MEMORANDUM

The revision of the multifarious labour legislations has become essential because the standards prescribed under the various labour legislations for the working conditions of the workers as well as the safeguards provided to the employers have become almost obsolete. The appointment of the Labour Commission for this purpose under the Chairmanship of an eminent man like Mr. P.B. Gajendragadkar is a welcome step in the right direction, and we hope employers and employees both and the economic health of the country would benefit thereby.

There is no doubt that in any modern community due rights and privileges of the labour must be protected and it must be given its rightful place in the socio-economic structure of the society. But at the same time, we would like to emphasise, that no policies or measures would ultimately benefit any section or society as a whole which mar industrial peace, stability and production and help cause class consciousness.

During the last thirty years, especially after Independence, labour laws have been enacted and enforced piecemeal and like mushrooms, giving rise to tensions and breakdown and slowing the rate of production. This is high time that we take stock of our past experience and base our future policy regarding social matters on sound and broad principles. There has been a regular trend of industrial tribunals and labour courts to grant more and more leave and other facilities to workmen under the notion of humanitarian considerations and its impact on the cost and rate of production and also on the industrial relationship has been completely ignored. This trend has created a vicious and un-ending circle of increase in charges and dearness allowances and consequently increase in prices and taxes and the cost of production, thereby adversely affecting the majority of people, which are neither industrial labour nor Government employees.

We hope the Labour Commission would go into all aspects of prevailing labour policy and various measures adopted to implement this policy and its effect on the socio-economic conditions of the country, and also on the mental health of the community at large which is suffering from the acute trouble of indiscipline, lack of sense of responsibility and nationalism.

We strongly feel that our national labour policy during the coming years should be based on a judicious blending of canons of social justice with the needs of the nation as a whole. This policy should :

- make the nation self-reliant, disciplined and production-oriented ;
- work against exploitation of labour either by capital or by irresponsible leadership, as also of management by labour and its leaders ;
- eliminate activity by unscrupulous and subversive elements ;
- cover the whole country without exception, reconciling both functional and regional variations under a homogeneous concept ;
- serve the community by providing for regulatory pressure on recalcitrant elements through pursuasion, public censure and legal sanction ; and
- work for adopting a national outlook towards output and efficiency for the benefit of the community as a whole.

REPLIES TO THE QUESTIONNAIRE

1. RECRUITMENT AND INDUCTION

Recruitment

1. (a) How is labour recruited at present in industrial establishments ? Is recruitment affected through (i) jobbers, (ii) contractors, (iii) advertisements, (iv) introduction by existing employees, (v) employment exchanges or (vi) any other method ?

   (b) How far are the present recruitment arrangements satisfactory for different types of employees and different levels of skill ?

(a) Manufacturing units normally recruit unskilled labour at their factory gates. For skilled jobs, qualified and trained people are not easily available, hence resort is made to advertisements. Manufacturing industries do not find employment exchanges always a suitable source of recruitment, because they often do not get the type of men they want with the requisite skill and also in due time. The other industrial and commercial firms take resort to one or more of the methods referred to in the question ; but in this area, in general no recruitment is made through contractors. In some of the industries vacancies are advertised on the notice boards of the plants, but intimation of the same is invariably given to the employment exchanges.

Existing employees, in most of the industrial establishments, bring their own relations and acquaintances for recruitment for various categories of jobs. Apprentices are engaged for training in various trades and trainees, who come out successful, are given preference in filling up the available vacancies.

(b) The present recruitment arrangements are falling short of the requirements of the modernised industry. Considerable difficulties are experienced for recruiting skilled personnel such as highly-skilled machinemen, highly qualified and experienced secretarial employees etc. It appears there is shortage of personnel of these categories.

2. In what categories of employment is labour in short supply ? What steps should be taken to minimise the effects of such shortages ?

Some of the categories which are generally in short supply in this area are :-

1. Weavers in cotton textile industry
2. Printing Press Operators
3. Lino-type machine operators
4. Mono operators
5. Mono mechanics
6. Mono casters

7. Proof Readers
8. Distributors
9. Skilled camera operators
10. Colour Etchers
11. Metal Printers
12. Highly skilled machinemen
13. Highly skilled turners
14. Highly skilled welders
15. Highly skilled moulders
16. Highly skilled grinders
17. Erectors of machinery
18. Gear cutting operators and similar other operatives.

The Government should open more and more technical schools and also make students work-oriented. Training facilities should be provided to all intended trainees.

3. Does lack of mobility affect supplies in different categories of labour ? If so, what remedial measures would you suggest ?

Undoubtedly does. The remedial steps in this connection cannot be taken in isolation by any industry. It has to be a nation-wide effort to draw up and implement integrated schemes so settle the employed labour in new surroundings and centres of employment. It includes provision of housing, improving living conditions and amenities, tackling of language problems and supply of essential commodities. The responsibility for setting up of industrial towns, with educational and other facilities, has nowhere in the world been the exclusive responsibility of the employers. It is primarily the responsibility of the community and the State.

4. To what extent is industrial labour migratory in character ? What problems does such labour pose in recruitment and retention ?

Due to conditions of unemployment and under employment in the agricultural communities in the rural areas and under-employed centres, migration of labour to centres of employment is common. This has taken place to a more or less extent depending upon the attractiveness of the places of employment as well as the ease or difficulty of access thereto.

This helps in recruitment of labour but it is difficult to keep the recruited labour rooted to the work place. They look forward to earning sufficient incomes and savings to enable them to sustain joint families or dependents and otherwise to return whenever required. This causes abnormal and imbalanced turn-over and absenteeism.

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

The existing statutory provisions such as restriction on night work, maternity benefits, creches, etc. do tend to deter employment of women labour.

As long as men are unemployed on a large scale, problem of women employment does not lend itself to easy solution. There are, however, certain types of jobs for which women are being increasingly preferred.

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

No industry employs casual labour for permanent jobs as it would never be advantageous to do so. Casual labour is employed for casual jobs i.e. jobs which are not of permanent nature. Existence of jobs of casual nature depends upon various factors such as temporary rush of work, work unconnected with the main purposes and activities of an establishment. Stringent labour legislation with increasing obligations on employers has tended to make employment of casual labour difficult, giving rise to partial unemployment on one hand and chequered production on the other.

Employment of casual labour is a necessity and advantageous in the interest of industry as well as of labour. No steps for decasualisation are, therefore, called for.

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

Any statutory provision for reservation of vacancies for physically handicapped persons would create difficulties leading to waste and will place extraneous obligations on industrial employers. Moreover, its feasibility and desirbility will vary from industry to industry and establishment to establishment.

8. In establishments within your knowledge, is there any discrimination in the matter of recruitment on grounds of caste, community, region, language, etc. ? Under what circumstances is such discrimination justified ?

There is no discrimination made by employers in the matter of recruitment on grounds of caste, community, region etc. Attracting a particular caste or community is a difficult different matter. There is, however, a tendency on the part of some of the State Governments to introduce discriminatory measures and create reservations. Reasons for such steps appear to be other than economic.

Induction

9. Are the existing programmes for 'on the job' training of workers adequate ? What are the directions in which improvement should be sought ?

'On-the job' training programme works satisfactorily as long as these jobs are not highly skilled. For skilled jobs regular and methodical training is necessary as a background.

10. What steps should be taken to encourage an employee to avail of the facilities outside the place of work for improving his skill ? Is there any system of granting study leave to the employees in your establishment ? If yes, please give details.

Enough opportunities are not available to the workers to improve their skill outside their place of work. If any employee improves his skill he should be rewarded and given recognition commensurate with his progress.

Industrial establishments are now increasingly organising programmes to encourage their employees to attend part-time courses or correspondence courses to improve their skill and even help them to take up higher studies through aid and special grants in deserving cases.

11. (a) What should be the outline of a rational promotion policy ? What place would you assign in this policy to seniority, merit and trade test ?

(b) Should recruitment to positions at higher levels be made from among the existing employees only ? If so, upto what level ?

(a) The principle on which promotion policy should be based should primarily be the merit. In other words, persons having extraordinary merits should be given preference and encouragement. In skilled jobs mere seniority is not a sufficient test.

(b) For skilled jobs, test should be introduced to ascertain whether a workman is eligible to be considered for promotion.

Employers do prefer their own existing employees for positions of higher level, but there are cases when able and competent personnel are not available, and in that contingency recruitment has to be made from outside.

II. CONDITIONS OF WORK

Working Conditions

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

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

The following changes are suggested in the labour enactments regarding working conditions :—

(a) The enactments contain restrictions on overtime work. These restrictions are separate and distinct from the provision of payment of overtime allowance at double the rate of wages. So far as the provision for overtime wages is concerned, we have no objection to the same. However, statutory restrictions on overtime working are very stringent and on a number of occasions clash with the efficient discharge of working of the establishment. Ordinarily management itself is not interested in getting work done at double the rate but has to resort to such overtime only when it becomes necessary on account of unforeseen circumstances or when any worker is absent. In our opinion the restrictions placed on overtime work should be liberalised. Overtime work is a recognised source of additional

income for workers and within a limit it is not harmful to the workers. In the present day high cost of living it mitigates hardships and at the same time helps increasing production. Under existing circumstances Indian workers need more money than shorter hours of work.

(b) The Factories Act, Employees State Insurance Act and most of other Acts provide for supplying information to government authorities on certain forms. Sometimes the employers for their own use prepare the forms giving certain additional information. On many occasions the employers combine columns of two forms and make a composite form to avoid duplication. Government authorities on many occasions object to such forms even though all the information in the prescribed form is given with details plus something else. The forms prescribed in various labour statutes should be reconsidered to find out whether any duplication is involved and to what extent the forms can be rationalised if one form is prescribed under one statute, and the information with slight variations is also required in a form prescribed in another labour statute, then both can be combined. So long as the information required in a form given by the employer is concerned, there should be no objection if any additional matter or if additional columns are also given.

