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DR. BHARAT KUMAR'S OFFICE  
DCM, DELHI

No. 1(24)/68-NCL(C)  
Government of India  
National Commission on Labour  
D-27, South Extension, Part II  
New Delhi

....

Dated the 20th September, 1968.

To

The Chairman and Members of the National  
Commission on Labour.

Subject:- Programme of meetings of the National  
Commission on Labour with some Central  
Organisations of Workers and Employers  
and other Organisations at New Delhi on  
October 4 and 5, 1968.

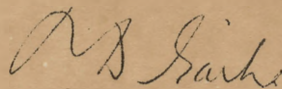
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Sir,

I am directed to refer to the Commission's  
letter of even number dated the 16th September, 1968  
and to forward the following papers:-

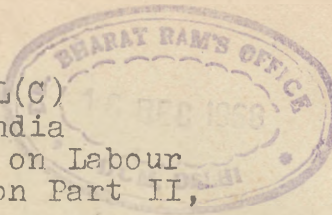
- (i) Points for elucidation on the Memoranda  
of the Council of Indian Employers and  
I.N.T.U.C which were forwarded to Members  
vide Commission's letter No.5(1)/67-NCL(C)  
dated the 16th January, 1968.
- (ii) Memoranda received from the All India  
Railwaymen's Federation and National  
Federation of Indian Railwaymen and  
points for elucidation thereon.

Yours faithfully,

  
(P.D. Gaiha)  
Director



No. 1(24)/68-NCL(C)  
Government of India  
National Commission on Labour  
D-27, South Extension Part II,



...  
New Delhi, dated the 13th Dec. 1968

To

The Chairman and Members of the  
National Commission on Labour,

Subject:- Meeting of the Commission with Central  
Organisations of Employers and Workers  
and other Organisations at New Delhi  
on October 4-5, 1968--Record of discussions.

...  
Sir,

I am directed to forward a copy of the Record of  
discussions of the National Commission on Labour with  
the Central Organisations of Employers and Workers and  
other Organisations at New Delhi on October 4-5, 1968,  
as approved by the Chairman.

Yours faithfully

*P.D. Gaiha*  
(P.D. Gaiha)

Deputy Secretary.



NATIONAL COMMISSION ON LABOUR  
(Delhi)

Date: 4-10-1968

Time: 3.00 P.M. to 6.00 P.M.

Record of discussion with the I.N.T.U.C.  
represented by:-

1. Mr. Abid Ali (Vide NCL Ref.No.DL-VI.74)
2. Mr. Shantilal H. Shah
3. Mr. V.V. Dravid
4. Mr. N.M. Barot
5. Mr. Kanti Mehta
6. Mr. N.K. Bhatt
7. Mr. N.S. Deshpande
8. Mr. B.K. Mahanti
9. Mr. J.C. Dikshit

In his introductory remarks Mr. Abid Ali said that the Indian National Trade Union Congress is happy about the constitution of the National Commission on Labour. The organisation had been feeling the need for such a Commission because the last Commission, the Royal Commission on Labour reported as far back as 1931. Since then, and particularly since Independence, there have been many enactments in the labour field followed by important decisions Governmental or tripartite. The INTUC had wanted for some time a full-fledged Commission to be appointed to assess the experience of the last 20 years and build on that basis a foundation for the future. Government should also be able to know the minds of the representatives of the employers and the workers through this Commission. The INTUC hopes that the labour put in by the Commission and the expenditure incurred on it will not be infructuous and the Commission's report will not be kept constantly under consideration and re-consideration within the Government's policy instruments.

The INTUC came into existence in 1946; but the principles and ideals of this organisation have been in existence since Gandhiji took up the work of organising labour in Ahmedabad.

The basic philosophy of the INTUC is that the nation is supreme. The nation should prosper; indeed without such prosperity no progress will be possible. Industries should make reasonable profit but personal income should be within limits; there should be responsible and strong trade unions to guard the interests of workers and to ensure that they get their due share in the fortunes of industry in addition to a fair wage.

The INTUC is wedded to the ideals of democracy and socialism. It believes that there should be pros-



perity and there should be wealth to distribute and everybody should contribute according to his capacity to generate this wealth and share it according to his needs. The INTUC has proved by its activities that it keeps the interest of the nation supreme in every circumstance and eventuality.

To make the nation prosperous and industries profitable, the INTUC is working hard and spreads this message among workers. Most of those who are in the INTUC today were connected with the freedom movement and were at the same time working in the trade union field. Even in these days of the movement they realised that workers should be dutiful and disciplined. The INTUC feels that without discipline nothing can be achieved in any walk of human activity. Though INTUC has been able to make these ideas popular, there have been occasions when Governments have given encouragement to recalcitrant elements in the society and the trade union movement. It only hopes that Governmental encouragement to recalcitrant elements will come to an end in view of repeated experience Government is having.

There is criticism about the demands of the workers though these are reasonable. People say that a worker is now receiving about Rs.150 per month whereas half a century ago the wages were much lower. Partly the wage is higher because of the lower purchasing power of the currency and partly also because workers have succeeded in securing a better deal. The fact still remains that a kilo of bread is purchased in many industrialised countries for a wage of 10-12 minutes or even less. Even in places like Iran, Lebanon, Syria, etc. one kilo of bread is purchased for about half an hour's wage. In India for the same amount of bread a worker has to put in one-fourth to one-third of work a day. Even in this situation, the Indian worker is dutiful and hard-working; a parallel situation would have caused revolution in any other part of the world.

The INTUC expects the Commission to take note of the safeguards which should be given to the trade union movement under democracy. The Commission should make recommendations as to how workers can be made responsible and how good trade union movement should be developed and how national interest should be kept supreme.

The contributions made by a worker to his provident fund depreciates in value as time passes. What a worker gets on retirement is smaller in real terms than the contribution made by him during his working life. If the worker had invested his savings in purchasing a small piece of land with the amounts equivalent of what he is made to save, the price of such land would have increased many times over the period of years. Some thought should, therefore, be given to this problem of the depreciating value of the provident fund amount. There are some countries where the value of the currency is fixed as contributions come in and final payment of provident fund is adjusted for changes in the value of currency.

After these preliminary observations, the



following points were made by the spokesman of the organisation:

(1) In para 1.3 of the reply submitted by the INTUC to the Questionnaire of Commission, the objects of the INTUC have been defined. The philosophy of the INTUC contemplates a stage of evolution in the economic progress of this country when in order to build up the desired kind of society, it may be necessary to place industry under national ownership and control in suitable form. The INTUC has been able to get it accepted that there should be increasing association of workers in the administration of industries. This idea has to be accepted first and then will come the next stage of putting it into practice. In an indirect way the idea has also been put into practice. For example, in a number of public sector undertakings persons who represent labour's interests have found representation on Management Boards. In the Port Trust a representative of labour is a member of the Board of Port Trust. Thus, indirectly and remotely labour has been associated with management in these undertakings. This is the first step and has been found to work satisfactorily. Labour representatives in Management Boards have generally taken care to see that workers' interests are protected. A labour representative in the Board of Management need not control a particular union of the undertaking; as a part of management, he may even face a strike but still he has to keep the interests of workers at heart.

