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MEMORANDUM  
TO THE  
NATIONAL COMMISSION  
ON LABOUR

VOLUME III



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PREFACE

This is the third volume of our submissions before the National Commission on Labour.

While presenting the second volume, we had said that our third volume will complete our answers to the various issues posed by the NCL. In a way, this is so. We have now covered all chapter headings.

But there is one set of questions, spread throughout the questionnaire, which has been purposely omitted in the manner of our submissions. They relate to the role of Government in labour matters and nature of Government's labour administration. We propose to submit a separate note on this subject.

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General Secretary.

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1st June, 1968.

BEFORE THE NATIONAL COMMISSION ON LABOUR

Under the Chairmanship of  
The Hon'ble Shri P. B. Gajendragadkar  
The Memorandum submitted by  
The Bharatiya Mazdoor Sangh

VOL. III

C O N T E N T S

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METHODS OF WAGE FIXATION

Collective Bargaining and Bargaining Agent:

307. The method of collective bargaining is admittedly a king-pin in wage fixation. But as long as the trade union movement continues to be what it is today - fragmented and divided, many small unions competing with one another in the same job or geographical territory, none with recognised majority status to serve as formal bargaining representative and all inadequately financed, the progress of collective bargaining is bound to be slow. One reason for this state of affairs is said to be the existing legal provisions which allow any seven workmen to form a union and carry the dispute to conciliation. The advocates of this view which puts all blame for multiplicity and weakness on the shoulders of law want to deny the giving of any statutory right to a minority union. They will promulgate a law on one industry - one union, or certify only one union as a bargaining agent. In fact the code of discipline and Bombay Industrial Relations Act have sought to establish a similar rule. But they have not shown any marked advantage for collective bargaining. The textile mills in Bombay have been repeatedly paralysed by strikes on calls given by a union other than the representative one, while in BEST Undertaking, Bombay, the collective bargaining has never been successful for wage demands which are being referred to one Arbitrator or the other as if to avoid the risks of a collective bargain. At its best, it is in the midst of exhaustion after a fight that administrative decisions are hailed as a bargain. The failure of the code of discipline is also not due to the mere lack of statutory provisions. In Ahmedabad, one hears such a number of grievances of the pressures used by the sole bargaining agent over workers that one wonders whether any union can be trusted as immune from degenerating itself into a dictatorial and authoritative rule using in a one-sided fashion its monopolistic mandate. In the Banking Industry we have witnessed such a large-scale harassment to honest and loyal workers and a persecution of many independent spokesmen that a whole National Organisation of Bank Workers had to take birth primarily to curb these evils of monopoly power vested virtually in one bargaining agent. An administrator or a thinker who is far away from mass sufferings or a leader of mob who never cares to give a patient ear to complaints of individuals or smaller groups is always ill at ease with any arrangement that makes him attend to more than one party simply because it taxes his understandings. He wants to run away from the natural complexities hidden in these individual and group sufferings. He stands for an administrative suppression of all important variations and falls in love

with what he regards as a facile, clear and simple principle of intelligent order. For such a man a law of one union for one industry has its appeal. But for a true worker who toils on field for wiping out the tears from men's eyes, such a legalistic provision is seen as replete with horrors of pain and acute sufferings and a sandwiching prison and dungeon created by authoritarian might in Industry. In fact, the fights which many of the constructive but minority unions are giving have a parallel to historical fights which men in agony have given with those who claimed over them an authority either by religious sanction or by kingship and aristocracy or as savakars and capitalists. We need not lose sight of this history before giving any such coercive powers again to a few leaders. At its least, it may be stated that a thinking in haste over matters of economic planning and practice need not make us oblivious of the greater needs of human freedom and concepts of social justice and progress based on these freedoms. To remove freedom in order to get rid of disorder, strife and waste is an impulse of regimentation. After all individuals and minorities have also made many important contributions to development of society and if the world of labour is to be deprived of such contributions by advance of a rigid formula for statutory bargaining agent then workers will be singled out for a lop-sided treatment. The evolution of the united life of workers will not be accelerated by suppression of expression or activity of minorities; it will come to fruition by a skillful blending of diversities in a harmonious hue and order. In other words, respecting the human sanctions that gave birth to democracy, we should be prepared to live with the phenomenon of multiplicity of unions. When a large country with vast and varied population and a graduated emergence of industrialisation walks on the road of economic progress, it must be prepared for a slow, strenuous and hazardous journey. The collective bargaining, however fine it may be as a means of wage fixation, cannot be raised to an ideological absolute so as to legislate institutions and their powers only to give the principle of collective bargaining a prime service. If it does not accommodate itself with other and far higher ideals of human living, then it should be made to wait till it finds an accommodation with them in a natural course. After all unionism in India has got many ideological stances and a legal prohibition for minority union or unions other than the one which is considered as a representative bargaining agent may ultimately amount to prohibition of goodness. The atmosphere of labour unions is filled with gospels of hate and destruction due to accidents of history. It is already difficult to build a constructive or productivity-oriented trade union. A legislative sanction to one union in such a case, can easily come to mean enthroning the evil and spell an economic disaster for the country. The agitational approach and appeal to gallory build up majorities. A purely quantitative standard can then easily mean saluting the very evils which are condemned as obstructions to national progress. A union dedicated to qualitative standards has a up-hill task in winning masses. A law that throws cold water on such

unions for the only fault that they refused to follow popular and cheap slogans but yoked themselves to harder task of constructive nation-building activity - will be a law against the interests of Nation. The historical and political factors operating in the field are too real to be forgotten to rely on one-sided thinking on theories of economic progress through collective bargaining. A legislative provision for bargaining agent for a union getting a simple majority in a secret ballot or so is more likely to spell an economic disaster than hasten its advent. In our country, there is yet a wide-spread ignorance about the laws of economic progress. In this situation the minds of workers are easily confused and they are carried away by cheap slogans of hatred and mass hysteria. A premature and unwise legislation on bargaining agent at this juncture is most likely to retard our progress. This does not mean that we should take no steps to cultivate the habit of collective bargaining or actively encourage its advance. The aim of collective bargaining must be surely pursued in combination with all other objects of social and economic life. For this purpose the entire structure of trade union movement should be gradually and steadily altered. A long period of amalgamation and consolidation of small unions should inevitably precede the formation of single industry-wise or national unions. The Central Labour Organisations must also accept gradually a measure of limitation and re-definition of their responsibilities and spheres of action. Thus a sound and healthy system of collective bargaining shall grow. To accelerate this sound process it will be better for us to lay down the rights of different types of unions according to their varying strengths. We have already given our views on this question in paragraphs 71 to 98 of our submission. We propose to deal further on this question in relation to methods of wage fixation in this Chapter.