(c) In some of the factories, working round the clock, the rest interval is given to workers in relays with the object that the work may not be stopped or the essential work is carried on during the rest period. On a number of occasions, the factory inspector raises objections stating that it is contrary to Section 58 of the Indian Factories Act. So long as the workers get rest interval, it is immaterial whether the rest interval is given to the workers at the same time or it is given to them in batches. No useful purpose is served by insisting that the rest interval should be given to all the workers at the same time. On the other hand, it may result at times in loss of valuable production. It should be realised that capital investment in the country is scarce and care should be taken that it is fully utilised. Rather, overlapping shifts should be allowed.

(d) Under the labour laws the worker can be called on Sunday by giving him alternate rest day three days before or after the Sunday. Doubt has been expressed in certain quarters whether this can be done on permanent basis. It should be clarified that if the employer wants to get work on Sunday on permanent basis he can do so by providing for alternate weekly rests. The emphasis should be that every factory worker has a weekly rest day.

(e) In the Factories Act certain restrictions have been imposed on employment of women factories. This stands in the way of their employment in shifts. These restrictions should be relaxed.

(f) Section 18 (i) of the Factories Act provides that when a worker proceeds on leave, the leave salary should be given to him before he proceeds on leave. This has been construed in certain quarters to mean that leave salary should be given compulsorily to him even if he does not apply for the same. It should be clarified that if the worker wants leave salary in advance and mentions this in his leave application, only then the salary should be given to him in advance, otherwise the said salary should be given to him on usual pay day.

(g) At present, there are various Labour Laws such as Factories Act, Plantations Act, Mines Act (Central Acts) and Shops and Commercial Establishments Act, Maternity Benefits Act, etc

(State Acts) covering service conditions. There is no uniformity of provisions in different Acts. Sometimes it becomes difficult to know whether to the office staff of the factory, Shops and Commercial Establishments Act is applicable or Factories Act is applicable. Supposing a Company has got mines or plantation as well as other administrative office controlling the mines and plantation, then the employees in mines and plantation will be governed by the Mines Act and Plantations Act while some other employees in office will be governed by the Shops and Commercial Establishments Act though both are closely related with one another. This is a highly confusing state of affairs. In certain cases even when the office is situated in the factory premises the office employees unlike factory workers are covered under the Shops and Commercial Establishments Act. This stands in the way of efficient functioning of the establishment.

The erstwhile Punjab Government enacted the Punjab Industrial Establishments (National and Festival Holidays and Casual and Sick Leave) Act providing for casual and sick leave, national and festival holidays. The provisions of this Act are different from the statutory provisions applicable in other States.

As regards service conditions it is very essential that there should be uniformity and standardisation of service conditions throughout India. If every State is left to provide different service conditions for employees, than there will be no uniformity or standardisation. It is, therefore, proper that service conditions should be standardised on national basis.

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

The National and festival holidays differ from place to place. In Textile Industry it is 3 or 4 in Bombay and Ahmedabad, 8 in Delhi, 7 in Punjab, and so on. In printing industry in Delhi the number generally is between 10 and 15. Generally the number of national and festival holidays is more in Shops and Commercial Establishments and less in factories. The number of such national and festival holidays is less in labour intensive industry and where less workers are required, sometimes employer can afford to give more national and festival holidays. Similar is the case where the wage level is low because in that case labour cost of national and festival holidays is not appreciable. With the rise in wage level of workers the national and festival holidays should be restricted to a reasonable level. It is also necessary that any differentiation between national and festival holidays for all industries and employees should be standardised on national level. It is also necessary that casual leave and sick leave may also be standardised on national basis along with national and festival holidays. In printing presses of Delhi the paid leave to workers exceeds 35 days a year, which is very much on the higher side. These should be cut down to a maximum of 20 days including national aud festival holidays, but excluding Sundays. Even where the Employees State Insurance Act is in force, the Industrial Tribunals, sometimes, grant sick leave, with full pay. In view of the comprehensive legislation providing for benefits, in case of sickness it is not necessary to provide for sick leave, though within the present frame-work of law the Industrial Tribunals have no jurisdiction to provide for sick leave, even in such cases. It is very essential that Employees State Insurance Act should be a self-contained code. No additional

benefits, in case of sick leave, should be admissible to the employees. If there is a feeling that the provisions of sick leave in Employees State Insurance Act are not adequate, it may be suitably revised.

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

Today different states have different provisions for employment in such establishments.

There should be uniformity in working conditions and working hours on all India basis in all types of employment.

15. What, in your knowledge, is the extent of prevalence of employment of child labour ? In what industries/activities is employment of child labour relatively high ? Are you satisfied with the existing statutory provisions about employment of child labour and their implementation ?

The extent of prevalence of employment of child labour is negligible and no change is suggested in the existing statutory provisions.

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

The Contract Labour cannot and should not obviously have same service conditions as the labour directly employed by the employer. To bind employer to treat contract labour at par with the regular employees, without binding that labour in its obligations to the employer is unfair. It should be borne in mind that contract labour is usually employed for casual and seasonal work, and to make them a drag on the employer when their services are not needed affects not only the production but their employment also.

In view of the supreme necessity of increasing production at the lower cost, contract labour should not be included in the scheme. For instance, it becomes as difficult to dispense with surplus contract labour as the regular employees. The cost of production is bound to soar, and the ultimate loser will be the consumer. After all the employer who pays from his pocket passes on his cost to the consumer. The experience of Government projects should be an eye-opener in this respect. The Government finds it extremely difficult to disband staff at projects which are completed in the case where direct recruitment of labour is made But it is not so difficult where contract labour is involved. Even the Government is, therefore, inclined to entrust work to contractors in preference to departmental work.

Further, the various labour laws should provide for exemption of part-time workers such as Clerks, Accountants and Sweepers for very small industrial units do not find it economical to have a number of full time employees, and, therefore, they have to employ some part-time workers.

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

The trade unions as well as employers can join hands in providing for safety measures, management of canteens, arrangement of labour walfare activities, evolving Productivity Schemes and maintaining discipline and moral. Wherever Works Committees are in existence, having elected representatives of workers as well as of employers, such Committees should be entrusted with the above functions. If the cooperation on behalf of the workmen is left to unions, then in the present state of multiplicity of unions inter-union rivalry would stand in the way. In bigger units Sub-Committee should be formed from amongst the members of the Works Committees for the above purposes.

SAFETY AND HEALTH

18. Is the existing rate of accidents high in establishments within your knowledge ? What have been the main causes of such accidents ?

The accident rate is not high but there is room for improvement. The main causes of accidents are that the bulk of the labour, being basically agricultural labour, is not accustomed to work in factory's atmosphere and, therefore, it lacks the necessary safety consciousness, resulting in accidents on account of the workers negligence, carelessness or heedlessness. It is very necessary in such circumstances to train the workers in safety measures whenever they join the factory. Such an initial training will be very useful to workers and will reduce the rate of accidents considerably.

20. Safety standards in some industries have been evolved by bipartite agreements. How have these agreements worked in practice ? How can this bipartite approach be extended to other industries ? How should the agreed arrangements be made effective at the plant level ?

Though bipartite agreements for safety standards are desirable but we think that it is better to have safety standards on national basis. The problem requires a national approach.

21. In view of the anticipated growth of new industries like machine building, chemicals, fertilizers, petro-chemicals, etc. requiring stricter safety standards, what steps should be taken to arouse safety consciousness among workers and employers.

By proper display of safety posters, holding safety classes. safety week and awarding prizes for factories having the least incidence of accident.

22. Against the back ground of expanding industry and advancing technology involving a faster tempo of production, how should provisions concerning industrial safety (Appendix I) in the Factories Act, 1948, the Mines Act, 1952 etc., be amended ?

The posts of safety inspectors should be created in every State who should be competent to study and advise the Government on all safety measures. Industry-wise committees for safety should also be provided on State level. Such Committees should work in close cooperation with the safety inspectors.

23. (a) What are the difficulties experienced in procuring safety equipment for installation in industrial establishments ?

(b) Is the supply of safety equipment to workers for their personal use adequate ? Is there any reluctance on the part of workers to use such equipment ? If so, what measures would you suggest to overcome this reluctance ?

(a) There are no difficulties experienced in procuring safety equipments. Section 21 of the Factories Act requires the installation of guards on every dangerous part. In a number of cases the con-

struction of machine is such that it is practically impossible to provide for guards. This matter should be investigated and some relaxation should be given in the provision of guards in such circumstances where no guards could be provided on the machine on account of its construction. Instead of guards some alternate provisions may be made in such cases.

(b) The supply of safety equipments to workers is adequate. Many times the workers are reluctant to use the same because they are not accustomed to use them. The assistance of unions can be sought in creating safety consciousness. Besides, the management can also take disciplinary actions, starting with warnings, in case safety equipment has not been used.

24. What should be the elements of an 'Industrial Health Service' for introduction in India ? How should the introduction of such a service be phased ?

The country is not ripe enough for introduction of Industrial Health Services. If any elements of Industrial Health Services are required to be introduced they can be incorporated in the Employees State Insurance Scheme. Duplication should be avoided, because it involves wastage, unnecessary work and harassment.

25. As a corollary to replies to the above, do the provisions for workmen's compensation require to be amended ? If so, in what manner ?

The provisions of the workmen's Compensation Act do not require any alteration. Already they are more than adequate.

III. TRADE UNIONS AND EMPLOYERS' ORGANISATIONS

FEDERATIONS OF EMPLOYERS AND WORKERS ORGANISATIONS

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

The factors which have influenced the development and organisation pattern differ materially for workers' unions and employers' organisations. The logic of events made the employers who are otherwise competetive and exclusive to close their ranks and to set up regional forums as well as central forums for expressing their views to Government and for obtaining necessary relief by collective representation to Government. Trade unions were already in existence at the time of Independence and had established their influence over the working classes as also adopted various tactics for purposes of agitation. Such agitation before Independence was, however, more often directed against Government then against employers. The Trade Union movement acquired momentum after Independence because :

(a) of rapid industrialisation in the country ;

(b) of a rising price situation which led to demands for higher wages and compensation for rising cost of living ; and

(c) of the political influence which could be exercised through trade union leadership and hence every political party trying to have its own separate trade unions.

(d) industrial workers represent a readily available sizeable block of votes so necessaay to acquire political powers.