2. Whenever there are responsible trade unions and good leadership, it would be in the interest of the employer to take the leadership in confidence, tell it what can be achieved and thus make it cooperate and associate themselves with the management. This will depend upon the mood of the employer. If he has a desire for such cooperation from the union, he will be able to find it. If the management supplies information to workers without any reservation, the workers, in turn, will try to help. Suppose the management shows that the cost of raw cotton has gone up, then a good trade union worker will explain the position to workers and get their cooperation. A scheme for participation of labour in management can work if proper atmosphere is created and a sense of awareness is inculcated both among employers and employees. Such a scheme cannot be worked by legislation. The basic thing is that both sides should be clear as to what they are participating for and participating in.

3. Even before wage boards and tribunals many employers are unwilling to open their account books. The willingness of the employers to share necessary information with workers is the most important factor in securing better relations. Other requirements for a scheme of workers' participation in management to succeed are good industrial relations and, if possible, one single union in the unit.

4. Provision of housing to workers should be the responsibility of the employers though the State also should come in. The housing problem though



extremely difficult can be tackled by cooperative societies as in Ahmedabad. The State Housing Boards have generally functioned satisfactorily but the number of houses provided by them is inadequate.

5. In regard to the unorganised sector, the first step should be to fix minimum wages under the Minimum Wages Act. It is true that minimum wages have been fixed under the Act for workers in many of the unorganised industries including agriculture. The defect is in implementation. A two-pronged drive is called for: (a) in regard to agriculture labour, a beginning should be made with organised sections, e.g. plantation labour, and ultimately the State should devise a mechanism for prescribing minimum wages even for landless agricultural labour and (b) the minimum fixed for small industries should be properly implemented.

6. Taking the present level of per capita national income at Rs.400 per annum and four members to a family, a person should receive Rs.1,600 per annum or about Rs.133 per month to support his family. This level of wages cannot be paid in agriculture. Therefore, the INTUC is not in favour of co-relating national minimum wage to national income.

7. Where exactly the national minimum wage should lie is difficult to say but 10 per cent tolerance on either side should be allowed and by trial and error the level should be determined.

8. The State should take steps to extend the Workers' Education Scheme to labour in unorganised sectors. The social security benefits should also be extended by the State to unorganised labour, though owing to financial reasons the process has to be gradual.

9. The steps to be taken by the State in regard to unorganised labour will thus be, (a) fixation of minimum wages (b) extension of the Workers' Education Scheme and (c) extension of social security benefits, when it is feasible to do so.

10. Need-based minimum wage is a good ideal towards which the country has to make progress but the same can never be reached because 'need' is an expanding concept. In applying the formula of the need-based minimum wage, as evolved by the 15th Indian Labour Conference, the fact that there is a large body of unemployed population, who do not get any income at all, has to be taken into account. However, if an industry has the capacity to pay the need-based minimum wage, it should pay the same.

11. In the case of Government, the capacity to pay should not be judged on the basis of its capacity to print notes or to levy taxes. Government will have to be treated separately from private concerns which have a profit motive.

12. In fixing emoluments of Government employees, the relevance of the earnings of other segments of employees has to be accepted, but in a limited sense.



The important point is that there should be a balance among public interest, the capacity to pay and the needs of the employees. In other words, the formula recommended by the 15th Indian Labour Conference for industrial labour should not be made automatically applicable to civil employees of the Government. The extension of the formula to Government employees will depend upon the financial position of the country as a whole, social and developmental considerations.

13. The minimum wages should be fixed on area-cum-industry basis and there should be no national minimum wage.

14. A common labour code and a common pattern of labour judiciary would be favoured. In regard to the appointment of labour judiciary, the pattern in Bombay should be followed.

15. The conditions for eligibility of judges of labour courts should include a background of industry and labour. Experienced conciliation officers fulfilling the eligibility conditions should also be considered for appointment as judges of labour courts.

16. The Labour Appellate Tribunal should not be revived.

17. Collective bargaining should be encouraged; but there should be a clause in collective agreements that if a dispute cannot be settled through collective bargaining, parties should agree to arbitration. This country cannot afford the luxury of long drawn-out strikes in its present conditions.

18. The system of adjudication should also be there because there may be units where there are no unions or the unions may not be sufficiently strong. However, gradually adjudication should assume a minor role.

19. It should be obligatory for the employer to recognise only one union in a unit where more than one exist. For union recognition, a minimum membership of 15% should be stipulated to start with. Gradually, this should be raised to 25%. The quality of unions should also be a consideration in recognition, as in the Bombay Industrial Relations Act. Thus, a union to be recognised should be the one which is prepared to exhaust all legal methods before going on strike.

20. The INTUC does not believe in foregoing the right to strike. For instance, if in pursuance of the clause in the collective agreement for referring a dispute to arbitration the employer refuses to accept an arbitrator, the union could go on strike. The right to strike should not be ultimated - it has to be circumscribed. The union should be prepared to plead its case before any impartial authority rather than securing a temporary advantage because of its might.

21. Labour movement started almost simultaneously both in Bombay and in Ahmedabad. In



Ahmedabad workers have been able to secure a higher level of wages without resorting to strikes; in Bombay long drawn-out strikes took place but the final result is no better.

22. The INTUC is opposed to secret ballot for recognition of unions. Election for the purpose of recognition will arouse passions and sentiments and will ultimately destroy the trade union movement. Trade unions must win the loyalty and confidence of the workers and that can be achieved by continuous membership and payment of fees.

23. The recognised trade union must face the workers every month for the collection of fees. Election by secret ballot will destroy the inducement to workers to become members of trade unions.

24. In this matter it is not possible to go by examples of other developed countries because conditions in this country are quite different and trade unions here do not have sufficient political maturity.

25. The INTUC is agreeable to verification of membership by an independent authority instead of by the Labour Commissioner.

26. If two unions have membership differing by a small margin, there should be no election to decide on the union to be recognised, since ultimately even in a secret ballot a small margin can decide the final result.

27. Minority unions should be allowed to represent individual cases.

28. The idea of proportional representation to the various unions is not acceptable because no united action can be taken by such a body.

29. The INTUC is not in favour of 'check-off'. Collection of union dues month to month by the office-bearers of the trade union is a necessity for building up live contact with workers. If the check-off system is introduced, the office-bearers of the union will look more to the employers than to workers. The Organisation is also against authorised deduction of membership fees under the Payment of Wages Act.

30. The INTUC is, by and large, opposed to automation. But there will be cases where automation may be necessary or advantageous. To this extent their reply to Question 176 of the Commission's questionnaire stands modified.

31. Rationalisation and automation are two different concepts. Rationalisation means better utilisation of existing machinery and manpower. Rationalisation should be encouraged and it should be without tears. Employers should enter into agreement with the workers for introducing rationalisation.

32. In introducing rationalisation, the factors to be considered are advantages to the employer, to



the employees and to the community or country as a whole.

33. Existing employment should be protected. The INTUC would not attach too much importance to protecting future employment, if otherwise the introduction of rationalisation is in the larger interests of the nation. National interests will take care of expanding employment opportunities.

34. Automation has come in recently with the installation of computers. These computers are almost machines with a mind. Automation should be selective and it should not result in reduction of present workers. Automation should be introduced keeping the larger interests of the country in view. If there is no agreement between workers and employers in this regard, the State should decide.

35. The organisation does not subscribe to the theory "no automation now or ever". The conditions for introducing rationalisation involving automation should be the same as those for introducing rationalisation. But, in every case, the introduction of rationalisation and or automation should be done through agreement between workers and employers. Even if there is an agreement between the two sides, the State should intervene in the larger interests of the nation. By the same logic, if there is no agreement between the two sides, the matter should be referred to arbitration.