308. From the preceding discussion it is clear that we do not feel it advisable to enforce at this stage a statutory bargaining agent on unwilling workmen in a large manner. Neither we conceive that the law should take no part in the evolution of collective bargaining and leave it to the mercy of chance of history and whims of parties. We cannot think that the Government should just press into service its Labour Department at the slightest sabre-rattling to get each and every dispute settled automatically through adjudication. The workers should be encouraged to form unions and these unions should be required to do the hard drill needed to hammer out a collective agreement. For this purpose there must be a method to name the bargaining agent or agents. In paragraphs 91 to 97 of our submission we have given our views regarding the giving of a recognised status to a trade union. But it will be found from the perusal of our submissions that it envisages the possibility of as many as three recognised unions in a bargaining unit and moreover it visualises such recognition being given on national or industrial level for local areas and on plant, trade or category level. This

system of recognition, we are aware, raises issues in settling a national, industrial or even plant level collective agreement. We shall presently address ourselves to these issues and show how we propose to solve them in an attempt to encourage collective bargaining. Before we dwell on this topic, we wish to make it clear that in matters of wage fixation, we do not consider that a mere recognition is sufficient to confer on the recognised union the status of a full-fledged bargaining agent. In para 94 of our submission, we have outlined how the managements should be placed under an obligation to carry on a dialogue with unrecognised but registered unions on the question of collective demands for which the final agreement may be entered into with recognised union or unions. What we were envisaging at that time was that an agreement on wages should receive a wider support and consent than what a recognised union alone can give. We shall now spell out the exact nature of this support and consent. But before we do it, it is necessary to cast a passing glance at some of the many solutions that are advocated to tide over this difficulty of certifying a bargaining agent.

309. One suggestion tailored after American models is that of a closed shop or union shop backed financially by a system of check off. To this is often added a method of secret ballot when a demand for same arises. The method has certainly given its results in America. But it can never be forgotten that the key of this apparent success lies in section 9(h) of the Taft Hartley Act. This section of the Act refuses protection and use of facilities provided by it such as the National Labour Relations Board to unions unless there is on the file with the Board an affidavit executed contemporaneously or within the preceding 12 month period by each officer of such labour organisation and the officers of any national or international labour organisation of which it is an affiliate or constituent unit that he is not a member of any Communist Party or affiliated with such party. The Supreme Court of the United States has up-held the constitutionality of this provision on the ground that legal protection is given to unions for the purpose of furthering collective bargaining and since Communists consider unions primarily as instruments of revolution and only incidentally as instruments of collective bargaining it was deemed proper to deny the protection of the law to the Communist dominated unions. The American system not only recognises just one union for one bargaining unit but under the closed shop requires every employee to become a member of that one union. The need to ward off Communists by legislation in such a system for the preservation of democracy should be quite apparent for any student of public life. The dangers which are sought to be eliminated by such legislative prohibition cannot be overlooked in India. The whole effort of the Communist Party of India has been to propagate a theory of class conflict by rousing class consciousness and give a continuous class struggle till they come into power by resulting revolution. It is significant to note that this

is not the role of trade unions in Communist countries. In effect, the Communist theory of class war has come to mean a foreign policy of Communist powers to capture non-Communist countries by making workers hostile to Industry and bringing a break-down of its economy. Following this technique the Communists in this country have largely succeeded in creating an atmosphere in which any collaboration or co-operation with the employer or a sense of good-will towards management has become a practicle taboo in the trade union field. In such a situation, for the purposes of cheap popularity, unions while attempting to whip up enthusiasm go unwillingly into a race of vilifying the employer. It will not be far from truth if we say that in many cases the one who can show the greatest irresponsibility in making wild abuses against management, employer and government earns the highest respectability. This approach to questions of industrial relations which is forced by needs of recognition or representative character under code of discipline or state acts, promotes class-conflict and boosts up hatred. As a result, whoever may win the final elections, this type of democratic way of meeting Communists, gives service to anti-national forces by creating habits of non-cooperation all around. We are not aware of a single instance where statutory or semi-legal (as under code of discipline) recognition given to a single union has by itself resulted into greater productivity which is the real aim of give-and-take type of negotiations inherent in a collective bargaining process. If the examples of Banking and/or Life Insurance are to be examined from this angle, it will be apparent that a tendency for recognition has been equated more or less with a recognition or sanction for lawlessness (since the majority or recognition was itself a result of agitation based on hate and revolt) and the labour productivity has rapidly sunk down. The conclusion is, therefore, inevitable that so long as the Communists are in the field and the Communist Party is allowed to function in a democratic set-up, the dangers of one union in one industry through secret ballot or any other method are very great and should not be minimised by ignoring the real issues it brings in day-to-day life. A more sound principle is of 'one nationalist union in one industry'. The Bharatiya Mazdoor Sangh stands for this principle. But it does not, like the Americans, want to establish this principle by law. The American law has isolated Communists in their labour field. Our country has not taken such a stand; nor do we advocate any. Communism is after all an ideology- no doubt an unscientific and lop-sided ideology, a vision born out of division which has no patience to understand the manifestations of the One Unity through Many in Diversity. But since it is a spark of vision, it cannot be cancelled out by inhibition. The Americans are certainly wrong in the presumption, if they have any, that they can destroy communism by legislative coercions. Such measures may restrain the outward advance of membership of Communist Party for some time but may ultimately aid their final triumph. The real strength of Americans is in their love for