An equally important factor which led to expansion of the trade union movement is the growth of new political parties and specially of parties which began operations in the country with ulterior motives. Industrial and commercial work force was a handy human resource placed in a vital sector to be exploited.

Employers' organisations, connected with industrial relations matters, although in existence before independence, became active largely because views on points of common interest had to be correlated and the Union Government as well as the State Governments had to consult the employers as a class on matters concerning labour policy which vitally affected them.

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

Legislative provisions have not played any effective role in the growth of trade unions/employers' organisations. Trade unions flourished because of the widespread support of the working class which they were able to obtain and because of the clandestine interest taken by political parties and leaders in these matters and not because of the protection granted to them by the Indian Trade Unions Act. The employers' organisations are not covered by legislation as such. In some cases, membership has been acquired because of help and service required to deal with labour matters and to understand the provisions of various statutes. Such indirect influence has worked even in the case of trade unions because of the legal rights granted under statutes to workers for seeking relief.

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

No appreciable change in the modus operandi of employers' organisations is noticeable in the last decade. They continue to process matters through Governmental intervention and have rarely attempted to arrange industry-*cum*-trade union discussions independently. They have attempted to educate their members on constructive lines and have not resorted to any agitational approach either against Government or the work-force.

Trade Unions have become more military and political oriented, depending on the party with which they are affiliated. More often than not their activities coincide with exigencies of their parent bodies rather than actual needs of their members. If agitational and destructive trend with *modus operandi* of workers unions is not checked in time, it may ultimately lead to polarisation and class consiousness which does not suit a democratic society, but may suit forces which believe in disruption, chaos and than usurpation of political power *via* so-called trade unionism.

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

The attitude of trade unions and employers' Organisations towards each other differs. The employers' bodies have shown gradually greater acceptability towards trade union movement and the trade union organisations in the last decade. Union leadership has, however, failed to reciprocate. It has rather tried to take advantage of this acceptability.

Trade unions many a time try to make mockery of the laws of the land laid down by the Government. This in turn leads the employers' organisations to feel that there is a lack of a realistic approach by the Government in so far as this problem is concerned. Consideration shown by the Government is taken as appeasement and most of the trade unions play the role of irresponsible opposition. Trade union movement in India needs a cooperative constructive and national touch.

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

(a) Trade unions and employers' organisations should adopt a more objective and composite attitude while deciding their scope of activities. More attention could be paid to education of their members on right lines. A more conscious effort could be made for appreciating the limitations and genuine requirements of the other party. In the case of trade unions, the nature and scope of activity needs to be tailored considerably for meeting national objectives. Agitational approach without caring for the impact of a demand on the unit's future or on the consumer should be given up.

Establishment of socialistic society has so far been merely a catch word. It should be more precisely defined. If there is scope for private enterprise in this, then trade unions and employers, organisations should accept this fact and avoid polarisation of society in classes and vested interests and should be more cooperative and considerate to each other.

At present trade unions are run and controlled by political parties. This should be forbidden by law and trade unions and political parties should not dabble in each others affairs.

(b) Attitudes are covered under reply to (30 a). Changes in organisational pattern have largely rested upon circumstances of individual bodies. In order to ensure continuity and proper processing it would be of far greater advantage if work is done by whole-time officials of the unions. Matters of policy could well be looked after by the elected office-bearers of the union while unit level negotiations could profitably be conducted by the members of the unions who are operatives. Outsiders should not be allowed to hold responsible position in trade union organisations.

(c) The role of the two bodies does not over-lap materially and in many fields of activity they act independently. Dissemination of information, proper guidance, developmental programmes, if any, training schemes of officers and workers, etc. need little inter-play between them. They can and should function independently in matters of organisation and internal interest.

(d) The two can function in cooperation between themselves and jointly with Government at bipartite or tripartite levels to evolve new policies or to consider changes in existing systems. The two can also cooperate either mutually or jointly with Government in maximising production and productivity as

also in maximising stability in industrial relations. Welfare of workers, redress of grievances, maintenance of discipline and production are fields in which all the three parties can function jointly and with benefit to all.

31. How have trade unions/employers' organisations helped in the evolution of a better society ? How do they represent their views and discuss their affairs with Government and other public authorities and agencies ? Does this system of communication need improvement ? If so, in what direction ? (See also Q. 124 and 227).

Trade Unions and employers organisations are largely engaged in looking after the interest of their respective members. Employers' bodies have, however, taken concrete steps to infuse progressive thinking amongst its members. They have enlarged the scope for liberal thinking and have brought about education of their members on correct lines. To this extent society has gained.

Trade Unions, on the other hand, are more concerned with obtaining relief for their members without taking into account the compelling interest of the community at large. They are also not propagating a disciplined way of life amongst their members. Trade unions should inculcate more social sense in their members and develop national outlook in them.

The system of communication with Government and public authorities appears to be satisfactory. The only snag in such a system is the absence of a reply from Government and not in the *modus operandi* adopted by the two bodies. Government should find out ways and means to discourage frivolous communications which have no legs to stand upon even on *prima facie* considerations.

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

Trade unions and employers' organisations can play a very vital part in maintaining level of employment by mutually understanding each other. There is a great misunderstanding between the two. The unions have almost been trying to upset the smooth functioning of the industries thereby resulting in dissatisfaction amongst the employers and their organisations and they do not normally employ people belonging to unions. The unions, however, can help in creating humanized and peaceful atmosphere, which can result in sustained economic growth and eventually in maintaining high level of employment. Trade unions should help employers in enlisting suitable workers and see that they work properly, as is done by unions in other advanced countries.

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

Bipartite consultations are always welcomed by employers' bodies. The failure of such discussions largely arises out of the recalcitrant attitude adopted by trade unions which has led to some doubt about the efficacy in this procedure.

Trade Unions should make a sincere effort for upholding the sanctity of agreements if bipartite consultations are to be promoted. Frequent changes in leadership and multiplicity of trade unions also damper bipartite consultations.

34. What are the existing arrangements for communication between the central organisations of employers and workers and their constituents ? How should these arrangements be improved ?

By correspondence, frequent and regular meetings and discussions, and proper maintenance of records.

35. Are there occasions when central organisations of employers and workers refuse to affiliate employing units/unions at the plant level ? If so, on what grounds ?

Employers' organisations generally do not refuse to affiliate any unit.

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

Employers' bodies being of voluntary nature, implementation of commitment is by persuasion and moral pressure.

37. Do difficulties arise in reconciling the actions of the unions/employers at the plant level with national policies evolved jointly by trade unions/employers' organisations ? Could you cite instances of such difficulties ? How are such difficulties resolved ?

The policies evolved at national level by trade unions and employers' organisations are difficult to be implemented sometimes at the unit levels for the different conditions faced by each and every individual unit, but the managements do implement and follow the policies framed at national level, whereas the unions do not ordinarily respect them. One reason may be ignorance about these national policies. violation of code of discipline is one example.

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

The employers' organisations can strengthen their secretariat for handling all the six suggestions contained in the question.

Trade Unions Constitution and finance

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

No comments since the system does not appear to be prevalent in this area.

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

No. The question of recognition of unions itself has not been finally resolved. A 'check off' privilege could only operate when suitable collective bargaining conditions through a sole barganing agent

have been brought about. In the absence of any other facilities to recognised or registered trade union, this kind of sophisticated facility would be inopportune.

Trade Union-Leadership and Multiplicity

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

Trade Union development in India has been influenced by political parties. The pattern of development appears distinctively marked by the rivalry and jealousies amongst the political groups. Personal and group ambition along with political motives give lead to multiplicity of trade unions as well as the over-abundance of leadership. Impact of political parties on the pattern of trade union development is that it has made them more agitational than constructive and true trade union leadership has not developed.

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

'Outsiders' in this context would mean those who are not in the employment of the employer and are not even in the trade or industry. The definition of 'Outsider' would include discharged and dismissed employees also. The influence which an outsider will have on the trade union will depend on his motives and the political affiliations. Many outsiders indulge in trade union activity as a stepping stone for getting elected to Municipal Committees, State Assemblies, Parliament etc. Others make a living out of it. Some of them seek support to the political parties to which they belong from the members of the unions. There have been instances where these outsiders involve a particular union in the disputes of other unions of which they are the office-bearers.

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

Building up of internal leadership for unions depends upon various factors. Apart from a fair level of education and understanding amongst the rank and file, there should be potential for leadership available and it should seek management's cooperation in building up of a genuine and responsible trade union.

Trade unions will gain strength if their dependence on legislation and adjudication is reduced. Since an average worker is neither conversant nor capable of fighting legal battles in the courts, he can have his say only when disputes are settled across the table and not through courts.

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

Under the existing law any seven persons can form a trade union and the Industrial Disputes Act confers on a trade union the power to bargain. 'One Union for one undertaking' appears to be the best policy and all possible efforts need to be made to get all concerned to accept this policy.

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

The Inter-Union Code of Conduct has almost remained on paper. It is for the Trade Union Organisations to take effective steps to regulate inter-union relations and to avoid inter-union rivalry.

Trade Union Recognition

54. What are the advantages and disadvantages of a union registration ? Are there any aspects in which the powers of the Registrar of Trade Unions could be altered or enlarged with advantage ?

The registration of trade unions under the Trade Unions Act has shown no advantages because it has been felt that even a registered union is not in a position to enter into collective bargaining. The multiplicity of the trade unions in the country has resulted in the multiplicity of unions in industrial units and the same is accompanied by inter and inter-union rivalry, which has created great difficulties not only in entering into settlements but also in healthy and peaceful relationship of the employers with the employees, and of employees with other employees.

Trade Unions Act should be amended to the extent that once an employee becomes the member of one trade union, he should not be allowed to change the union until the union itself permits him to do so and he has simultaneously obtained the permission of the Registrar of the Trade Unions. Without such amendment, there will be no stability in the unions nor the managements will be able to fearlessly negotiate with unions in their establishments.

At present the Registrar has practically no powers over the unions. He should be enabled and required, to see that the unions are properly managed, their finances are in order and the leaders do not exploit the members.