36. Higher productivity should be encouraged by giving better wages. Wages above the minimum should be linked with productivity with the safeguard of a minimum fall-back wage. Further, in linking wages with productivity, the worker should not be made to suffer because the employers fail to provide good material and machinery. Compensation for the default or shortcoming on the part of the employer should be on the basis not of fall-back wages but what the worker would have earned.

37. When disciplinary action against a worker is initiated by an employer, the case should be investigated into by an independent arbitrator whose decision will be binding. The INTUC has no objection to judges of labour courts acting as arbitrators in disciplinary cases.

38. The INTUC is prepared to accept arbitration procedure for settlement of disciplinary cases and it authorises the Commission to say so in connection with the Bill which is now pending before the Lok Sabha.

39. The INTUC's attitude is that wealth must be produced and anything which helps production of national wealth and adds to it is welcome. The INTUC also believes that there should be discipline in the industry, discipline in the union and even in employer-employee relations.



40. In para 2.11 of its reply to the Commission's questionnaire, the organisation has enumerated the causes for the slow progress of the nation. All these causes cannot be taken care of through legislation. It will require an atmosphere to be built up and a consciousness to be created among workers that their future and welfare are tied up with the welfare of the nation as a whole. This will take a long time. In the meantime, tendencies contrary to this should be checked. Part of that action will be political and part of it may lie within the trade union field. For example, in matters of avoidance of strikes or of improving productivity, the workers will have to be put into the right frame of mind through argument, persuasion and taking recourse to education in advance. Therefore, mere recommendations will not help and unless trade unions take up a responsible view, no results can be achieved.

41. There are two attitudes - one, employers are partners of the workers and the other, employers exploit the workers. The first attitude results from the belief that the interests of employers and workers are divergent in terms of sharing the wealth they produce; but their interests are common in producing wealth. In saying this the inter-relation between production and distribution should not be ignored. The second attitude should have no basis; at least the employers should see that they encourage a feeling among workers of harmony between the interests. Recommendations from the Commission on this point will help the producers of goods and services in the larger interests of the nation.

42. Class conflict is not necessarily inevitable. Class conflict is an outdated political slogan borrowed from outside. Class cooperation is what is necessary. Trade unions today seem to be living only on disputes and their function seems to be to bring about strikes. The test of a trade union is not that it brings about a strike but that the employer dares not make it go on strike.

43. Newspapers, politicians and government judge trade unions by the number of strikes they bring about. The Commission could help the situation by laying down some constructive tests in judging the efficiency of trade unions.

44. National interest is supreme. No movement of labour which hurts national interest is a good movement. If a union of say, defence employees or police, misguides the employees, it will be against national interest. Therefore, the quality of the union has to be a necessary consideration in recognising a union.

45. Government seems to yield to coercion and not to reason. Every trade union must make it a point that until all legal methods fail, it will not go on strike bearing national interest in mind.

(In connection with reply to Question 214 on Consumers' Price Index the INTUC will submit a detailed



note to the Commission.)

46. Low cost of production in Japan is not due to the fact that the trade union movement there is weak. In fact, the trade union movement in Japan is quite strong but through low overheads and high productivity, the managements are able to bring down the cost of production. The managements there are highly cost-conscious.

47. Lower wages may not necessarily mean higher employment. When the cost of production becomes high, the employers should not straight go in for reduction of workers but there should be rationalisation of managements first.

48. Unemployment situation has been worsening and this needs serious consideration. New employment must be created. The INTUC has no remedy to suggest but it would like to point out that in the past this country used to export workers to other countries. This seems to be difficult now. But it should be possible as in Japan to export labour through its component in manufactured products. Though physically workers are not exported, their labour thus gets exported.

49. There should be a revision of the minimum membership fee in the Trade Unions Act. The minimum should be eight annas to start with and it should be raised to Re.1 as soon as possible.

50. The subscription should <sup>not</sup> be co-related with wages but a slab system could be introduced. This raising of membership fee is necessary to bring in additional finances for the trade unions which will then not depend on the bounty of others.

51. The minimum limit of seven persons for forming a union for the purpose of registration is good enough for smaller units but for units employing more than 100 workers, the minimum limit may be fixed as 10% of total employees in that unit.

52. The objection against outsiders in the trade union movement comes mainly from employers. There are many outsiders who are serving the trade union cause selflessly. It will be best to leave it to workers to decide whether some outsiders are desirable in the trade union movement or not.

53. It is difficult to separate trade union movement from politics. Under certain conditions a trade union worker can serve a useful purpose by becoming a member of legislature. However, if a person is an office-bearer of a political party, it is desirable that he should not come into the labour movement.

54. The factory inspectorate is poor in number and



quality. The same is true of conciliation officers. How to improve their standards is a matter which deserves consideration by the Commission. The conciliation officers should be paid better.

55. The organisation is in favour of trade unions being associated with factory inspection work.

56. It is difficult to define national interest but anything which goes against democracy and socialism is against national interest.

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NATIONAL COMMISSION ON LABOUR  
(NEW DELHI)

Date: 5.10.1968

Time: 9.30 A.M. to 12.30 P.M.

Forenoon Session

Record of discussions with the Council of Indian Employers, represented by:

1. Mr. Babubhai M. Chinai, M.P. Vide NCL Ref.NoDL-V.72
2. Mr. Bhat, N.S.
3. Mr. Chentsal Rao, P.
4. Mr. Ghose, M.
5. Mr. Kakatkar, B.G.
6. Mr. Mody, R.H.
7. Mr. Pai, G.B.
8. Mr. Pande, R.C.
9. Mr. Parr, P.J.
10. Mr. Parsons, J.M.
11. Mr. Sethi, B.M.
12. Mr. Singhanian, H.S.
13. Mr. Swaminathan, T.S.
14. Mr. Wagle, N.M.

Mr. Babubhai Chinai read out a prepared statement on behalf of the council. The statement is annexed. Thereafter the following points were mentioned by the Council of Indian Employers.

(1) The existing labour laws have made it very difficult to dismiss a worker. Even in genuine cases of major misconduct, after the guilt is established by a domestic enquiry and even after approval of the tribunal is obtained under Section 33 of the Industrial Disputes Act, it is still open to a union or even the individual to raise a dispute and get the whole matter reopened.

(2) State Governments find it convenient to refer the dispute to adjudication even if satisfied with the domestic enquiry. The employer is at the mercy of varying standards applied by different adjudicators. Often the earlier decisions are set aside merely on the ground that the punishment was excessive.

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(3) Although compensation in lieu of reinstatement could be granted under the existing case-law, it is not awarded and reinstatement is frequently ordered. The unwanted man is forced on the employer. The employers do not want the absolute right to hire and fire. But they must have the right to get rid of a worker for proven misconduct.

(4) The proposed new legislation empowering tribunals to deal with dismissal cases, denove is likely to make the position more complex and will lead to greater indiscipline.

(5) The suggested method of referring disciplinary cases to an arbitrator whose decision will be binding was not favoured. Such outside intervention in disciplinary procedures would only lead to greater indiscipline.

(6) It is not true that the prosecutor and the judge in the domestic enquiry are the same, as is often alleged. The management appoints an Enquiry Officer who is not the person involved in the matter. Domestic enquiry is reviewable at present by tribunals. Natural justice is, by and large, complied with in the enquiry proceedings. It is now established that by and large, domestic enquiries are held fairly. If a few employers are found to be defaulters in conducting a fair domestic enquiry, all employers need not be subjected to a more rigorous law regarding dismissal proceedings.

