try to catch up at an interval. Starvation is not a cure which can be prescribed for controlling prices. Prices rise not because workers spend wages on sheer necessities but because of the hold of monopolists on our economy and the role of speculators and hoarders.

Once the minimum wage has been fixed on the basis of parity between the money wage and the real content, suitable differentials should be fixed for semi-skilled, skilled, highly-skilled, supervisory jobs. Clerical jobs and managerial jobs should be brought into the scheme of differentials. In a poor country like India, where argument is still raging around the feasibility of giving a subsistence wage in the name of industrial survival, the present imbalance between managerial and staff salaries and wages is intolerable.

An argument is sometimes advanced that workers are a privileged class since they get D.A. which at least partially sets off rise in prices. This argument fails to note that the really privileged classes are the monopolists, big businessmen, hoarders and speculators who are behind the price rise and who profit most from it. To play off the misery of the rural masses against the misery of the urban workers is merely an effort to set one section of toilers against another and to hide the guilt of the privileged classes.

. . . . Over and above the minimum

The minimum wage for unskilled must be a national wage. Differentials will be in the shape of proportional ranges, leaving flexibility for each industry. There is no case for regional disparities. But the D.A. should be linked to the cost of living index of the area to allow regional differentiation.

Having fixed the differentials, every rise in prices must be offset 100%. Otherwise, differentials will be disturbed apart from every other consequence.

Over and above the minimum level, wages and D.A. should be left to collective bargaining.

There is a 'mantram' which is being often repeated about linking wages with productivity. We oppose this. Productivity is a resultant of many factors right from layout of the plant to type of machinery, raw material, inventory control, maintenance, managerial skill and workers' efficiency. One cannot link wages to variable factors totally outside the control of workers and unrelated to their efforts. This is apart from the difficulty of arriving at an objective measurement of productivity.

The question of incentive bonus or production bonus is best left to collective bargaining.

In a system where workers are yet seeking to achieve a minimum wage, bonus occupies an important place. It represents an annual saving necessary to wipe out to some extent, the debts incurred during the year and if possible, provide a small lump sum for annual expenses of a capital nature like purchase of blanket, warm clothes, etc.

The present Payment of Bonus Act which incorporates the viewpoint of employers to the exclusion of the unanimous opinion of all others, including one representative of employers, is unacceptable. It should be replaced by a new Act which should be based on the new formula put forward by trade unions, i.e., LAF formula without rehabilitation and 50% of the surplus to be given to workers after taking into account the benefits of the tax rebate.