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

Employers on the whole would like to recognise trade unions provided their leadership is healthy, cooperative and responsible. A large number of unions owing allegiance to different ideologies are following varied practices. The employers, on the whole, have come to regard that it would be advantageous and of mutual interest to deal with one recognized union provided attending circumstances permit this.

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

The number of unions recognized under the code of discipline is small. It has, however, made a beginning.

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

The arrangements under the Code of Discipline for the recognition of trade unions cannot be adhered to by the management because recognition of any union by the management is dangerous for the reason that members or the employees change the unions very often.

58. Would you suggest giving effect to the provisions of the Indian Trade Unions Amendment Act 1947 in the matter of recognition of Unions ? Or, should provisions similar to the Bombay Industrial Relations Act, 1946 or similar Acts elsewhere in India for recognition of Unions (Appendix V) be written into the Indian Trade Unions Act, 19-6 ? Are there any other suggestions in this regard (See also Q. 27).

We do not approve of statutory provisions for recognition of trade unions nor we are in favour of having provisions similar to the Bombay Industrial Relations Act, 1946.

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

Industrywise unions can be advantageous. But in certain iudustries some of the units are better placed as regards the geographical and raw material position while the other units are not. If this fact is recognised, and adjustment made, industrywise unions would be of advantage but unfortunately industry-wise agreements do not tend to make differentiation on regional basis and there the difficulty arises.

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

We are in favour of naming a union fulfilling the requisite qualifications as the sole bargaining agent in an industrial unit if circumstances merit this but once such a union is recognised, the other unions should not be allowed to function in that unit since inter-union rivalry tends to disturb the equilibrium.

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

We are opposed to secret ballot for purposes of recognition of trade unions. Ballots necessarily give rights to non-members to vote in favour of a union. There thus remains no factor linking the recognised union and the non-members who have voted for it, nor are such workers bound to follow the directives given by the union as they are not its members.

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

Once a union is recognised as the sole barganing agent it should have the sole rights of bargaining.

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

As far as possible facilities to be given by employers, if any, should be outside the work-place. The union should be made to stand on its own in respect of conducting its activity and propagating its cause. Facilities by employers would tend to encourage and increase their interference in union affairs.

IV. INDUSTRIAL RELATIONS

Introductory

66. What should be the criteria for determining the effectivenese or otherwise of Government's industrial relations policy ? In terms of these criteria, give your assessment of the working of

the policy since Independence, with special reference to the legislative and other arrangements for prevention and settlement of industrial disputes ?

The best criteria for determining the effectiveness or otherwise of the Government industrial relations policy should be its contribution in promoting healthy industrial relations, calculated to promote productive efforts Our labour laws tend to discourage, indirectly, collective bargaining. For this the flaw does not lie alone in the labour law but with the trade unions also. After independence, the Government inherited the legacy of the Defence of India Rules with regard to its policy of intervention in industrial disputes. The framework of the law, though it has undergone some changes and has made some room for collective bargaining, almost remains wedded to the old pattern. No effective steps have been taken to foster collective bargaining and to make trade unions and its leaders responsible to shoulder the burdens for such activity. Conciliation Officers are encouraged to intervene in the disputes even though none of the party approaches them for their intervention.

The principle and practice of collective bargaining need to be emphasised and all positive steps taken to encourage collective bargaining, failing which their should be Government intervention as a last resort to be used sparingly.

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

The pattern of industrial disputes have indeed changed since independence. Apart from the social and economic changes which are patent, political factors have also intensified the industrial conflicts. High level intervention from Government sources due to political reasons favouring particular organisation are some of the examples of the same.

68. Is it possible to pick out some significant factors in units within your knowledge which in recent years have helped in improving industrial relations at the plant level ? Will these factors continue to be of significance in future ?

We regret to say that there appears to be no significant factors which have improved, in recent years, industrial relations, at the plant level. The plant level picture shows, on the whole, intensive inter-union rivalry, lack of discipline, show of force by workers and consequently adoption of unfair labour practices by some of the managements too as a defensive measure.

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

The cause. for industrial unrest since Independence consists of (1) Carry over of causes present before Independence, (2) Intensive inter and inter-union rivalry, (3) High level political intervention leading to loosening of discipline and affecting productivity, (4) Leaning of workers on unions and the Government for redress of grievences instead on employers. Post-independence labour laws have accentuated this position. Making employers helpless has played havoc especially in small industries and units. Conscious and imaginative approach calculated to reduce such interference and leaving labour to sort out

its own difficulties with employers with due safeguards would be of considerable help for maintenance of industrial peace.

70. What has been the impact of inter-union rivalry on industrial relations ?

Inter-union rivalry has played a significant role in worsening industrial relations. It has made workers tools in hands of unscrupulous persons and less conscious of their duties. Each union offers rosy pictures.

71. What improvements are necessary in the present arrangements for prevention of industrial disputes ? What would be the role of mediation service in the prevention of disputes ?

The arrangements for preventing industrial disputes could be as under :—

(a) Collective bargaining in the first instance, and efforts to get both the parties to agree to long term settlements.

(b) Voluntary arbitration when acceptable to the parties.

(c) Mediation and conciliation if other methods fail and if such mediation and conciliation, is absolutely necessary.

(d) Adjudication in respect of those disputes which are essentially unavoidable and those involving national interest.

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

The fact finding enquiries do help to focus in proper perspective the events which lend to disputes. Such a projection of facts alone cannot solve industrial disputes. It would only show as to which of the party was at fault. The party committing the fault will, however, try to whitewash its action by giving many excuses. The fact finding enquiries tend to conceal more than they disclose.

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

Trade unions can be useful provided they work on healthy lines for harmonious industrial relations. Weak trade unions are of no use, neither can they deliver the goods. A strong, reasonable and practical trade union is always an asset to an industrial undertaking, provided they ensure the normal production under all circumstances.

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

All the three factors referred to in the question have failed in promoting industrial harmony, and it would continue to be so till the approach is not changed.

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

The Central organisations of employers and workers should normally shoulder responsibility for implementation of agreements reached at the central level. Local managements and local unions should also normally respect the agreements reached between them and also between their apex bodies. Government should leave matters as far as possible to collective bipartite understanding and should intervene

only when it 'must' in the interest of national policy. It should not function under political blackmail or pressure.

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

The role played by Labour-Personnel Officers has been criticised in this country sometimes with or without justification. Personnel Management in the right sense of the term has had little opportunity to play its part yet in the country as it is in infancy. Personnel Officers have a difficult role to play. If given responsibility, they are expected to play a leading and effective role. These institutions are developing in this country and in time to come they can have their own effective place in the industrial relations set-up.

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

Hand books written in vernaculars explaining work rules, changes therein etc. are the best medium. Works Committees also could play a useful part in this connection. Formal or informal meetings of the management, supervisors and workmen from time to time may prove useful.

78. To whom do managements delegate their authority in dealing with employees ? To what extent do managements include specialists for dealing with personnel matters ?

Normally personnel/Labour Officers and in their absence Departmental Head/Managers deal with the employees. Specialists for dealing in personnel matters are few and industrial units of small and medium scale can hardly afford services of an expert.

79. To what extent are the standing orders, subject to agreement between employees and managements ? In how many cases are they drawn up by management alone ?

The law dealing with Standing Orders takes care to ensure that the view-points of both managements and labour are taken into consideration.

80- To what extent do the Employment Standing Orders Act 1946 and the Model Standing Orders formulated under that Act serve the purpose for which the Act was framed ?

Model Standing Orders do serve a limited but useful purpose until the Standing Orders are certified. Certification is a process which involves delay and at times it is noticed that the Certifying Officers do go beyond the purview of the Act and certify such Standing Orders on matters which are not within the ambit of the Act.

81. What are the disciplinary rules imposed by managements ? Do the procedures prescribed under the Model Standing Orders in dealing with disciplinary cases require modification, and if so, on what lines.

Managements follow disciplinary rules as contained in the Model Standing Orders until their Standing Orders are certified. After certification, the rules contained in the Certified Orders are followed. The Standing Orders do not allow any further tangible scope to the Management to make any service rules of their own.

82. Has the model Grievance Procedure (Appendix VI) evolved under the Code of Discipline served its purpose ? If not, is their need for statutory provision for the formulation of an effective grievance procedure ? What should be the main elements of such a provision ? How would it affect existing bipartite arrangements ?

The Model Grievance Procedure, which is voluntary at present, is serving some purpose. The Managements also conveniently make amendments in this procedure in the interest of both management and the employees. There is absolutely no need for statutory provision in this regard. Statutory provision will only give rise to litigation.

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

Grievance arbitration can indeed be a useful concept. The difficulty arises in getting suitably qualificd arbitrators, enjoying the confidence of both the parties. A safeguard would be necessary to ensure that it does not multiply the area of conflict and also fetter further the managements in their legitimate functions.

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

Institutes for imparting training are operating in the country. Many employers have their own training programmes for their executives. Other method is 'learn as you do'. No further steps in so far as the management is concerned are necessary in this respect. However, attempt should be made to impart managerial training to the officers of the trade unions so that they understand what the practical difficulties before the management are.

Collective Bargaining

85. What is the extent of prevalence of the system of collective bargaining in the country ? How far has it succeeded ? What has been the effect of legislation on the growh of collective bargaining ? (See also Q. 193).

Collective bargaining, in the correct sense of the term has not really taken roots in the country yet. Labour legislation indirectly retards the growth of collective bargaining.

86. If collective bargaining has to be encouraged at the industry level, how should the representative character of the bargaining agent for workers be determined ? (See also Q. 59 and 61).

Bargaining agents for the workers should be their true respresentatives. As a matter of fact, the representatives should not be political persons, but they should be the best and the most efficient workmen from the industry who have some stake at the industry or plant level, so that they may understand the real problems and bargain accordingly. In small and medium units sometimes foremen or responsible workers like that negotiate better bargains for an individual worker or all workers.

87. Do you agree with the statement that (a) collective bargaining has its uses when unions have sufficiently built up their strength and even of strengthening unions and (b) Adjudication

system provides an arrangement by which satisfaction can be given to parties without open industrial conflicts as also for protecting the weaker party ?