(7) In practice today courts are more and more interfering with dismissal decisions of the management. So long as principles of natural justice are not violated in the domestic enquiry, the punishment awarded should not be interfered with.

(8) Apprehension for victimisation of workers for trade union activities is not sound since by merely dismissing a worker, his trade union activities cannot be stopped. In fact, victimisation cases are not frequent. By and large the big employers have accepted trade union movement. Just to dispel the fear of victimisation, we should not have a procedure that would undermine discipline.

(9) Court should not generally order reinstatement. Dismissal can be made more expensive by requiring payment of exorbitant compensation to discourage or penalise malafide dismissals. The employer should be given the option to choose between reinstatement or heavy compensation. The ILO's view in this regard is that a worker should not be forced on an unwilling employers. It is not the Council's view that reinstatement should never be ordered; but that it should be ordered only in extreme cases.

(10) In criticising the present dismissal procedure, the Council was not questioning the integrity of the tribunals, but was only troubled by delays in the proceedings. The position would be worse under the new method of referring such cases to arbitration. Maintenance of discipline would become more difficult if for dismissing a worker they were to go every time to an arbitrator and give up



their right of conducting a domestic enquiry. Arbitration proceedings very often become legal proceedings. There is a thin line of difference between adjudication and arbitration. In accepting the latter, employers have to give up their right of domestic enquiry. In the circumstances, the new law though not very welcome in itself is preferable to this proposed method. The Council's representatives agreed to give more thought to this matter and send a note on their views regarding the proposed new law or in the alternative arbitration in dismissal cases

(11) A Common Labour Code for the same group of workers and/or an industry (with a view to avoiding disparity between different states) would be welcome.

(12) There should also be a common pattern of labour judiciary. In the appointment of labour judges, power of appointment should be left with the Chief Justice.

(13) Revival of Labour Appellate Tribunal (LAT) was favoured. The fear that revival of LAT would increase appeals to Supreme Court was not supported by the experience in the past. During 1950-55, when the LAT functioned, in fact, appeals to Supreme Court were very few as the LAT was laying down the basic principles which to an extent prevented appeals to the Supreme Court. A Special Bench in the High Court would also be acceptable. But the LAT would be preferable because it would operate in a wider area and would be a more specialised Court to deal with labour cases.

(14) Voluntary recognition of unions was favoured. If, however recognition is made statutory, there should also be provision for derecognition. The Council's views on recognition of unions were as follows:

- (i) The basic criterion for recognition must be effective membership;
- (ii) Representative character of unions should be ascertained by means of verification of membership by an independent authority;
- (iii) Where there is more than one union claiming recognition and the difference in verified membership is less than 10 per cent, a secret ballot either of the unionised workers or of all the workers in the establishment as may be considered appropriate should be conducted by an independent authority;
- (iv) Once a union is recognised its recognition should not normally be disturbed for a period of two years;
- (v) Recognition should be unit-wise. However, a number of factors such as development of trade union movement in the industry concerned, existing practices, etc. have to be given due consideration to decide whether recognition should be accorded industry/region-wise basis;
- (vi) The formation of unions by technicians, supervisory staff and watch and ward staff should be left to the

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discretion of employees concerned, although from the point of view of employees as well as of the industry, it was considered desirable that they should have separate unions;

(vii) In order to ensure sound collective bargaining and healthy employer-employee relations, the leadership of the trade unions should increasingly come from within the rank and file.

(15) Basic criterion of union recognition should be effective membership which can be better ascertained by verification method rather than by secret ballot election. Secret ballot may encourage irresponsible elements and may not help ascertain in the sustained and continued union membership. Until labour gets educated, secret ballot should not be introduced as it would lay seeds of industrial unrest. At the election time, unions will raise demands and rouse passions by wild promises which can never be fulfilled. It will also make it difficult for the recognised union to take up a responsible attitude for fear of losing the next election. Election by secret ballot should only take place if the membership difference between the two unions is less than ten per cent. This election should be open to all workers. The risk of undesirable elements getting an upper hand would be much less in this election as it would be held at short notice.

(16) Minority unions should not be given any rights; they should survive only to gather more strength and compete at the next contest for recognition.

(17) Collective bargaining is the best method for settlement of industrial disputes but it can work only under certain conditions. There should be a single recognised union representing majority of workers. Failing collective bargaining, Government should have powers to refer the dispute for adjudication; or the parties themselves agree for voluntary arbitration.

(18) In the present state of our economic development, we cannot afford the luxury of a trial of strength involved in free and unfettered collective bargaining. Therefore, the present situation in regard to collective bargaining and adjudication may continue. Government's power to refer a dispute to arbitration under section 10(A) of the Industrial Disputes Act should continue. By and large, Government decisions in regard to making reference for adjudication have been fair. The employers would welcome the idea of trying collective bargaining in selected segments of industry or in selected areas or a combination of both.

(19) Non-implementation of awards should not be made a cognizable offence at the instance of the aggrieved party. The power to prosecute must be left with Government because Government is expected to act impartially. If workers are guilty of violation of an award, the aggrieved employer



will not be able to prosecute so many workers. The effect of the suggested change would be that the employer will be harassed.

(20) Section 33 (C) provides for a speedy remedy for recovery of dues under an award. Where there is no financial obligation and if the Government feels that it is necessary to punish employer, they can take action.

(21) If wage boards are made statutory and their awards become statutorily binding, the financial resources of many concerns may be such that they cannot implement the awards e.g. coal is a controlled commodity and Government takes months and months to give an increase in the price of coal or it gives only inadequate increase. The employer has no money. Therefore, if Government is satisfied about the capacity of the employer to pay, Govt. should prosecute; but this right should not be given to the employee.

(22) It would be a good idea to give to the labour court or judge pronouncing the award the power to execute the award.

(23) The present law regarding Standing Orders is quite satisfactory. There was no need for making provision for more extensive Standing Orders. The present law provided formulation of Standing Orders in agreement with trade unions and also provided appeal against the decision of the authority finalising the Standing Orders. These provisions give ample scope for any additions to and alterations in the Standing Orders.

(24) Employers have advocated rationalization and automation without tears. Labour also should take a reasonable view of automation, and realise that if we are going to be a progressive industrial society, automation is must. Automation has come to stay. But in a country like ours where there is poverty and unemployment, it has a human angle. Employers must and do try to understand and mitigate individual hardship to employees affected by this process. Keeping up the future employment potential should not be the over-riding consideration. In a country where there are 20 million unemployed, if as a result of automation another 1000,000 were added to that number by loss of potential employment, it is not a serious matter, provided that the gains of automation out-weighs the loss. In fact, as a result of automation employment opportunities will improve, though it will take a time lag of 3-4 years for this trend to become effective. (A reference was made to the Soviet's attitude to automation and its effects on employment).



(25) As regards consulting labour in the matter of introduction of automation, the management must try to persuade the recognised union if there is one, and get it to go along with them. If the union points out certain difficulties, they should be considered. But if the union takes up an unreasonable stand of opposing automation irrespective of any arguments about the efficiency of the scheme, then the employer cannot but go ahead and automatise. There is already a safeguard in the sense that before a computer can be imported, Government sanction and authority is required and it is always open to the Government to consider whether the case made out by the employer is correct or not. The employee's right to agree should not be taken as a veto. But nevertheless, taking the union along would be prudent.