freedom - but they do not know how the perfection of that freedom can be achieved by founding on truth the edifice of their social built-up. The way of India, through the ages, to face such partial truths has been to accommodate them and absorb all their true contents. Unfortunately due to struggles spread over thousands of years this capacity of Indian Mind to absorb all such philosophies of life has been temporarily weakened by fatigue. But the intrinsic strength is there fully in-tact and is now manifesting again in various forms. On the industrial level, therefore, which is the chosen battle-ground of this unscientific and lop-sided philosophy we can meet the communist challenges by a free meeting at all levels - ideological, organisational, practical and strategic. Rather it is by such a method that we shall free the mankind from the evils of communism. While not minimising the dangers of communism therefore which led the Americans to legislate the Taft Hartley Act, we feel, therefore, that the best way of meeting the communist challenge is to fight it from our own platform. But for this reason, a separate platform is necessary. A law on one union in one industry may abolish the platform of nationalist union at the hands of a nationalist government. A logical corollary of denying the American way of out-lawing communists from trade unions and allowing them to work in our trade unions is that the nationalists must retain for them a separate platform to meet the challenges posed by their disruptive practices and philosophy of class-war. A respect or accommodation for a multi-union industrial relation system becomes, therefore a necessary choice in the Indian situation and for our special approach towards the communist challenge. If prosperity through a democratic process is to be the goal of national life, then it must be accepted as a national concern the need to uproot the communist influence from our trade unionism. But since we do not wish or believe this to be done by prohibiting the communists from running the trade unions, it is entirely necessary that within each bargaining unit a platform for those who do not wish to assemble under communist flag must be provided. The communist way of running and operating a trade union is so different from the day-to-day stances and positions which a genuine trade union movement is required to take that it is virtually impossible for people belonging to two creeds to function under one roof and name. Theirs is virtually a political movement and not a Trade Union. Hence the inevitability of multi-unionism. And since in the choice of a bargaining agent it is dangerous to give powers to any one union on account of its bare majority, the process of naming bargaining agent and the process of collective bargaining itself have to make its way by denying the apparently simple administrative solution of legislating for one union. It appears that in order to be true and honest to our problems and intentions, we must choose an independent path and cannot copy out any one set of patterns available today in the world.

310. Thus after rejecting as unsuitable the formula of one industry one union in the country's present position and rejecting too the idea of granting a sole bargaining status to only a majority union, a further question arises as to whether a via media can be found out which somehow commits all workers to one bargaining agent and yet respects different platforms for functioning of normal trade union movement. Our discussions in this regard with some eminent public workers closely in touch with various trade unions revealed to us that some such formulae are at times engaging a serious attention of deep thinkers and practical men of affairs - both alike. The recent discussion in the Indian Labour Conference also spotlighted this thinking. The idea of forming a negotiating body with a proportional representation for different unions or admission by the representative union to the representatives of minority unions on its negotiating committee were proposed as alternatives. We ourselves have also suggested the system of proportional representation for works committee. But these are in fact administrative arrangements to deal with a situation in which multiplicity of unions exists. One other radical formula that we came across in our discussion was that only one union should be named as sole bargaining agent and for purposes of electing the negotiators all employees should be held to belong to that union. A nominal fee should be deducted from each employee's pay-packet and given to the same union so as to cater the needs of all legitimate expenses incurred in the collective bargaining process. The negotiator should be elected by all workmen likely to be affected by the bargain and elections should be supervised by an independent (preferably government) commissioner placed under an independent tribunal. The employees should be otherwise left free to join voluntarily the same union or any other. All the unions may be given equal opportunity to propogate their views and carry on the agitations including the strike to influence the course of bargaining. During the course of negotiations there should be some provision when a serious challenge to the position taken by the negotiator or to the draft of the agreement can be treated as a no-confidence motion against the negotiator warranting a fresh election of the negotiator. Normally such a serious challenge can be ascertained when a majority of workmen make an application for recall or a strike paralyses the industry on a call given by somebody other than the bargaining agent. Variations of this formula can be worked out in detail, but the essence of the whole thinking is that an accommodation for multiplicity of unions need not restrain us from naming a bargaining agent in whose selection however, every worker is committed per force and who is backed by a union adequately financed for this purpose. This formula will undoubtedly knock out a large number of unions from the field, but may still leave a handful of unions run with defined ideology. The unions thus remaining which may not be bargaining agents for the time being, will yet have an opportunity to propogate their views, influence trend of thinking by agitations etc., and contest elections by putting up their candidates for

election of negotiator or office-bearers (as the various formulae may envisage) for the union named as bargaining agent. These candidates need not necessarily be employees - though the voting rights will be for employees alone. The formula which looks awkward at the first glance reveals, however, its merits on a second thought. But it must be said that such a formula or its variant has also its great dangers and it can spell ruin if it is pressed into service without further deep thought. The trade union consciousness in our country is very weak. There are many employees who do not belong to any union or take interest in union matters. Like unity, this interest or consciousness too cannot be forced on unwilling persons. Against this background a formula like the one above will drive the dumb majority to acquire itself with the street-fighter. Its choice in trade unions is dictated by norms of least resistance. Secondly, very few persons in the labour field can take a judgement about the limits at which a collective bargain can be really settled. As a result even a seasoned or a well-equipped negotiator finds it difficult to sell the best of a bargain to a crowd of people whose expectations are pitched at a high level. The accommodations for increasing productivity negotiated in a two-way deal are entirely lost sight of. On the contrary the promises of an unscrupulous union or its radical alternatives make the best of negotiated bargains look worst. Consequently a strike results and matters are referred for a third-party settlement on account of the failure of collective bargain. There is no evidence or promise in the present situation which will show us that the naming of a bargaining agent can pave the way for collective bargaining. It will still make the strikes a rule and they will be followed by a third-party judgement. For a true collective bargain the unions must enjoy a confidence of all workers. They cannot be legislated into that trusteeship. In absence of universal confidence unions will not be able to give anything to secure a good bargain. It is felt by many observers of economic situation that our country has come to such a stage that unless workers give better results in terms of productivity it will not be possible for industry even to stop the downward push of real wages. It is vain to expect that a legislated unity of workers can be trusted to accept the difficult choices which a collective agreement involve when it is based on productivity targets calculated to enhance real wages. The bargaining agent thus conceived and brought to the negotiating table will not be able to deliver the goods to the industry. He will only be a puppet willingly dancing to the tunes set by mischievous and subtle forces of a destructive mentality. The ignorance of the masses will continue to collaborate in this game of destruction and the workers will still be cheated by the leaders who in the holy name of revolution want to become dictators. The true solution of our problem does not lie in the facile generalisation constituting a single bargaining agent by legislation. There is no merit also in the methods suggested to ensure the sanctity of an agreement produced through such collective