We agree with the statement (a) and as regards (b) we are of the opinion that adjudication must be resorted to avoid strikes, lock-outs so that the production is not lost and creation of bad blood is minimised But when any matter is under reference no coercive methods like strikes, gheraos and lock-outs etc. should be allowed. Otherwise conciliation or adjudication becomes meaningless.

88. What should be the role of (a) collective bargaining and (b) adjudication as methods for safeguarding industrial peace in the years to come ?

Healthy collective bargaining is to be encouraged in this country and it should be the first step while a dispute starts. Minority unions should not be allowed to raise any dispute or put any demand. Adjudication methods are also to be used at appropriate times but both of the methods should be so arranged that they ensure normal production. Any method which encourages the slow or less production and allows unseemly behaviour and law breaks is defective because our country is passing through transition and the labour and management relations are to be looked in the light of the growing demand for all types of finished goods.

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

In any negotiation there is 'give and take' and, therefore, there cannot be any differentiation for matters for which collective bargaining could be exclusively utilised and others which could be left to adjudication. For industrial peace managements would always like to have a package deal.

90. What should be the limits of collective bargaining under conditions imposed by planned development ? (See also Q. 193).

We have had 20 years o planned development and we do not know for how many more years planned development will continue. Free collective bargaining is a 'must' in all disputes with a safeguard of adjudication where it is a 'must' and in the interest of the nation. All industries should be declared 'publie utilities' under the law and the union should not be allowed to resort to any types of strikes unless they give 15 days notice to the employer. Also resort to strikes lock-outs during pendency of adjudication should be made a cognizable offence resulting in criminal prosecution instead of being left to be punished by the Industrial Tribunals,which often do not dare to penalize the labour for illegal strikes.

Joint Consultation

91. Do trade unions, through collective bargaining and joint consultation provide an effective form of democracy within the enterprise ?

In the present set-up of trade union development and in the background of policies pursued by them, it would be difficult to say with any degree of certainty whether they conduct their activities within the four corners of democracy. Strikes of all forms—hunger strikes, gheraos, black mail and abuse are the very anti-thesis of democracy. Trade unions have not so far provided an effective form of democracy in industry because they have used collective bargaining and joint consultation only as a strategy and a matter of convenience.

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

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

94. Suggest measures for improving the utility of the works committees with particular reference to their composition and functions.

Works Committees, on the whole, have not proved useful. They have been useful in settling certain minor issues but their efficiency for promoting measures for securing and preserving amity and good relations between the employer and the workers has practically been sporadic. Amongst the many factors which work against the smooth functioning of these committees some of them are as under :

(a) Works Committee Members at times regard themselves as politicians and pose questions, give speeches as if they are members of Municipal Committees/Corporations, etc. They tend to function beyond the scope of these Committees.

(b) Trade Unions, many a time, regard these Committees as rivals and create difficulties when decisions are taken by these Committees. They do not want to give them credit even if good work is done by these Committees.

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

The entire subject needs careful study. A better name would be Consultative Councils.

96. What effects do profit-sharing and co-partnership schemes have no relations between management and employees ?

Profit-sharing and co-partnership schemes have not been many and, therefore, it is not possible to make any assessment as regards their impact on industrial relations in the country. Premature emphasis on this has had somewhat of a frightening effect. These have been preached and practised as steps for appeasement and not in a business like manner and to improve production.

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

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

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

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

Workers can profitably become shareholders and they will have a say in management matters on equal terms with the other shareholders. Workers should not try to interfere in Management's functions

nor management should try to meddle in the internal matters of workers unions. But any scheme of compulsion should await substantial changes in the outlook of labour and its leaders. In small and medium units the question may not arise.

Conciliation

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

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

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

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

In this country every State has its own conciliation machinery. In some of the States these machineries have shown considerable degree of utility while in some other States they are not that active or useful. Conciliation succeeds when parties desire a settlement. Conciliation officer can find out ways and means to narrow the difference amongst them. When the parties do not have a desire to come to a settlement, conciliation officer, however, skilful he may be, will not be in a position to succeed. Conciliation Officers should have knowledge of professional ethics, patience, pursuasive temperament, and courage of conviction. They should seek to strengthen sound principles instead of merely securing agreements to inflate their record of success. Also they should not pressurise parties under the influence of their official position. Parties should not be given chance for that feelings.

Conciliation Officer's job is a delicate one and their efficacy will depend upon the degree of impartiality with which they are allowed to operate. There should be no suspicion or ground for suspicion that they work under some external influence. To bring the conciliation officers up-to-date and abreast with the latest development, refresher courses should be arranged for them from time to time.

No time limit for reaching a settlement is desirable.

Adjudication

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

The system of adjudication has proved partially satisfactory and this needs to be encouraged further. Notice should be taken that so far it has not prevented large scale sit-down strike, hunger strike, prolonged total strikes, violent strikes and consequent loss of production. Workmen should not be allowed to go on strike of any type without giving 15 days' notice to the employer. A copy of the same be sent to the Conciliation Officer simultaneously and if within 15 days Conciliation Officer is not successful in bringing the parties to a settlement, the matter should be referred for adjudication with immediate effect so as to

avoid strikes and lock-outs which result in less production and embitter employers and employees relationship.

Before a dispute is referred for adjudication the parties should be given an opportunity to scrutinise the draft issues framed for reference. Careless drafting of terms of reference leads to unnecessary litigation and industrial strife.

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

Cases of individual discharges and dismissals should not normally be referred to tribunal, unless there is a manifest case of unfair practice. Even in such cases their should not be a compulsion on the employer to keep an unwanted employee—subject of course to suitable compensation for loss of employment.

It has to be kept in mind that small and medium units do not create any unemployment by discharge or dismissal. They dismiss one and employ another. Unnecessary interference in this leads to loss of confidence, friction and loss of production.

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

The existing arrangements for reference of disputes to adjudication are far from satisfactory. Political influence with regard to reference of disputes to adjudication and even on the adjudicators when engaged in the process itself should be altogether eliminated.

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

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

The authority to select and appoint the Presiding Officers to the Industrial Tribunals/Courts should lie with the High Courts and not with the Labour Department of the State Government. Ultimately, Industrial tribunals also are to be judicial organs like others.

It is our strong belief that with the improvement in the calibre of the Judges of the industrial courts, the difficulties envisaged under question 106 will not arise.

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

Revival of Labour Appellate Tribunals would definitely help in expeditious settlement of disputes as many cases would not go upto High Courts or Supreme Court for final verdict.

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

We do not think any change is possible in the present method of cost of adjudication. But there should be a provision for imposing costs on the guilty party. Today in an overwhelming majority of cases costs are not awarded. If these are allowed, much of frivolous litigation will be avoided.

Also there should be some court fee for cases referred to Industrial Tribunal. There is no need to differentiate between labour disputes and the civil disputes.

109. What measures should be taken to ensure full and speedy implementation of tribunal awards and agreements ?

The implementation could be quicker and effective if sufficient qualified staff is appointed for this purpose. But this is a general problem and not peculiar to labour courts or tribunals.

Code of Discipline

110. Has the Code of Discipline served its purpose?

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

The Code of Discipline has succeeded to the extent of indicating a vague boundary line which is not to be transgressed by either party. Beyond that, the Code has been honoured more in breach than in its implementation.

In any case, the Code should not be deemed to abrogate or dilute the legal rights accruing to the parties under the relevant statutes. It should be deemed to operate without prejudice to legal rights of the parties so that genuine confidence is sought to be generated in which would lie the real test of earnestness for accepting the Code approach and its durability. The authority of the Code could be increased if the Conciliation Officer and the Labour Tribunals (and higher courts), took its breaches seriously and awarded the benefit of doubt to the aggrieved party.

Voluntary Arbitration

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

Voluntary arbitration has not taken roots in the country yet, nor competent arbitrators are available. In the meanwhile, a clause can usefully be incorporated in the collective agreements providing for settlement of individual and minor disputes by arbitration. Disputes involving larger financial stakes and of collective nature cannot be referred to voluntary arbitration unless this method of settlement of disputes takes roots in this country and parties are prepared to abide by it in spirit and letter.

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

As we are not in favour of reference of disputes involving financial stakes to arbitration, there is no necessitity of having Boards. Individual and *ad-hoc* arbitrators can serve the purpose. We have no objection in having assessors to help the arbitrator.

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

A person becomes arbitrator when the parties jointly repose confidence in him and not by his belonging to any particular profession or calling. It is understood that in the West men belonging to all the groups mentioned in question 115 have been functioning as arbitrators fairly successfully. In our opinion it is the personal qualifications of the person chosen as arbitrator that matter and not his functional specialisation.

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

The best arrangement which may be satisfactory to both the parties is sharing the expenses equally.

Strikes and Lock-outs

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

Strikes and lock-outs in public utilities should be completely prohibited especially in socialist or welfare state. Ample safeguards already exist for the labour in these industries. If necessary there should be provision for compulsory arbitration in these undertakings. The public should not be allowed to be coerced and put to harassment and held to ransom. In other cases also, strikes/lock-outs should be illegal and cognizable offence if resorted to while disputes are under reference and are already pending before Tribunal and Higher courts.

118. Do union rules provide for a procedure to be gone through before giving a call for strike ? If so , to what extent is this procedure observed in practice ?

The constitution of many unions provide for a procedure to be followed before giving a call for strike. There is, however, no check to ensure that the Union leaders do go through these procedures. Some sort of machinery needs to be laid down to ensure this.

119. If a strike is called/lock-out is declared, is prior notice always given to the other party ? In what cases, if any, no such notice is given ?

A number of unions do give notice but lightening strikes are also very common.

120. In how many cases within your knowledge have workers been able to secure wages for the strike period when the strike is declared legal ? Are there cases where strike pay is given when the strike is illegal ?

In many cases, the workers have been able to secure wages for the strike period even when the strike is declared illegal. As a matter of fact, the principle of collective bargaining is abused here in the cases of strike. Workers want strike on flimsy grounds without even complying with the formalities of law. The workers should not be allowed any wages for any type of the strike because every strike involves low production during the strike period and even more cost to the employer. If the workers are to get wages for the period of strike, then they should at least make out the deficiency in production. Deficiency in production because of the strike should be compensated by working overtime without charging anything till they have completed the deficit production. Everybody should know that no wages can be secured for not working.