(26) National minimum wage should be prescribed, with the proviso that it should take into account the national income and that it should be applicable to industrial as well as non-industrial workers. Reference was made to the report of the ILO Experts where they have worked out the implications of the problem. They have mentioned four criteria. (1) Workers' needs, (2) Employers' capacity to pay, (3) Wages or incomes elsewhere in the economy (4) Requirements of economic development.

(27) If need-based minimum wage is enforced on any particular industry, it will have its (adverse) effects. Need based minimum wage was first discussed by the Second Pay Commission for the Central Government employees. It found that items necessary (to satisfy the needs) would not be available; the country was not producing the physical quantities needed. Further, this minimum in an inflationary economy is difficult to sustain. It is impracticable to have a need based minimum wage.

(28) The need based minimum wage was a theoretical concept. In any country it has to be related to actual/realities of life. The norm as laid down in Dr. Aykroyd's formula would not be realistic. It has been found by tribunals, wage boards and the Supreme Court that it would be unrealistic and impracticable.

(29) Even at the 15th Indian Labour Conference it was recognised that industry would not be able to pay the wage. The conference put in a specific proviso in its recommendation. In the present inflationary situation it is impossible to pay the need based wage.

(30) Even an industry which is proved to be able to pay should not be made to it as such insistence would lead to pay to further disparity and gap between industry and industry, agricultural sector and industrial sector and, industrial sector and the tertiary sector.

(31) The industrial worker must wait till the wages of agricultural labour come up. We will be inviting indus-



trial discontent by prescribing need based minimum for certain industries or units. The volume of the goods available in the country not being sufficient, it will give rise to inflationary pressures and the very workers who get the higher wage will be at a disadvantage.

(32)The resolution adopted by the 15th Labour Conference was not wise. As soon as we are able to devise a scientific method of linking wages with productivity a part of the objection will disappear. Worker will be producing more and will get more. It will not create any disturbance. It will be seen by others that he is producing more and therefore getting more. It will not depend only on the capacity of the industry.

(33)Stopping larger industries from expanding further, will not contribute in any manner to the growth of smaller industries; on the contrary the general national growth will be retarded. The Council's objection is to a national need based minimum wage being laid down. They have no objection to higher wages being paid by mutual agreement or collective bargaining or as prescribed by the awards of tribunals.

(34)The Council has no objection to need based minimum being regarded as an ideal to be achieved in due course of time; but laying it down as such when it is not likely to be achieved, would cause frustration.

(35)The present wages cannot be straightaway linked up to the present productivity. In certain cases it might be possible to do so; but in others collective bargaining will have to decide that question. It will not be possible to give a general answer to the question whether the present wages can be linked up with the present productivity; it will depend on each individual case.

(36)There are many units which are working below capacity. If we start today by taking the current productivity of a company which is not making profits and which is working below capacity, it would be dangerous to link the present wages with the present productivity. Therefore, no general principle in this matter should be laid down.

(37)The question whether a substantial part of any part of D.A. should be merged in the basic wage and that basic wage should be linked up with productivity will also have to be decided separately in each individual case.

(38)It is a fact that in most industries the basic wage is relatively small and D.A. is a big part. But for most purposes D.A. is being taken into account, e.g. for provident fund, retrenchment compensation, E.S.I. contribution, etc. Therefore, by merging it with basic wages, workers do not stand to gain anything much.



(39) D.A. is not being merged with basic pay mainly because of gratuity. If 75 per cent D.A. is merged in the basic wage, the Industry will have to pay much higher gratuity. Therefore, the consequence of such a merger has to be examined.

(40) Apart from the question of gratuity, we have also got to take into account the psychological effect of such merger so far as wage differentials are concerned.

(41) At present the D.A. which is linked to the cost of living index varies with every single point in the Index. This should be modified in such a way that a revision of D. . does not take place / less than six / in months. It will give employers a certain amount of stability and help them in costing and planning. Besides, the change (once in six months) should not take place point by point, but by slabs.

(42) There is a feeling among the workers that certain acts on their part are unpunishable or can be punished after a long-drawn process. Unless there is the obligation of doing a fair days' work for fair days' wage instilled into workers, many things which the country wants to do, cannot be successfully achieved. Productivity cannot be raised.

(43) Over playing of a sense of social justice is responsible for indiscipline. There is also usually paternalistic attitude displayed by the State Governments towards workers, and their complete failure to penalise illegal strikes. Until this is recognised and set right, attempts to improve production will be of no avail. This cannot be done by legislation; it can be done by building up of a better understanding between unions and management.

(44) The main cause of the present indiscipline is that instead of standing by as a referee, the State unfortunately has taken again and again a stand that it must support labour. Originally there was need for helping workers. But now large sections of organised labour can stand by themselves. But even now the State Governments want to help labour. There are several cases wherein collective bargaining agreements were reached; some one in the minority asks for something more and the State Government interferes and refers the dispute to adjudication. The established union then loses majority. Every time such situation arises and this is becoming an every day affair in some well established concerns, some State support is given and some concessions have to be made. Established unions feel frustrated. The State must stand back and only protect labour whenever really necessary.

(45) Job security should be linked with the subject of indiscipline. Where there is complete sense of job security, a worker behaves as he likes. Workers must understand that it is in their interest to produce more.



(46) Neither the employers nor the employees are responsible for the present state of affairs. It is politics and politicians who have created this situation. The political parties exercise pressure on unions or unions have pressure on political parties.

(47) Outsiders should not be allowed in the trade union movement. An insider is one who is in full-time employment or a full-time trade union worker. A trade union office bearer should not take active part in politics. A trade union worker may contest an election for legislatures or Parliament if he wants to sponsor and cultivate his trade union activities. It is true that trade unionism and politics cannot be completely dissociated.

(48) Wage boards were conceived as a compromise between collective bargaining and adjudication, and now we have had them for 7-10 years. They have thrown up some difficulties. The main difficulty is the implementation part. The employers can accept a statutory enforcement of the wage board awards only if there are radical changes in the concept and constitution of wage boards.

(49) The following changes will make the wage boards effective.

- i) The Chairman of the board should be one appointed by the Chief Justice and not by the Labour Department.
- ii) There should be no independent members.
- iii) The Chairman's role will be crucial on two points; he will have to strive for a consensus to make the recommendations as far as possible unanimous. Even so it is unlikely that on every issue a consensus can be reached. In that case, the Chairman's own vote assumes importance. If he is properly selected and if he adjudicates between the two sides and gives his own opinion, then the employers are willing to accept it as a majority decision.
- iv) A proper central secretariat should be established for wage boards and from the secretariat the wage board can draw upon easily for general issues.
- v) There should be common norms, in reaching conclusions.



Opening Statement of Shri Babubhai M. Chinai,  
M.P., at the oral evidence before the National  
Commission on Labour on the 5th October, 1968.

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May I at the outset thank you, Mr, Chairman, for giving us this opportunity to tender oral evidence and for agreeing to our request that we may be permitted to make a general statement in the first instance?

2. You, Sir, are a jurist of great reputation and few men in our country today have your sweep of perspective and that intimate knowledge of the various branches of law. On our side, with a solitary exception, all of us are laymen, so far as the nuances of law are concerned. What we have to say is borne out by experience only.

We are convinced that economic welfare cannot be independent of the laws of economics and that legislation alone cannot usher in a welfare State if more goods and services are not produced. This is the central proposition, with your permission, I want to develop in my opening statement.