bargaining by treating the same as binding only if a majority of workers sign the contract done by bargaining agent or accept dues under the agreement within a specified period. Such a stipulation may have some effect when marginal considerations are required to be streamlined through a binding signature or action. But the present situation of the country is such that in many areas of production a systematic and shrewdly calculated havoc is being played by elements that are bent on disruption. We shall have to devise a far more subtle and better way to tide over all these difficulties that are surrounding the emergence of a nationalist and constructive trade union movement. In order to serve the Nation on its onward march the National Commission on Labour must find out a formula on bargaining agent that nurses the growth of a constructive and progressitve bargain for workers, industry and the Nation.

311. The way out lies in a greater comprehension of the whole phenomena that governs a bargain with a mass of men. What the industry should keep in view while making a bargain is not the negotiator just across the table, but the whole masses of workers whom he is supposed to represent. This mass has got no steady mind. It is not always possible for any one negotiator to represent adequately this unsteady flux of mass mind. Moreover if the negotiator is wedded to a political party which does not believe in honesty and transperance for a public worker and does not stand for a constructive nation-building activity, then he will surely take positions which have nothing or very little to do with the worker's real mind. In order that the dialogue of industry should proceed with the whole mass of workers the best alternative is to carry on this dialogue with all representatives of workers who are organised in sizeable unions or even, let us say, all unions. The delays or procrastinations that may attend such a process can be cut short by carrying on continuous negotiations by specialists appointed on the side of industry. The different unions can then be trusted to carry on the whole of this dialogue to every worker. The common worker will gain true knowledge in the process. The real enemy of constructive trade unionism today is the ignorance and apathy of the common worker. The first of these two enemies viz. the ignorance can be attacked by ushering in a wider dialogue over the issues that influence his advance. Negotiations with a number of unions representing different points of view and trying to keep in touch with all workers will serve this purpose. The second enemy viz., the apathy can be overcome by making an absolute rule that unless a collective bargaining agreement is signed by unions representing at least 75% of the workers the same will not come into force. That will drive the workers to think over the choice of a right union and make the unions take a realistic position in collective bargain. At present where the representative status is given to a union having a marginal majority or a majority based on bogus entries on membership

record, the real commitment of workers to a bargain is too weak to deliver the goods for either side. The formula suggested by us will overcome this difficulty and remove the apathy about trade unions from the mind of workers. This is our suggestion for certification of collective agreement based on wide consent. A still another suggestion made in this respect is that a table of unionwise membership strength should be utilised as a guide to determine the value or status of an agreement in collective bargaining. An agreement or part of the agreement that is subscribed by all the unions in a plant or establishment should be given the highest status and legally binding force. Anything less than that should be considered as qualified agreement and considered less in status or effect. Depending on the number of employees represented by the Union or Unions signing or subscribing to a particular agreement the settlement so arrived at will then get a defined application. We have not been able to work out the practical details of this suggestion. But it has a unique tendency to force each of the multiple unions to find a common ground with others in the interest of industry and the workers. The scheme can bring the necessary psychological compulsions for growth of a genuine and united trade union movement, without sacrificing the majority union's or majority's right to find out workable solution to any dispute on its own strength. The line of reasoning underlying this suggestion deserves a further probe and experimentation.

312. The above suggestion brings us to another difficult question of ascertaining the strength of each union in a multi-union contest. From this angle the check-off system has got certain advantages provided the deductions of dues for unions of employees' choice are made by the employer from pay of each employee and the same is handed over to the appropriate union. The system has got one danger that undue influence of the employer is likely to be exercised while making the deductions or while applying for a change. But the system can come most handy to determine the strength of each union at a particular time and exercise a periodic restraint in changes for union loyalty. It can also facilitate the formation of works committee or joint management council which can then be formed on an ideal basis of giving to each union a right to nominate number of representatives proportionate to its strength on such committees or councils. It will also facilitate the determination of union-strength to assess the validity of collective agreement on the basis of the formulae suggested by us. The evil effects of this system can be judged only on a review of its working. Perhaps, this may be done on a pilot basis by way of experiment before making a all-India rule on the subject.

313. The present procedure of verification of membership figures of union for purposes of determining the representative union under the code of discipline has been assailed

by many persons on both the sides and an alternative of secret ballot is pressed quite hard. No doubt, the present procedure is formulated with a meticulous care. But even then the very objectivity of the process and sometimes its correctness have become matters of controversy. It is held even by some employers that the only rational method of ascertaining the representative character of a union is secret ballot. Now we have made out a plea against the system of representative character for a bare majority union. So the necessity or otherwise of secret ballot assumes a different sense under our scheme. Wherever the check off system suggested by us as above is in operation its necessity will be nil. The appropriate system of verification that can meet the requirements under our formula is the procedure adopted with regard to all India organisations with a view to giving them representation on international and national councils, conferences and committees, wage boards, etc. This procedure which is known as the General Verification Procedure was decided in the 16th Session of the Indian Labour Conference held at Nainital in May 1958. Under this procedure the copies of claims of membership submitted to the Chief Labour Commissioner by each of the central trade union organisations are made available to all other organisations. Then the Labour Commissioner carries out a general verification and takes the disputed points first to the concerned organisation. Where the results of verification by the departmental machinery are not accepted by the parties, a committee comprising the representatives of all central organisations under the chairmanship of Chief Labour Commissioner goes into the question to resolve the dispute. It is intended that if the committee is not able to resolve the dispute then the same be referred to an independent agency or tribunal through the Ministry of Labour and Employment. There has not yet been any occasion to take this last step and the verified membership of each of the four central trade union organisations has so far been arrived at unanimously. The system has its deficiencies for verification of membership of central labour organisations due to sheer size of the country. But it may suit very well for determining union strength at the plant or industry level.