122. Are there instances of workers going on strike without sanction of the union ?

There are many instances of workers going on strikes without the sanction of the unions' office-bearers. The union office-bearers in such cases usually lack courage to tell the union members that they have done a wrong thing. In such cases it is the members who lead the Union and not the leaders. Union leaders very often present double faces and are instrumental in causing misunderstandings.

123. In what way in practice do trade unions and managements keep in touch with each other during a strike in order to facilitate a settlement ? What is the role of Government machinery in such cases ? Should Government intervene in cases where a strike is (i) legal, (ii) illegal ?

There is no laid down procedure for Unions and the Managements to keep in touch with each other during strike. They, however, approach the Labour Department which keeps in touch with the dispute. We feel that the Government machinery should intervene even if neither of the parties requests for such intervention. Production is of primary importance to the nation.

General

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

Tripartite meetings have served some purpose. They afford an opportunity to the parties to explain their respective view-point and to understand the view-point of the other party. There have been occasions when labour has not followed in practice the mutually agreed agreements. At State level, tripartite boards should not be overloaded with legislators and politicians.

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

The present procedure laid down for minimising work stoppages in public utilities appears to be adequate but Government will have to follow a stricter policy for enforcing provisions laid down in the Act. It is also necessary that all industries be included in the scope of the definition 'public utilities' so that the production does not suffer. In a socialistic pattern of society the whole economy becomes a public utility matter.

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

As public sector is competitive in many cases with the private sector, there appears to be no reason for preferential treatment to the public/co-operative sector. Such treatment will tend to further beauracratise it, and place the private sector in an unfair position. Actually the whole conception of two sectors is based on wrong and partisan and unrealistic notions.

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

Collective bargaining helps in small scale sector only where the unions act in a reasonable manner and there is 'give and take'. This sector makes use of the industrial relations machinery as and when necessary. This sector is a sensitive field and gives more employment than large scale industries and, therefore, needs careful and continuous handling.

Introductory

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

The abundant availability of unskilled labour tends to depress the level of wages. However, statutory protective measures, such as minimum wages, unionisation of workers, etc. to a considerable extent help, protect and stabilise unskilled workers.

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

Wages in agriculture and in the unorganised sector are generally much less than the wages in industry. During the period of agricultural season, wages in the agricultural sector do tend to increase, but during the off season, wages again remain less than in industry and are on the whole much less.

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

In our opinion, wages in agriculture and the unorganised sector should have some bearing on wages in industry, although there are separate considerations valid for payment of wages in industry depending upon the capacity of the industry to pay, the influence of collective bargaining, unionisation, etc. Wages in agriculture and the unorganised sectors depend upon other different considerations. Some larger perspective has to be maintained. Otherwise it tends to lopsided development and leads to rush to cities and concentration of labour therein with several economic and social problems.

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

To a great extent.

Minimum Wage

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

The present concept of minimum wages as defined in question No. 134 appears to be adequate. Minimum wage has to be a minimum wage. The standard of living should be raised but not in a utopion manner. An eye must be kept on production and national per-capita income.

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

In our opinion, the standards recommended in the 15th Session of the Indian Labour Conference require further consideration in the following respects :

The size of the worker's family is taken to be equivalent to three consumption units This should be 2.4, which has been the basis adopted so far in the organised sector of industry, in as much as in actual practice, if there are more than three members in the worker's family, normally there will be more than one wage earner. There is thus only

partial dependence on the principal workers. Therefore, the norms fixed in respect of food, clothing and other items of expenditure, should have to be proportionately adjusted.

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

A phased programme for providing the need-based minimum should take into account the capacity of the industry to pay as also the impact of wage increase without the increase in production on the consumer or the general economy.

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

Yes, the items to require modification if they are to be applied in respect of non-industrial workers.

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

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

Fixation of a national minimum wage is no doubt a desirable concept. However, as long as minimum wages have not been fixed for hundreds of occupations and so many industries, it will be quite premature to think in terms of fixing a national minimum wage if it is not to remain on paper only.

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

The definition of 'minimum', 'fair' and 'living' wages given by the Committee on Fair Wages appears quite relevant. As regards the concept of 'living wage', as referred to in the Constitution, the objective appears to be the same as has been the case in respect of Fair Wages Committee.

Dearness Allowance

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

The present device of protecting or safeguarding the interest of labour against price increases etc. is dearness allowance. This allowance will have to be a separate entity as long as price levels continue to fluctuate.

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

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

(a) Which index number *viz* ; (i) all India (ii) regional, or (iii) local should be preferred ?

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

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

We prefer the method of giving a separate dearness allowance based on Consumer Price Index Numbers.

Further, we prefer D.A. to be adjusted with the fluctuations in the cost of living based on the local index number. Where the local index is not available, the index for the nearest centre may be taken. The dearness allowance calculation should be scientific. We do not suggest any slab system. It would be preferable to relate the index number with D.A. on a point-to-point basis.

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

Neutralisation of the price rise has become a complicated question and depends upon a multiplicity of factors, the chief of which is the capacity to pay. In as much as there are a number of other relevant factors, no hard and fast rule can be laid down with regard to the extent of neutralisation of the price increase.

One point for consideration is what percentage of increase should be borne by the employer. It is different in case of Government employers, but a private employer has no say in the increase of prices and his resources are very limited. He cannot, like Government, levy taxes or resort to deficit finances.

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

In our opinion, the quantum of D.A. has to be adjusted where wages/a part of the wages are paid in kind.

Fringe Benefits

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

It is not easy to give a precise definition of fringe benefits but the procedure followed in this connection by the Employers' Federation of India in compiling details of fringe benefits in Indian Industry may usefully be kept in kind in determining as to what constitutes fringe benefits. The Employers' Federation of India in its monograph No. 5 in this connection states as under :

> "As none of the prevailing definitions or descriptions provided a satisfactory criterion to determine the items entering into fringe benefits and as these did not reflect the practice prevalent in Indian industry, it was decided to treat as fringe benefits all such benefits paid or provided by the employer (a) which materially added to the welfare of employees either during the tenure of their service or after retirement, and (b) the expenditure on which did not form part of his normal wages and other allowances. Accordingly, for the purpose of the Survey, 'fringe benefits' were defined to include payments made for

time not worked, profit and other bonuses, legally required payments on social security schemes, workmen's compensation, welfare cess, and contributions made by employers under such voluntary schemes as catered for the post retirement, medical, educational, cultural and recreational needs of workmen. The term also included the monetary equivalent of free light, water, fuel, etc. paid to the workers, and of subsidised housing and related services."

Contribution of such benefits affects the production costs, the extent of which differs from place to place.

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

The fringe benefits should be calculated in terms of the money they cost to the industry and should be included as an integral part of the money earnings of the workers.

As far as possible the stress should be on the money wages, fringe benefits should be kept down to the minimum as they tend to hide the real cost of labour and increase discontentment among the workers. The workers ignore these benefits while calculating their emoluments and straight increase in wages is more useful for everybody concerned.

Wage Differentials

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

To a large extent, the existing wage differentials appropriately reflect the considerations mentioned in the report of the Committee on Fair Wages. To some extent, the collective bargaining process and traditions have also helped in determining wage differentials between various categories of workmen.

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

The present arrangements of paying dearness allowance uniformly for all categories of workers as a separate item has been found to be quite satisfactory.

Methods of Wage Fixation

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

We would prefer wage fixation by the method of collective bargaining. However, such collective bargaining will have to be based on expert technical studies. Failing that, the other method of wage fixation would be adjudication Fixation of wage through Wage Boards have created a number of complications and therefore, this form of wage fixation should be reviewed. During the pendency of the proceeding for wage fixation Government should not permit study or discussion at another form.

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

Wage fixation on the basis of national agreements howsoever desirable is impracticable and regional differences and parities will continue to play a decisive role in wage determination. In a country of India's size this is bound to be the situation for a number of years to come.

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

Wage Boards have created complications and problems. This type of wage fixation on a voluntary basis has shown little sign of success.

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

(b) Should wage board recommendations have legal sanction ?

We do not approve of the continuation of wage boards as wage fixation machineries in this country, no question of giving legal sanction to their recommendations which immediately are not based on realities.

Wage Policy

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

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

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

In our opinion, a national wage policy, which should fulfil the criteria of fairness and, at the same time, keep in view the development of industry, capital formation, etc. is that under which the remuneration to workers is fixed with reference to the total pay packet. As has been observed in the Resolution on Industrial Truce, "the system of remuneration to capital as well as labour must be so devised that while the interest of consumers and the producers are protected, excessive profits are prevented ; both will share the product of their common effort after making provision for the return to all the various constituents". In our submission, any wage above the minimum level will not be economically possible and socially meaningful unless it is related to the productivity of the workers. The objective is not merely to determine wages which are fair in the abstract but to see that employment at existing levels is not only maintained but increased, if possible. The level of wage should enable the industry to maintain production with efficiency.

Fair return, in our opinion, should be such as not to discourage adequate investment in future in the same industry. The need to step up investment and to maintain a reasonable rate of growth has to be kept in view. In this context, the I.L.O.'s observation that

"In developing countries it may be desirable to restrict wage increase for a time to rate sometime below the percentage increase in the national income" merits serious consideration.

While apportioning the adequate and fair share to various constituents as indicated above, the need of the community to get goods at the most competitive rates should never be ignored. An integrated income and wage policy which is evolved keeping in view the requirements of the development of the economy must take care of the requirements of ensuring supply of goods to the consumer at a reasonable price or else the entire fabric of the economy might collapse.

Increased wages to industrial labour means a fair share for the unorganised and weaker sector under the present inflationary condition; the employer can and does pass on all increase in wages to the consumer without any difficulty.

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

India is currently passing through inflationary conditions which have vast potential of distorting the entire economic structure if the prices are not kept in check. It is essential in the public intrerest that prices are stabilised so that the vicious circle of wages chasing the prices is broken. The linking of dearness allowance to the price index numbers in the context of ever increasing prices has resulted in cost-push-inflationary conditions and it might be appropriate at the moment to devise a system of "wage freeze" for sometime so that the economy could get out of the present morass. It is felt that there should be an integrated policy of income-wage-price freeze to achieve the objective of growth with stability.