3. Indeed, one of the important terms of reference of the Commission is to assess to what extent the existing legislative and other provisions intended to protect the interests of labour serve the national objective of establishing a socialist society and achieve planned economic development. The concept of socialist society may differ from group to group and from individual to individual, but on one point there will be common agreement, viz., that better living conditions among organised labour and among the people as a whole can only be brought about through economic growth. Although your Commission has not been specifically asked to go into the conditions of economic growth, the Commission cannot ignore this important question which is central to the level of workers' earnings, social security and related matters .

4. What is economic growth about which so much is being talked about in our country for so many years? If I may say so, the term 'economic growth' refers to a whole family of concepts with somewhat different meanings. Either it can be defined in terms of increase in the total flow of total economic output; or improvement in the output per worker; or increase in consumption per head; or increase in personal welfare; or of change in the economic structure; i.e., the degree of urbanisation, level of manufacturing output, the extent of literacy, ratio. of capital to labour, etc. Each of these definitions of economic growth has its uses, and for our purpose we have to look upon all of them together and not separately.

5. The main point to be borne in mind in this connection is that economic growth is not costless. It has a number costs: (1) current leisure must be sacrificed for current work. (2) current consumption of

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goods and services must be sacrificed in favour of savings and investment, (3) Apart from inherent instability or uncertainties of economic growth in our country which is dominated by agriculture and where agriculture in turn depends upon monsoon, there are certain external factors such as international situation, war on our borders, etc.

6. Our submission is that it is in this context the whole gamut of labour questions must be viewed. Such facts as are not very agreeable cannot be wished away, nor can we at the same time ignore what has come to be called a revolution of expectation. We have to reconcile, on the one hand, the demands of organised labour and of politically conscious workers, and, on the other hand, the existence of substantial numbers of unemployed and under-employed workers in both urban and rural areas. This is to say the least a very horny dilemma.

7. While saying this please do not misunderstand me as advocating a return to the 19th century labour standards. We are convinced that there are many ways to achieve a more productive use of labour without resorting to crude exploitation. I would urge upon the Commission to deal with the horny dilemma to which I have referred, and to emphasise the necessity on the part of workers and their leaders not only to desire and demand the fruits of modern economic systems, but to learn the much more complicated relationship between inputs, efficiency and outputs. This knowledge or learning applies not to workers alone, but also to the policy makers and even entrepreneurs. In fact, more than anybody else, perhaps the policy makers have to understand the discipline involved and the cost of economic growth.

8. There is need not only for discipline in the matter of concepts, but also in the matter of action. Unfortunately, discipline has come to be identified not so much with freedom with restraint as with subservience. May be, this is a handover of our past political dependence. At the same time, it cannot be denied that the attitude of the people to work constitutes an important cause. At different levels people are indifferent in the execution of allotted jobs, and are prone to avoid work. This indifference to work and indiscipline is visible all around us. It is not merely confined to factories and Government administration. Whether one travels by bus, train, or plane, or stays in a hotel or hospital or has to put through a trunk call, one comes across far from satisfactory and polite service. Public are inconvenienced and even humiliated to an unimaginable degree.

9. Here comes into play labour legislation and its role so far, I regret to state, is that of abetting indifference and indiscipline. Let us assume that the management is not equally indifferent to the consumer and wants



to give better service. The hands of the management are completely tied. An employee however rude or inefficient, however prone to insubordination or misconduct becomes a life companion according to our law. An unwanted worker may even be thrust on the employer. As someone put it very succinctly, a husband and wife in India today can more easily part company than an employer from his employee.

10. There is no more important subject today than that of management, though the problem of administration or management is as old as society itself. Long, long ago, what the Greek philosopher socrates said is worth remembering; He said, "The conduct of public management or affairs differs from that of private concerns only in magnitude. In other respects they are similar. Obviously, neither of them could be managed without men, nor private matters managed by one species of men and public matters by another".

11. Yet, our policies have sought to give a bifocal solution to management problems. The way in which Government have sought to deal with the demands of their own employees is a case in point. And what is much more vexatious is the all too frequent exhortation that private enterprise must justify itself by work and performance, exhortations which are matched and made nugatory by legislation - not only labour legislation, but the whole spate of legislation - which makes efficiency impossible.

12. Sir, I would now like to refer to the four basic postulates which we have set out in our Memorandum: One, labour issues must be settled in accordance with law and in an atmosphere of freedom; two, effective operation of industrial organisation, or for that matter any organisation, presupposes a hierarchy - a cadre; three, labour laws must have a measure of uniformity in all the States; and four, the over-riding objective in the conditions of our country today and for years to come should be maximising production and productivity. We attach the greatest importance to these postulates.

13. A word about the Council of Indian Employers on whose behalf we have come here. This Council was set up in 1956 by the Employers' Federation of India and the All-India Organisation of Industrial Employers, and we have found it advantageous to jointly deal with policy matters through this Council. Between the Employers' Federation of India and the All-India Organisation of Industrial Employers, they cover almost all the major organised industries in the country. You would have by now realised, on some individual issues there is no unanimity of opinion either among the employers or for that matter as between trade unions. The obvious reasons for this can be found in the diversity of industrial conditions, the stage of growth and the special problems of each industry and region. However, on general issues

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we have the fullest support of all our constituents.

14. By now you and your colleagues, some of whom are our colleagues also, must have been flooded with advice and suggestions. You have some more now from us. When we come to individual questions, the members of our team will further elaborate.

Thank you.

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M/S



NATIONAL COMMISSION ON LABOUR  
(New Delhi)

Date: 5-10-1968

Time: 3.00 P.M. to  
3.45 P.M.

Record of discussions with the National Federation of Indian Railwaymen represented by:

1. Mr. Keshav H. Kulkarni,  
Joint Secretary, NFIR.
2. Mr. Amar Dass,  
Treasurer,  
Uttriya Railway Mazdoor Union, New Delhi.
3. Mr. P.N. Sharma,  
Member, Working Committee, NFIR.
4. Mr. Hazari Lal Sharma,  
Zonal Secretary, Western Railway,  
Mazdoor Sangh.

(Vide NCL Ref. No. DL-VI.117)

1. The Federation has a total membership of 342,000 out of the total of 13 lakhs of railway employees.
2. A common labour code and a common pattern of labour judiciary are favoured.
3. The Labour Appellate Tribunal should be revived. In saying this the Federation would like to make it clear that it had no experience about the working of the L.A.T.
4. Judges should be appointed in consultation with the High Court.
5. There should be a provision in the collective bargaining agreements that in case the parties are not able to settle a dispute mutually, they will refer it to arbitration. If this is not done, the system of adjudication should remain.
6. The 15th Indian Labour Conference has quantified the needs of a worker's family. This Conference itself had realised that the need-based minimum might not be attainable immediately in all cases. The Federation is of the view that the formula should not be scrapped merely because its money equivalent cannot be given to workers immediately. It should be kept as an ideal and as a guideline. The employer's capacity to pay the need-based minimum will have to be considered.
7. It would not be proper to look to the wages of unorganised labour or agricultural labour while determining the wages of labour in the organised industry. Otherwise, the wages of the organised labour will remain depressed.
8. The whole national picture may be kept in view while considering the question of need-based minimum. Thus, the capacity of the employer to pay and the picture of the national economy would be relevant factors in the matter of fixation of need-based minimum wage.
9. In the railways the disciplinary procedure is governed by Discipline and Appeal Rules. The procedure is the same as in the



case of other government employees. The Federation is not satisfied with all the provisions of the rules and wants some improvements and modifications in them.