314. It can then be left to the tribunal to decide in a case when the above-mentioned all-union committee fails to arrive at agreed figures, whether a secret ballot is necessary to decide the final point. The system of secret ballot is not without its dangers and imperfections. The first difficulty is about voting rights. If the voting right is thrown open to all workers irrespective of their being members of a union or not, then it is feared that workers will not become members of a union and the cause of trade unionism will get a set-back. Next comes the question of whether temporary or badli workers be given a right of vote or not and whether a period of service of say, one year or

so should be taken as a qualification for being a voter. Thirdly there is a question about the propriety of a disqualification clause for worker who had been convicted of any offence involving moral turpitude and sentenced to imprisonment or for such other or others who had participated in an illegal strike. It is said that such disqualifications are likely to enhance the moral calibre of the general body of workers and promote discipline. Fourthly there is a question of interval between two secret ballots. The elections quite often create tensions on the work spot, aggravate all types of uncertainties, jealousies and greed, and internal harmony and peace become a first casualty. Lastly an adoption of a uniform system of secret ballot entail a huge planning and preparation and implementation and follow up at various stages of the conduct of an election. It will be necessary to build-up quite a big and competent administrative set-up to tackle all these issues and establish the system. Even then, what guarantee is there that it will improve the industrial climate for good? In a task where attitudes are to be secured from the parties, forms and rules can contribute very little to the endeavour. There is no magic in the system of secret ballot that it will settle with ease the question of determining a bargaining agent. We do not, therefore, advocate any permanent reliance on this system, but like it to be treated as a necessity in extreme cases and as a last resort. Its necessity and mode should be decided by the tribunal about which we have made a reference in the last para. In our opinion the results of such a secret ballot should be taken into account, not for determining the sole bargaining agent, but for deciding the combination of unions whose united following can constitute the 75% backing limit that we hold as necessary for the signing of a collective agreement. Of course, in cases where only one union commands the necessary following it will naturally emerge as a sole bargaining agent keeping others in the picture as a watch-dog. It may be incidentally pointed out that the limit of 75% suggested by us is so construed that it can never be reached unless all the unions recognised under our formula for recognition become a party to a collective agreement. Thus alone the knotty question about the choice of bargaining agent and promotion of collective bargaining can be solved in the context of Indian situation and looking to the needs of country's development and preservation of individual and national freedom. About the rest of the issues we have touched the same in paras 115 to 117 of our submission.

Wage Boards and Pay Commissions:

315. Among the other modes of wage fixation, we had already an occasion to speak about Conciliation, Adjudication and Voluntary Arbitration in paras 125 to 132 of our submission, while discussing the question of industrial relations. We have nothing to add to this since they do not

require any specially different treatment in their role as wage-fixation authorities as distinctly different from their role in other matters of industrial relation. One cannot, however, fail to give a serious consideration to what is long-known as Giri approach. Shri V.V. Giri, the veteran trade union leader who is now Vice-President of India, has consistently held that the machinery of adjudication is the enemy number one of the working class and reduces the trade unions to zero. Adjudication, according to him, leaves the interests of both parties, management and labour, in the hands of a third party, making them litigants instead of collaborators and members of a family. This is a very wise advice, but it must be left to the parties to accept it on their own accord. We cannot at this stage do away entirely with third party intervention. Before, however, a dispute is referred to the third party an insistence should be placed on a serious and sufficient pursuit of a bilateral approach, and the position of these negotiations should be made a common knowledge.

316. The system of wage-boards, however, is not an entirely third-party settlement. These boards follow the lines of collective bargaining rather than of arbitration. It is in fact described as a system of "assisted collective bargaining". In one respect, however, the wage boards go a step further than collective bargaining. They bring the consumer as a party in Industrial relation. Looking to the recent wage-board reports such as in Coal, Cement and Working Journalists one feels that this role is not yet sufficiently understood in India. That is also why one hears that wage-boards should be appointed only for industries where the conditions of sweated labour exists and trade unionism is weak. It is almost forgotten that when collective bargaining is done on a nation-wide scale the same can also result in rise in prices or increase in monopolies by progressive elimination of small concerns unless the consumer interest is taken into account before arriving at the final settlement. The appointment of impartial or appointed members serves this purpose. This is the position in England, U.S.A., Canada, Norway and South Africa. The presence of these members as representing consumer interest is an admission of the fact that the days when an industrial dispute was considered as an internecine war between two contending parties, viz. the management and trade unions is over. It is realised that the community has also a stake in the dispute. In Great Britain, these independent members also hold independent meetings with representatives of workers and employers separately with a view to narrowing the gap between the two or to recognise what is described as "the seeking point" - the point beyond which it is useless to try to lead one of the contesting parties. Their presence and power to vote is an inducement to both parties to reach an agreement. In our country the two independent members normally are a leading economist and a member of Parliament or Legislative



Assembly. But the importance of these independent members as representatives of consumers remains to be fully understood. The consumers do not want a clash or strife between the contending parties leading to a violation of industrial peace. Nor do they want that on account of their combined industrial power they should develop in an industrial empire waging a war against the rest of the Nation. The concern of wage-boards in India so far has been to evolve a nation-wide wage structure for an industry including the question of proper wage differentials for different operatives in the same industry. The wage-boards have at times been required to deal with other intricate problems such as of calculation of work-load, rationalisation, efficient systems of work, hours of work, retrenchment and fixation of minimum wages. It is also desired that the wage boards should also find out ways to provide incentives for workers for advancing their skills and introduce on a **large-scale** the system of payment by results. But regarding these last two functions almost no progress has been made, since the subjects are felt as more appropriate for a unit-level bargaining.