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

There is definitely a need for sectoral balance in wage structure between the private and the public sectors as the operation of the public sector has vastly expanded. The Government or the autonomous organisations set up to run public sector enterprises, should take the private sector into confidence and consultation while fixing the wage structure in their sector otherwise anomalous position would continue.

Mode of wage payment

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

We do not approve payment of wages in kind because it creates more complications and dis-satisfaction all round. (see our note on fringe benefits also in this respect).

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

Unskilled workers are always paid on time scale. Its extension would be desirable in cases where it is not possible to link the wage rate with units of production.

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

We agree with the suggestion that the total wage packet should consist of three components, namely

the basic wage, the other depending on price changes which is the D.A., and the third which takes into account productivity changes. In actual practice, it will operate like this: whereas the basic wages and dearness allowance will continue to be paid on the existing basis, productivity increase will be worked out in terms of average normal production etc. and the basic wage for that normal work. Any increase in productivity will be compensated in the form of incentive wages.

General

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

We have a strange spectacle. Two wage fixation machineries are in operation, i.e. minimum wages Committees and the Wage Boards for the same set of industries. There should be uniformity and duplicity should be avoided as far as possible. We prefer fixation of minimum wages by minimum wage committees.

While fixing minimum wages the realities should be kept in mind. Otherwise it leads to unfair practices. More utopianism does not help much. Employers and employees engaged in small units need to be informed and enlightenced about fixed minimum wages etc.

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

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

The present system of Bonus payment has created more problems than it has solved. Bonus is the cause of the majority of labour disputes. There should not be any compulsion for paying any bonus. The theory that bonus bridges the gap between the existing wages and fair wage is wrong. Why should fair wage depend upon fluctuating profits ? If a fair wage is desirable in any unit, it should be paid irespective of the profits. A straight wage increase is much more useful than annual dispute and strike for bonus.

In any case the minimum 4 per cent bonus even in cases of loss is totally inequitable and cause of much heart burning. It is a contradiction in terms and wholly unjustified. The worker, even if paid a high bonus, does not feel himself a partner.

Also profits do not depend upon the workers. They are the result of the efficiency of the management and hence prerogative. The Bonus Act concedes this to a great extent by limiting the quantum to 20 per cent. If the labour is a real partner, why should it not share to the whole extent possible.

In advance countries there is no system of bonus—only increased wages. You cannot have bonus as well as increasing wages.

VII. SOCIAL SECURITY

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

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

(i) The Social Security Schemes, as a whole, have contributed towards stability of employment The non-statutory Social Security measures tend to improve industrial relations favourably. Statutory

Schemes at present tend to make labour complacent. These schemes would more add to national wealth if workers are educated to put their best in their work.

(ii) The qualifying period for entitlement of Social Security benefits actually does help in reducing the labour turnover to a certain extent.

179. The Convention on Minimum Standards of Social Security adopted by the International Labour Organisation refers to the following branches of social security, namely, medical care, sickness benefit, unemployment benefit, old age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivor's benefit.

(a) To what extent is each one of the above benefits available at present ?

(b) What is the cost of existing social security schemes in relation to the total cost of production ? How has it varied over the least 15 years ?

(c) Are the scope and coverage of each one of the benefits mentioned above adequate ?

(d) What should be the priority for enlarging the scope and coverage of the various existing benefits ?

(e) How should the programme for introduction of the benefits not currently available be phased ?

(a) To a certain extent the statutory benefits cover most of the items included in question 179. A number of progressive employers in the country also give benefits which are not covered by the statutory measures.

(b) No data is available to make a statement with any degree of certainty in this connection. One thing is obvious that small or medium units affected feel the pinch of cost and cumbersome procedures and formalities involved and would like these to be simplified. Workers complain that they do not get maximum and speeding benefit out of these schemes. Bureaucratic ways of working needs to be amended.

(c) Taking into consideration the financial position of the country as a whole, the rising cost of production, wages and dearness allowance, the scope of and coverage of the benefits appear to be quite adequate at this stage.

(d) There is no scope for enlarging the present area of benefits. However, extension of the existing benefits to the units which are not covered should depend upon their capacity to bear the burden.

(e) Does not arise.

180. The benefits referred to in question No. 179 are generally available only to persons who are in wage-paid employment ; there will still be large numbers of persons like traders, artisans and small shopkeepers who are self employed and who will remain uncovered by the scheme. What advance steps should be taken to bring these groups within organised social security schemes ?

The schemes which are in vogue at present are the schemes of Provident Fund and Employees Insurance and it has been learnt that both the schemes are not working satisfactorily. Vastness of self employed persons forbids application of these schemes to them. There will be more harassment

and wastage than benefits to that class. Actually, many obligations of the Government are being passed on to employers which is not very correct and inducive to industrial peace and welfare. Coverage of so-called self-employed persons would be uncalled for at the moment or in near future.

181. The E.S.I.S. Review Committee has made a number of recommendations in its Report both for improving the administration of the E.S.I.S. and for introducing an integrated social security scheme. As regards the latter, it has recommended that planning should now proceed to evolve a comprehensive social security scheme covering in a single enactment various risks of cessation of income or wage loss to which a wage earner is exposed. Towards this end it has specifically suggested :

(i) The Government should in consultation with the Indian Labour Conference set up an expert machinery to evolve a 'blue print' for a comprehensive scheme of social security which should also form a strong financial and administrative base for inclusion of benefits which are at present not available.

(ii) Action should be intimated forthwith to bring about an administrative merger of the E.S.I. Scheme and the E.P.F. Scheme. Steps should be taken to examine the problem in all its details and to accomplish this with the least delay.

What are your suggestions on the above recommendations ?

(i) A comprehensive social security scheme in which the present social security measures are integrated will indeed be a step in the right direction. However, it will have to be ensured that this process of integration does not enhance the financial burden on and harassment of employers.

(ii) Action should be initiated forthwith to bring an administrative merger of Employees Provident Fund and the Employees State Insurance Scheme.

Integration of these two schemes for administrative purpose is a desirable step as it will bring in simplification, avoid duplication and unnecessary wastage of money and labour. But the coverage of the respective schemes should remain the same.

182. Should the provisions for exemption from the E.S.I. Scheme be tightened ? How should this be achieved ?

It needs consideration on merits of each case. Absenteeism among the workers is on the increase because of the E.S.I. Scheme and it should be avoided and the workers should not be allowed to obtain bogus/sickness certificates on false pretences and enjoy double benefits. In order to minimise the difficulties it is suggested that :

(a) It should be made incumbent on the worker to ensure that the certificate reaches the unit within 24 hours of its issue.

(b) Alternatively the E.S.I. dispensaries may be asked to send duplicates of such certificates to the industrial units concerned.

(c) In some cases the employers suspect *mala-fide* and advise the E.S.I. Medical Officers to exercise greater care. In spite of this it is experienced that the employees do procure medical certificates.

184. Should the administration of the medical benefits under the E.S.I. Scheme remain the responsibility of State Government ? Or should the Corporation itself take it over ? If

State Governments are to continue administrating medical benefits, what should be done to ensure that a uniform standard of medical benefits is available to insured persons in all States ?

It is our considered view that in order to have uniformity and obtain better administration, the corporation should take over the responsibility of administering medical benefits so that workers get better service and there is no shifts of responsibilities.

185. What should be the respective shares of contribution from employers, workers and Government in any scheme of social security ?

It appears just that the share is equally distributed amongst employers, workers and the Government.

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

It should be merged into a comprehensive social security scheme.

187. If it is to continue in the present form, would you suggest any change in the pattern of investments of the funds and in the rate of interest accruing to beneficiaries ?

It should be invested in the higher yielding securities consistence with security. Banks today offer 7½ per cent interest on F.D. while Government gives barely 5 per cent. At least half the amount should be invested in shares of companies in which the L.I.C. has shareholding.

188. Are any changes called for in the scheme to make the administration more satisfactory ?

The procedure in respect of the following needs to be streamlined :

(i) Time taken for withdrawal of Provident Fund.

(ii) Periodic information to worker of his accumulations.

Employees contribution for securities expenses should be abolished to ensure that the fund is administered economically.

189. Should a part of the provident fund be set apart for giving insurance cover to the members of the E.P.F. Scheme.

Yes. It is agreed that a part of the Provident Fund should be set apart for giving the insured person additional security through insurance.

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

The system of paying gratuity has a place of its own in the overall social security programmes. In this country we already have statutory provisions for Provident Fund and Employees State Insurance Scheme and, therefore, any system of payment of gratuity should at best be left voluntary.

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

We do not suggest any changes in the existing provisions relating to the lay-off and retrenchment except that where the management has observed the principle of 'first come last go' and have also applied with the provisions of retrenchment, the worker or the union should not be allowed to challenge the retrenchment, by way of raising any type of disputes.

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

As is well-known the country's trade union movement is divided and plagued by inter-union rivalry and intrigues and pulls of political parties. It would, therefore, not be advisable to entrust administration of any social security benefits to the trade unions at this stage, The stage of assigning such activities to the trade unions has yet not reached in this country. The representation already given to trade unions under the various schemes appears quite adequate.

VIII. LABOUR LEGISLATION

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

Labour management relations in a planned economy, are governed to some extent by collective bargaining, but due precautions should be taken that principles of collective bargaining are not abused, and for this purpose it is necessary that there should be some legislative control. Further, in an atmosphere where the labour-management relations are under a radical change, it is necessary that the legislation should control the relations of labour and management to the extent that they do not jeopardise production and create unrest.