10. In railways automation has been introduced in certain spheres and this matter has been discussed during the past several months. Computers are at present employed in railways for compilation of statistics and checking of internal revenue. The next step will be to extend them to pay-bills, stores, inventory, etc.

11. About 15,000 employees in railways were rendered redundant by the introduction of computers. But this did not create a problem because already there was a blanket ban for 2-3 years on filling any vacancies in class III posts and the employees who were rendered surplus due to automation could be absorbed in those vacancies.

12. Computers and other types of automation were introduced in the railways unilaterally. Later on, labour made representations and some concessions were given to reduce hardships of the staff affected. The concessions were: (a) no retrenchment (this was possible to achieve because there was already a ban on filling vacancies), (b) prospects of promotion would not be adversely affected and for that purpose shadow posts would be created, if necessary and (c) no employee would be transferred against his will to any place other than the place where he was working.

13. The Federation is not opposed to technological changes as such. They may be inevitable. But simply because of their inevitability, it will not be correct to generalise and say that automation should be welcome. In some cases there may be justification for the introduction of automation whereas in some other cases there may be no justification. At present, there is a plan in the railways to introduce tamping machines but the same work can be done by manual labour. These machines should not, therefore, be introduced. Each and every case of automation should be judged on its own merits.

14. No measures of automation should be introduced without prior consultation with the employees. The Federation does not suggest that the organised trade unions should insist that as a result of introduction of rationalisation or automation, there should not necessarily be any reduction in future employment.

15. In the railways there was no planned introduction of computers. A large number of posts were kept vacant because of the ban on recruitment (filling up of vacancies) introduced by the Central Government and not because of any forward plan for introduction of computers. But if an employer plans ahead and keeps posts vacant so that there may be no unemployment (retrenchment) when computers or other forms of automation are introduced, that would be a good thing.

16. It would be conducive to industrial harmony if the employer has to deal with one union, i.e. the representative union. The Federation is in favour of verification procedure for recognition of unions. It has no objection to verification being done by an independent authority. Even if it is found on verification that the difference in the membership of two competing unions is very small, there should be no election.

17. The Federation is not afraid of secret ballot. But if secret ballot is introduced, the very concept of trade union will be affected. A non-member will get the right to determine the fate of a union and there will be no incentive to pay subscription and become union member. The unions will become poorer in membership; finance will be affected



and ultimately unions will disintegrate.

18. Casual labour and contract labour are big problems in the railways. Thousands of employees are employed as casual or contract labour.

19. The Railway Board's rulings are that on works or projects, which are purely casual in nature, casual labour may be employed. But there is no precise definition of such projects and it is left to the discretion of the authority concerned to decide whether a project is of casual nature or not. This is not proper.

20. Casual labour should not be employed on any work which really is not casual in nature. Workers continue to be employed on projects whatever be the length of their service. In other cases, they continue to be casual but are paid in the time-scale.

21. Meagre daily wages are paid to the casual labour. Two years back this question was discussed and it was found that there were a some areas where casual labour was being paid 90 p. per day. After prolonged discussions, the Federation could secure a concession that the daily wage would not be less than Rs.1.50. There are some rules for determining the wages of casual labour; but there is much confusion in that matter also. Some casual workers are paid according to the rates fixed under the Minimum Wages Act for comparable occupations in the same area. It is meaningless to refer to the Minimum Wages Act because the Act covers only unorganised industries and railways do not come under that category. In other cases, the wages of the casual labour are fixed on the basis of the prevailing market rates. This is also defective because market rates are ascertained from municipal authorities or local government officers who do not know the correct position. Where these two procedures are not available, a casual worker is paid a daily wage of 1/30th of the minimum of the time scale for a month for that particular occupation. This third alternative should be followed in determining wages of all casual labour in railways.

22. The Federation would like a separate Pay Commission for the railway employees. In private industries, Government appoints Wage Boards after every five years. This builds up a case for Pay Commission for the railway employees every 5 or 10 years. The last Pay Commission was in 1957.

23. Contract labour employed in the railways runs into about 3 lakhs. More and more work is being entrusted to contractors and jobs, which were erstwhile the regular work of railways, are now being given on contract. Loading and unloading was done departmentally but is now being given to contractors.

24. In Sawai Madhopur the average wage of a loading and unloading contract labour is Rs.35 per month, including all allowances. Rs. 35 is not the minimum wage under the Minimum wages Act in that area. There is a fair wage clause in the form of the contract but this is not implemented.

25. There is another novel feature of the contract system. Recently the work which was being regularly done by departments within the premises of the railways is being given



to contractors. For example, wagon building and coach building have been entrusted to private engineering firms in Bombay and Calcutta. Similarly, though there is abundant capacity in the Railway Printing Presses, work is often being entrusted to private printing presses. This is not strictly contract labour but its effect is the same.

26. The Federation wants that contract labour in railways should be abolished on the four types of jobs enumerated by the Supreme Court. On the rest of the jobs, employment of contract labour should be regulated and their conditions protected under the various laws.

27. Contract jobs are cheaper because labour is paid less and in that sense giving work on contract is exploitation of labour.

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NATIONAL COMMISSION ON LABOUR

( CAMP : NEW DELHI )

Date: 5.10.1968

Time: 3.45. to 5.15 P.M.

Record of discussion with (1) Indian National Mine Workers' Federation, and (2) Indian National Iron and Steel Workers' Federation and Assansol Iron and Steel Workers' Union, represented by:

1. Mr. Kanti Mehta, Indian National Mine (NCL REF.NO. workers' Federation, WB-VI-210) Calcutta.
2. Mr. N.K. Bhatt, -do-
3. Mr. B.K. Mahanti, -do-
4. Mr. Gopeshwar, General Secretary, (NCL Ref. No. Indian National Iron WB-VI.213) and Steel Workers' Federa- tion, Kulti and Assansol Iron & Steel Workers' (NCL Ref. Union, Jamshedpur. No. BR-VI.214)
5. Mr. C.P. Choudhary -do-
6. Mr. Priya Prasad -do-
7. Mr. Som Nath Sanyal -do-
8. Mr. Rattan Singh -do-
9. Mr. Daljit Singh -do-

Indian National Mine Workers' Federation

1. The Federation claims a membership of two lakhs. One of their affiliated unions working in the coalimine industry in Bihar has a membership of 70,000.
2. Mechanisation does play a part in better production since there is a limit to human labour in regard to higher production.
3. Money wages in some mines have gone down. One reason is the averaging. Average earnings of the piece-rated workers have come down because of fluctuations in their earnings. Earnings of some time-rated workers too have gone down. But these are not common. Further, not all mines submit returns; sometimes small mines, where the earnings of the workers are low, submit their returns which depress the published average earnings of the workers.
4. There is a tendency to reduce the working force of women. This is resorted to by the employers to reduce cost, on account of requirements for provision of creche, maternity benefits, etc. There is need for better enforcement and implementation of the existing protective provisions for women labour.

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5. Trade unions should have a part in inspection. A provision to this effect is contemplated under the Mines Act and these provisions should be brought into force as early as possible. Only the representatives of the recognised union should be allowed the right of inspection.

6. There is close connection between fatigue and accidents. Work underground in a mine is arduous and carried on under unhygienic conditions. The working hours underground should, therefore, be less than those in factories. This is the practice followed the world over. In pursuance of the recommendations made by the first Safety Conference in 1958 a Committee was set up to go into the question of hours of work and fatigue in mines. Its report is not yet available.