317. There has also been a great concern about the implementation of wage-board decisions, since many of such decisions have been left unimplemented by a large number of units. The awards have got no statutory sanction. If it is a contention of employer that the wage-board recommendations violate well-established principles of wage-fixation, he can move the High Courts and Supreme Courts under Article 19 of the Constitution by advocating that the recommendations constitute an unreasonable restriction on his fundamental right to carry on business. It is our opinion that this question of implementation has arisen because the members on wage-board have sometimes discharged their duties in a light-hearted manner. For example in the case of Coal Industry, the wage-board in its report had stated that the change in the wage structure would necessitate a review of coal prices. The Board, however, expressed its inability to make an assessment of the likely increase in the cost of production resulting from the wage structure recommended by it. They went to the length of reiterating finally that the industry will not be able to implement the recommendations without a consequential and concurrent increase in coal prices, fully neutralising their impact on costs of production. Against this background, what did the wage-board expect as a result of its final report? It determines nothing. It raises an expectation in workers' mind. But it leaves him guessing as to when it could be fulfilled. How much price-rise the industry should do? What did the independent members on wage-board think about the consent of consumers for a price-rise when its quantum is left undecided? This is an example of how even a good system can be used in a bad manner. A similar thing has happened in the case of Cement Wage Board. But in this latter case the Government has rejected the contention of the wage-board

that that industry has not the capacity to bear the incidence of the additional wage bill. The Government directed the cement industry to bear the additional wage bill from within the price structure since it was of the opinion that through technical improvements and better working methods and utilisation of the labour force this can be done. This is as it should be. But what is the guarantee that this will be done in a manner acceptable to both sides and the increased wage-bill will be given an immediate effect ! In a collective bargain this would have been spelled out in detail by both the parties, for it involves a major decision on changes in work-processes and work-load and allotment of personnel to different jobs. The wage-board results for working journalists and the non-journalists have also posed a like problem. It appears from the above that the problems have arisen mainly because the respective parties have not fully appreciated their exact role on the wage-board. The representatives of employers and employees must realise that they have to strike at a collective agreement during the proceedings of the wage-board. The additional factor is a consumer and not an independent expert as is sometimes supposed. The intricacies of the industry are best known to representatives of both sides of the industry. (The independent member, or chairman, however, high may be his calibre, cannot act as substitute for the knowledge which the two primary parties possess). The role of independent members, when the parties disagree, is to act as solicitors trying to achieve settlement either by persuasion or by voting in favour of one party. Otherwise their role is to safeguard consumer interest specially when the two parties may try to find out a solution at the cost of nation. Their role in this regard can bring the necessary salutary effect to achieve the rise in the standard of living by methods of productivity which it may be difficult to decide in a purely bilateral approach. It is in this context that the other attendant matters supposed to be handled by wage-board such as efficiency systems of work, calculation of work-loads, reduction of employees on account of retionalisation, payment of wages by results, hours of work and rest etc., find their due place on an agenda for wage-board. All these things involve a good deal of spade work, deep study of various problems and thorough discussion on all points of conflict. No shirking of this inevitable labour and no laxity should be thought of while appointments are made on wage-board. This is the true role of wage-boards as they emerge out from their first functions of establishing minimum rates of wages and prevent sweating. In India, this first function of wage-boards has also its importance for some industries which are in the unorganised sector, while its second and more permanent role is for the organised sector as and when the consumer interest has to be introduced in the interest of balanced growth of the national economy.

318. Keeping in view these different roles that can be played by wage-boards for organised and unorganised industries we propose quite a different treatment in the manner of appointing the wage boards and in implementation of their decisions by giving them a statutory status. In the first place we feel that a decision to constitute a wage-board should be taken by a standing board or tripartite as envisaged in paras 140 to 144 of our submission. This board should have a complete and upto-date data regarding the prevalent rates of wages in all industries and their units and for all occupations at any given time. The section engaged on this data collection should help all wage-boards and even the different tribunals or unions and management bodies in furnishing the relevant information on stipulated terms. The standing tripartite Board should also have a wage advisory machinery which should be similarly engaged on a job of standardisation of nomenclature and duties or classification of national occupations and of compiling a standard system of reference for job evaluation by detailing norms and standards in giving points for different factors and degrees for various types of job clusters. About the valuation that should govern the treatment of this subject we have already spoken at length while dealing with the topic of wage-differentials. The constitution of such a wage advisory machinery on national level will go a long way in giving a valuable information and consultative service for all parties in an industrial relation programme. For purposes of collective bargaining and tribunals it will eliminate much waste of time and energy that every party today spends in the collection of information and verification of its authenticity. In case of wage boards it will give a further service by putting the standing tripartite in a very good position in taking an initial decision to constitute a wage-board for any industry and drafting its terms of reference. At present instances are not wanting when collective bargaining agreements or awards at unit-levels have been totally ignored while constituting a wage-board or drafting its terms of reference or in interim or final recommendations of such boards. This has created a lot of confusion. Specially when wage boards are constituted for a heterogenous industry like Engineering, a number of problems are created when the Board or its constituting authority is not well informed about existing data or guide-lines in occupational classification and evaluation. This initial difficulty can be got over by entrusting the work of constituting the wage-board and its terms to the standing tripartite board assisted ably by a department of Wage Advisory Machinery. This method will also be useful for determining the timing of various wage-boards for different industries. The personnel for the wage-board should, however, be selected by the Government. But in industries that are organised the Government should be required to appoint necessarily the nominees of recognised unions or of such Central Labour Organisations who have at least 10% of membership in the

industry for a preceding period of 3 consecutive years. The rest of the composition should remain broadly as present i.e., equal number of representatives of employers, two independent persons representing consumer interest and having a necessary foundation for such work, and an independent full-time chairman. The rest of the provisions regarding formation of sub-committees, rules for chamber meetings and public sittings and other procedure should remain the same as present. All the unanimous recommendations of such a wage-board in organised industry should remain binding and have a statutory force. Regarding the rest of the recommendations which are not unanimous the appropriate legislature should be the last authority to take a decision. For the unorganised industries where there is no recognised union ( i.e., union having 30% membership) all the nominations should be made by the Government, but the report of the wage-board, unanimous or otherwise, should be placed before the appropriate legislature for final approval.