In a planned economy, it is important that while legitimate safeguards are made for labour, consistent with the capacity of the industry to pay, care should be taken that the functioning of the economy also is not disturbed by strikes and lock-outs and that labour-management relations should be on workable basis. For the establishment of uniform standards of welfare and security and to prevent unjustified strikes and lock-outs, it is inevitable that legislation will have to play an important role. During the last 20 years or so, the Government has brought in a large number of labour legislations for improving the working and service conditions of industrial workers. Fixed working hours, leave with wages, payment of wages on fixed day, provident fund, employees state insurance and various other benefits have been achieved through legislation. It is doubtful if such benefits could have been achieved through collective bargaining. If these matters had been left to collective bargaining, it is also probable that there would have been serious conflicts disturbing the functioning of the planned economy. On matters which were previously governed by collective bargaining or awards of adjudicators, like retrenchment, lay-off, provident fund and bonus, legislation has helped to standardise conditions of service and to prevent unnecessary conflicts either in the form of strikes or lock-outs or otherwise. Hence labour legislation will continue to play an important part in a planned economy and a welfare state. It is true that wherever uniform standards can be established it would be in the interest of industrial peace to regularise these matters by legislation. However, notice has to be taken that the legislation has not many a time achieved the purpose of laying down uniform standards because of the tendency of Courts to interpret them as minimum standards and not as uniform standards for industry. For example, in the matter of working hours, leave benefits, etc., in spite of the fact that statutory provisions exist, labour often demands shorter working hours and longer leave and many a time adjudicators and Courts have accepted these demands on the ground that what is laid down under the Act is only the minimum and, therefore, it is quite legitimate for the workmen to demand something more than the minimum. This, in our view, defeats the very purpose for which the legislation has been made. There is no reason why, for example, even in a

prosperous industry workmen should claim shorter working hours and longer leave benefits than in industries which are not so prosperous. As the need for hard work is undeniable for achieving the national objectives, it is not understood why workmen working in prosperous industries, which are sometimes vital for the national economy, should put in shorter working hours and avail of longer leave benefits when in the rest of the industries they work according to the standards laid down by legislation. We, therefore, urge that in the various Statutes it should be clearly provided that matters which are regulated by statutes should not be the subject-matter of industrial disputes. This will have a two-fold effect :

(i) establish uniform standards in certain essential matters throughout the country ; and

(ii) avoid unnecessary litigation.

Collective bargaining should occupy the field with regard to conditions of service of the workmen which cannot be regulated by legislation. However, it should be clearly laid down that matters like adoption of new techniques and all matters relating to production and sale of goods and laying down the work force etc. should be essentially management functions, and collective bargaining should not impinge on these functions, nor should legislation in any way interfere with the same. We have noticed a tendency in legislation to place restrictions for the avowed objective of safeguarding labour, which, however, place such restrictions on industry that adoption of new techniques and experimentation and change are unduly constricted leading to stagnation which impedes the progress of national economy. We are of the view that drastic review of legislation should be made for this purpose so that such restrictions are removed.

It is, however, urged that the legislation should be so framed that whatever conditions of work and norms of payments are considered reasonable for the workmen they should be provided in statutes such as bonus, leave wages, and provident fund etc. But it should also be made clear that the workmen should not resort to strikes for the enforcement of their rights ensured under the statutes.

With regard to legislation we would like to make a general remark that in a mixed economy excessive use of or comprehensive resort to legislation should be avoided ; otherwise management and labour both look to the government for solution of all their problems instead of first trying solutions among themselves.

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

By far, legislation has been properly implemented by industry. However, it is not generally realised that labour has as much responsibility for implementation of the labour laws as the industry. For example, with regard to safety provisions, there have been numerous cases, where management has supplied the safety appliances and taken all care to make safety provisions, but workmen have not complied with the directions of the management in this regard. In such cases, the implementation machinery of the Government dos not take any remedial action against the erring workmen and is inclined to ignore the complaints of the management. The fact that labour laws operate in a one-sided way is also shown by the manner in which the provisions of the Industrial Disputes Act are implemented. While the management is prosecuted if it does not implement the awards or otherwise

violates the provisions of the Act and under Section 33C amount of benefits due can be realised as arrears of land revenue, workers often go scot-free for violating the provisions of the Act. Thus workmen freely resort to illegal strikes whenever it suits them to do so. The Government machinery does not take serious notice of such illegal strikes and rarely sanctions prosecution. Even for disciplinary action taken, pressure is exerted on the management not to take action against those taking part in the illegal strike and inciting and instigating the same. Further, the Industrial disputes Act provides that those who participate or instigate an illegal strike or give financial support to it are liable to prosecution, but this can only be undertaken with the sanction of the Government which is rarely given. It is necessary that labour laws should be equally implemented whether the infringement is by the management or by labour.

Basic difficulty with the government so far has been that its policy in matters of labour laws and implementation thereof has been of appeasement of labour and have been worker-biased rather than work-oriented. Workers must get their dues and their interests must be properly safeguarded.

But it does not mean that they should be allowed to hold society and production to ransom, and that is exactly what is and has been happening. Crucial point is that workers command several times more votes than the management or employers. If the government or the ruling parties have their eyes on counting of votes then they cannot take an unbiased and objective view.

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

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

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

While all efforts should be made to implement the Directive Principles of State Policy, it must be realized that due notice has not been taken of the slow development of the national economy and the economic problems faced by industry have not received adequate attention and sometimes burden has been put on industry, specially on the smaller and the new units, which they are not capable of bearing. Thus, while advocating uniform standards, we would suggest that specially in matters of legislation dealing with welfare provisions and imposed financial burden, adequate provisions should be made for exemption of the weaker units from provisions which are financially burdensome and practically irksome. Multiplicity and complications of labour laws are dampers on expansion of industry and trade and employment also. Entrepreneurs are prepared to invest money, but they think twice before employing a new hand.

We also wish to emphasize that while legislation protects the interests of labour, it does not adequately protect the interests of employers as far as unfair labour practices adopted by labour are concerned. We are of the view that there should be adequate provisions made in legislation to eliminate all forms of coercion by whatever name called, like 'stay-in-strike', 'go slow', 'gheraos', 'work-to-rule' and the like. Unless this is done even the interests of labour cannot be protected in the long run because these coercive practices hinder achievement of greater production out of which only provisions for welfare of labour can be made.

We should keep in mind that the need of our country is not niceties of socialism or any other issue, but more production and more employment. Workers should be allowed to work longer hours and earn more money so that they can raise their standard of living, without injuring their health. Unrealistic laws are more honoured by breaking them. For example, overtime works is not allowed in most of the industries, but employers and employees both do it clandestinely, because it serves the interests of the both and of the industry at large also.

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

We are of the firm view that labour legislation throughout the country should be on uniform pattern and, therefore, all possible constitutional arrangements need to be made to ensure this. It should be a central subject with a provision that states can make rules thereunder best suited to their requirements.

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

International Labour Conventions have been responsible for progress of labour legislation in the country to a large extent. These have served as models also.

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

The difficulty in implementation of labour laws often arises due to overlapping legislation and sometimes badly drafted legislation, due to which conflicts and controversises arise leading to unnecessary litigation. Labour legislation should be simple enough to be understood by the parties who have to implement it from day to day. We are, therefore, of the view that as far as possible, the legislation should be made simpler and compiled or consolidated in a compendius codified form. Under the guise of social justice the courts have tended to take far-fetched views and it has made labour laws more unweildy and complicated and now only professionals can handle these.

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

There has been too much of and piecemeal legislation in the field of labour in the country. Often the legislation is overlapping and, therefore, creates confusion. A simple unified Labour Code is a dire necessity.

200. Is there need for consolidation and codification of existing labour laws ? Please suggest the lines on which codification should be undertaken ?

We are of the view that there is urgent need for consolidation and codification of existing labour laws. This is to avoid conflicting provisions in the various Statutes with regard to the same matters and competing and overlapping jurisdiction of various authorities to certain claims. We would suggest that legislation should be simple and easily understood by those who have to implement it. A definite time limit should be provided for recovery of claims under each of the laws and there should be no scope for a person whose claim is time barred under one Act to claim the same benefit through the machinery provided under another

Aet. For example, it is seen that applications under section 33C (2) are made for claims which have become time barred under the statutes which create these rights. Thus, while the payment of Wages Act may provide for limitation for recovery of unpaid wages, section 33C (2) does not make a provision in this respect and all of a sudden demands are made under that Section for recovery of wages for the last, say 10—12 years. This puts a premium on lateness and involves the employer in financial liability for claims which are absolutely stale and which could not have been anticipated. It also encourages frivolous and vaxatious claims. Legislation should see that no such claims are made.

At present the appropriate Government has no power to amend, supersede or withdraw an order of reference. This often leads to unnecessary litigation. The Government should have the power at all times to modify or supersede a reference.

Again, at present the appropriate Government has no power to transfer a case from one Tribunal to another on the ground that a party to the dispute has reason to believe that it will not get justice. The law needs to be specific and clear to provide for transfer of a case on the ground of loss of faith by a party. This will reduce the tendency on the part of the judges to be despotic.

The life of the settlements and award under the present law is too short. They should be given a much longer life in the interests of more lasting industrial peace.

The present penal provisions of all labour laws, which authorise the imprisonment of the delinquent on conviction, are also to some extent responsible for strained relations. It is suggested that all contraventions of labour laws should be punishable only with fine and the fine so collected should go to a Fund, which should be used for the welfare of labour.

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

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

As we have already stated in detail above, labour legislation has worked in a one sided manner. This should now be rectified and the employees made as conscious of their duties as of their rights under labour legislation. Such labour legislations should be enforced against them by suitable penalties, if necessary. The voluntary approach as contained in the Code of Discipline has not worked satisfactorily because while the employers have been pressed by the Labour Department to implement the various conventions and resolutions in this regard, the workmen and their organisations have paid only lip sympathy to them. We are of the view that instead of leaving these matters to volition of the parties, such of the principles as are sound be incorporated in legislation and suitable provisions should be made to punish those who do not carry out their obligations.

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

204. Are there instances of political or other rights which are normally available to an individual being denied to employees in the public sector and their dependants ? How are such denials justified ?

In connection with the public sector, we might only say that there should be no discrimination between the public sector and the private sector in the matter of enforcement of labour legislation. Although of late, the gap between the private and the public sectors in this respect has been narrowed, there is still discrimination which ought to be completely removed. There should be no special exemptions for the public sector. The principles for exemption must be the same for the public and the private sectors.