7. Craft unions have better cohesion amongst its members, are able to raise better finances and work better. But they should form sections of the main industrial unions and should have no independent existence.

8. The system of check-off would help the unions financially; but it should be introduced where a union attains membership of, say, 50% of the workers. Closed shop and union shop should not be favoured.

9. The activities of the Federation cover welfare also, but finance is the main handicap. Even then the Federation has organised 200 to 300 Co-operative Credit Societies and 400 to 500 Consumer Co-operative Societies. There is no requisite encouragement and cooperation from the State Co-operative Departments in developing the societies, but the Coalmines Welfare Organisation has done good work through its central stores in supplying credit and goods to co-operative societies.

10. Resort to strike becomes inevitable when no other remedy is available. Strikes should not be the measuring rod for assessing the success of a union. The Federation went on strike successfully on the issue of recognition in a number of units and won its recognition.

11. The working of the Code of Discipline in the mines has not been a bad experience.

12. Management in private sector is more compact and team-spirit prevails in its hierarchy. This is noticeably absent in the public sector establishments. At times, bureaucracy at various levels works at cross purposes and there is lack of understanding between them. Good understanding and confidence have to be developed over a period of time and this was not feasible in the public sector. Bureaucrats in the public sector have not taken the help of the workers and their unions in efficient working of the units. (The Zawar mines of H.S.L. have got a union, of which 90% of the workers are members. Even then the management is not responsive towards this union). In the cadre of management, above a certain level, the principle of hire and fire should operate. Top posts in the public sector should be thrown open to suitable persons in the private sector. (These views were shared by the Indian National Iron and Steel Workers' Federation and the Asansol Iron and Steel Workers' Union).

13. Working of the C.R.O. was responsible for bad industrial relations and unhealthy practices in coalmines. This labour



was almost similar to indentured labour. In spite of agreement in principle that the organisation should be disbanded, there has been no progress in this behalf. 20,000 labourers still continue to be employed through the C.R.O. The abolition of the organisation has been delayed due to the vested interests of some officers of the U.P. Government. The Indian Labour Conference has also recommended the abolition of the system by the end of 1968.

14. Besides the suggestions made in the Memorandum (page 14) for building in the union, it is necessary internal leadership in the union, it is necessary that those workers who are elected as office-bearers of the union should be released by management for carrying on the duties of the office-bearers but their lien should be kept on the jobs. Their salaries should be met by the union. This would ensure security of employment for the office-bearers.

15. The incidence of occupational diseases in mines is large but this fact has not been revealed because workers do not willingly submit to medical examination due to fear of loss of job on being found medically unfit. The industry should provide alternative suitable employment to all persons found to be suffering from occupational diseases.

16. There is no uniformity in measuring absenteeism. It is necessary to have a clear concept of it preferably in terms of the definition adopted by the I.L.O.

17. It was essential that the workers and their representatives were associated with the surveys conducted by the Labour Bureau with a view to making them more authoritative and realistic. The report of the survey of labour conditions in coalmines conducted by the Labour Bureau, Simla, revealed that milk was supplied to Children in all collieries which obviously was not correct. There was considerable delay in releasing the Government publications. The latest published report of the Director General of Mines Safety relates to the period of 1964. Such delays defeat the purpose of publication of the surveys.

18. Under the existing legislation, any strike in pursuance of an illegal lock-out is not illegal and vice-versa. There is rarely a strike following an illegal lock-out. But there are lock-outs following allegedly illegal strikes. This arrangement is harmful to workers. The law should be amended to provide that strike in pursuance of illegal action on the part of the employer should not be deemed to be illegal.

19. When a charter of demands is put forth and backed up by strike, Government refers only minor demands to adjudication and prohibits the continuance of the strike. The use of discretionary powers in this manner is against workers' interests.

20. At times the operation of Section 22 of the Mines Act under which a mine can be closed, is taken advantage of by the employers in denying lay off compensation to workers by intentionally attracting the provisions of Section 22 of Mines Act. Even where the violation of Section 22 is not deliberate and intentional, the workers should not be made to suffer for the negligence or default of the employer.



In either case, therefore, it is necessary to amend the law and provide for payment on lay-off at full rates.

21. Mining industry is more dependent on natural factors than on human factors. In some cases high grade coal may be found at a shallow depth and is sold at high cost. In other cases, low grade coal found at great depth and produced at higher cost is sold at lower rates. It is, therefore, necessary to nationalise the industry and have a common ownership.

22. There is simultaneous recruitment and retrenchment in the coalmining industry causing avoidable hardship to labour. It is, therefore, necessary to create a pool of workers rendered surplus so that they can be deployed to meet the future demands. This will provide continuous employment to labour and make available skilled labour to the industry.

Indian National Iron and Steel Workers Federation and Asansol Iron and Steel Workers' Union

23. The Federation claimed a membership of one lakh.

24. They were not opposed to the system of check-off, but favoured this facility to be restricted to the recognised union only. Such a system was a privilege of the recognised unions and not a right and hence would not violate the Fundamental Rights. They were opposed to closed shop and union shop at the present moment, as it would not help the trade union movement. The system of union shop may offend against the provision of the Constitution. Recently a decision of the Privy Council in U.K. upheld the worker's contention that he could not be compelled to become a member of the union on entering employment.

25. The Federation is running three high schools, have a sickness benefit fund for its members and other welfare funds. It runs the steel workers trade union college for training workers in trade union responsibilities. Its membership fee varies from place to place, from Rs.3/- a year to Re.1/- a month.

26. Overall understanding and cooperation between management and labour is very necessary for smooth working of a plant. Intervention of the State should also be to the minimum. For instance, TISCO did not have any case of adjudication or even conciliation during the last ten years.

27. Secret ballot is not a suitable method for determining the representative character of a union. In TISCO in 1958, there was a general agreement with the Tata Workers' Union; the very first clause of the agreement says that the management recognises this union as representing all categories of workers. The TISCO management have never suggested to the union that the union should be recognised only by secret ballot. The union was not aware that Mr. Tata advocated election of representative union by secret ballot.

28. Statutory provision for determining the representative character of a union is necessary. The nation cannot afford determination of such matters by resort to strike.

29. In the States' sphere the working of the Code of Discipline is not pleasant.



30. Newspaper report that the recognised union at Durgapur had indulged in acts of sabotage was not correct. The union had denied the allegation and had asked for an open inquiry. The charge of sabotage levelled by the management as well as the rival union was politically motivated.

31. The present definition of 'worker' in the Workmen's Compensation Act or the Payment of Wages Act leaves out most of the workers in the skilled and highly skilled categories. It is necessary to enlarge this definition and bring it on par with the definition under the Payment of Bonus Act to include persons drawing upto Rs.1600/- per month.

32. The Payment of Bonus Act has hit the workers in the iron and Steel Industry very hard. Under the Act, they did not get anything more than 4% bonus. The question of bonus should be decided by the method of collective bargaining. Section 34 of the Bonus Act which was struck down by the Supreme Court should be re-inserted.

33. The steel industry should be a central subject for all purposes.

34. There should be some cess in the iron and steel industry to cover expenses on labour welfare activities.

35. There are 11000 contract workers in Burnpur against total departmental labour of 28,000 and there are 6,000 contract workers at TISCO. The wages and amenities available to contract labour are much below those available to the regular workers. They are at the mercy of the contractors. The contract system should be abolished.

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