319. In the case of Government servants i.e. purely ministerial services as apart from employees of public sector undertakings, Pay Commissions should be appointed within a fixed period. We visualise a definite cycle in this regard that should cater maximum satisfaction. Immediately after the elections the new Government which comes into power should convene a round-table conference of all economic interests where the whole labour movement including the government employees should get a sufficient representation. It should be the job of this conference to suggest for the next plan period a consolidated policy on wages, prices, income and tax. The discussions in the conference, whether followed by unanimous decisions or not, will be helpful to the planning commission in drafting the plan. It is thus that the trade union movement should get a hand in shaping the basic economic policy. We feel that the ideal time for publishing and adopting a five-year plan is two years after the formation of a government following the general elections. This two year period should be sufficient for the new government to influence the shape of its plan. It is during this period that the central trade union organisations and Government employees unions will get their opportunity to pursue with a fresh mind their dialogue with the new government regarding the National Wage and Incomes policy. Immediately after the Five Year Plan is published and adopted by the Government, the Pay Commission should be necessarily appointed by the Government to review and recommend the pay-scales and other service conditions for Government servants within the broad policy frame-work of the new plan. Thus after every five years and in the 3rd year after general elections, the Government servants should have an opportunity to press their demands in the perspective of country's developments plan and national wage policy in whose shaping they have had already their due share. It should not be necessary for Government servants to make a demand for the appointment of a pay commission. This should be a regular

periodic feature after every five years. The benefits given by pay commission to Government servants should be normally binding on the Government. However, in case where the Government seeks a modification in the award given by Pay Commission it should be necessary for the Government to obtain the consent of appropriate legislature for such modifications.

320. Such in short should be the nature of wage fixation machinery. The collective bargaining should get a place of pride. But it must necessarily be based on widest consent. For unit level bargaining the next instrument should be private arbitration. For a industry-wise national bargaining it may be a wage-board if the standing tripartite so desires. The unanimous decisions of wage-boards in organised industries should be binding while others should be left to legislatures. The adjudications and tribunals should be a thing of last resort when all other avenues are not open. For the Government servants there should be a periodic pay commission. This should follow the plan in which the unions have their share in influencing the appropriate policy. The modifications of Pay Commission award as well as the wage-board report for unorganised industries should invariably be placed before legislature for approval. The details in all these respects should be as discussed above.

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पुमान् पुमांसं परिपातु विश्वतः । ऋग्वेद\* 6/75/14

The Basis - The Home:

321. As we cast today our glance to various measures of welfare and social security measures and search for the motivation or purpose that has prompted the Industry to spend on these items of consumption as apart from its other engagements for production and distribution, we find that our search is largely in vain. It does not appear that any set purpose or aim other than a broad humanitarian outlook or considerations of paternalistic management is working through these services. We had already occasions to remark while discussing the question of fringe benefits (Paras 231-235) that no strong conceptual base is given to that subject. We had concluded that discussion by suggesting that the so-called fringe benefits be termed as community services and the budget and management of the same should be made the charge of industrial family considering all the persons working in an industry as constituting the industrial family. That will pave the way for the formation of autonomous self-determining working communities which are a part of an ideal social structure. It is now time that before we spell out the governing ideas about welfare and social security, we give a little more attention to the basic ideas of social well-being. If the theories about wage or industrial relation can be described as falling in an intermediate zone joining economics and sociology that sometimes make a triangle with politics, the subject of welfare and social security goes through the whole domain of sociology and begins to touch the foundational needs of human living. This is a field where the action of the community takes regulatory steps for ordering the consumption of earnings - not as the individual wants, but as the aims of social order prescribe. But since we have not spelled out the contents of a social order, our welfare and social security schemes have taken only an ornamental figure and there is very less within that circle which one can add to give any meaning to the fashions of the West.

322. Looked at from the true needs of human welfare and social security or rather of human fulfillment through the instrumentality of social order the first thing one notices is that the indiscriminate adoption of foreign technology, left to itself, constitutes the gravest threat to human well-being. Its purely economic considerations have already led to the formation of modern metropolitan cities with all its diseased civilisation - its slumps and shortages of

\*"Let Man protect man from all sides." (Rig-Veda) 6/75/14

living and moving space and water and dehumanisation of individual and creation of lonely crowds of self-alienated personalities. It makes the individual insecure by uprooting him from his social origin and then make him seek security against the flood of mass-life. It destroys the health of individual- physically by its smoke and stress and strain and irregularities and 'hurry, worry and bury' culture and psychologically by its monotony, loss of individuality, privations following scant considerations of family life, chains of rules and regulations and mechanical life-less routine. It has made the productive process the effective centre of social build-up and has recruited individuals for being yoked to its service as a means of production. Even the bare fact that while a individual as the field-worker looks as if he is just a unit of production, yet the unit of consumption for which he toils is still his family, is lost sight of or accommodated with much hesitation and reserve by industrial authorities. This is just one area in which the machine & its apparatus has blurred our sight. If we want to show any serious concern for the well-being of our people we must centrally acknowledge the fact that the blind deification of machine as a almighty bestower of all happiness and progress is at the root of all our social disorder in all its manifestations such as absenteeism, indiscipline, strikes, lawlessness, violence, loss of values, rowdyism and mass-disruption. This does not mean that we are or should be against mechanisation. We are against it's indiscreet usage. The moment you install a machine or a plant, you are investing the society's savings ( for all savings ultimately become possible through social order) for a project that can run only by a collective effort. But if this project cannot fulfill the true needs of that collectivity then it must be said that your planning has remained defective from social angle. A honest socialism cannot be built by multiplication of such social costs. This is how the machine has become the master of man and has thus ruined his happiness and inhibited the natural growth. Until this root malady is cured, all talk about welfare and social security will remain only a patchwork. The insistence of a mechanised civilisation appears to be to call upon the man to forget his home, but in return it has neither made him feel at home at the plant or machine nor has cared to see what has happened to his erstwhile home. The modern factory worker or even office clerk has no time or energy to mix up with his wife and children, look to their well-being and education. He has no true friends and no true neighbours. What warmth of life can energise him and keep his balance? He is told that he is lucky if he gets a single-room tenement at a place 70-80 kilometers away from his place of work. If his wife and children are sick, he is not sure whether he will be able to attend them according to the necessity of the patients. He has to solicit and pray for the grace or favour of his boss before he can do so. In the eyes of his employer his parents or

relatives are nobody. In some cases employers have not allowed them to stay in rooms allotted to the employees. They are almost invariably not counted for medical and travel facilities. So also the position of employee's widow and children is made helpless immediately after employee's death. They are driven out to seek shelter with other people whom they have never been able to allow even a day's stay with them, because the employees residing in many housing colonies are not supposed to give lodging or shelter to any relatives, friends or guests. During the whole period of his working life an employee is not housed in his home. The distance he has to travel from place of residence to place of work is none of industry's business. The industry is not supposed to have any primary obligation for corporate life or social life of even its own employees. If it does something for the corporate life of workers, it is to be commended as welfare ! If it contributes something along with the worker for sickness benefit or provident fund or pension it is supposed to have finished its duty for employee in his old age or sickness, no matter what that amount really means to the sick or old man ! And yet the employee is supposed to devote his full working life in the industry's service and virtually has to depend on industry for all his needs and living. The modern industry in its very inception has brought about such a change in life's valuations that what is necessary for the well-being of man is entirely crushed at the altar of only one value - money. For the sake of money the worker is required to put away his needs of homely life, his emotions and relations, forget his personality and consent to become a cog in the wheel or machine, get himself packed in city-cells, run in crowds by train and omnibus, forsake his children to get lessons from street games, cultivate a restaurant-culture as substitute for true friendship and to exist in a directionless civilisation. And all this because those who happen to control the economic destiny have put their sole reliance on mechanical power as a road for progress.

323. The relevance of our criticism takes a pointed turn as soon as we may take a concrete welfare measure, say, housing. It is an elementary physical need of man that he should have a shelter. If this house is near his place of work he makes a considerable saving in time and money. If he can be made to feel that this house is his real home his psychological needs are satisfied. All these things are well-recognised and need no proof. But the moment they are put as a serious proposition for industry they are found shirking the same. Why ? Because the industries have selected their place of operation not by giving a primal weight to this factor of human living. They are an outcome of considerations of capital as to where it will get a most gainful employment. If we want to make the industry a servant of human life and society then it must be compelled first to give each of its worker a decent



house before it can ask him to work for the industry. The subject does not stop here - rather it starts. In order to ensure the health of industry and nation, the employer must see that the workers are put in a position from which they can derive a full satisfaction inasmuch as they are individually capable of. For this purpose the employer must have some elementary vision about the true values of life. Even in old days, the king was taking a fatherly care of his citizens. The Raghuvansha describes the king -

“स पिता पितरः तेषां केवलं जन्महेतवः।”

We must now go many miles ahead of this old precept. But in fact we are backward as compared to our forefathers. The effect of our welfare activity must also be studied. It is not sufficient for an employer to open a library for his employees and their children and then rest content with novel-reading habits being spread through these store-houses of wisdom (!) If he is enthusiastic for a club-house building and dancing hall but is allergic to a temple or church being built as a part of his industrial housing programme, then it must be said that he has not understood anything about true well-being. An industrial establishment does not mean installed machines surrounded by large working-class colonies looking like an industrial empire. The industry is a world or family within another larger world and family viz. nation on one hand and a world of families living within it on the other. The family is not a mere body - there is a family-mind, a family-soul. These psychological circles are not patterned as separate entities, so that a circle called industry or industrial family can think and plan independently without linking itself to the churning of another circle called individual family life or national family. If it is the need of a primary family living that life in the family or home must be full of samskars of good living, then the activities of industrial life cannot or should not be planned without any relations to these requirements of the family life. Rather the one must come out from the other in an organic manner just as from the seed comes out a plant, a trunk and leaves and flowers and fruits. It is only through such a conception of life that the values of life like loyalty, truthfulness, work being treated as worship, devotion, faith, balance, dutifulness usefulness, idealism, etc., which are implanted in home are transplanted to industrial and national life. The Indian culture has always regarded the growth of consciousness in Man as a development of mind in a spiral course. (असंड - मंडलाकार). It does not divide life into separate compartments to be managed independently by family, industry and nation or other different institutions life pensioners' colonies, as Western thought would like us to preach. Moreover the Indian conception of life does not stop at the first two purusharthas of Artha and Kama. It knows that Man cannot find satisfaction by such compartmentalisation of social life or by technique of matter and

money. Man is primarily a Mind 'मनोमय प्राणशरीरनेता' as the Upanishadas have rightly put it. It is a view held out by many Western psychologists that the mechanical civilisation of West has been the cause of many mental disorders in the West. A quiet and restful mind, a calmness and inner happiness such as a pure love spreads in a matured family are becoming increasingly difficult for the West. In these conditions of the world, it will be a poor commentary on our wisdom if we allow the monster of Industrial civilisation to cloud our thinking and degenerate our mind. But this is sure to happen if we go on implanting foreign technology indiscriminately on our soil, or prefer cement-concrete buildings to Indian dwellings. The samskaras ( संस्कार ) which are cultivated by a Mother in the home cannot be imitated by a television programme or substituted by a club-house attendance. Should we allow the Machine to dethrone the Mother, or should it be run by the hands that worship her- that is the issue. In order that we may put the machine in a proper order so that it can give any real service to our life, it will be necessary for us to understand the process of true living. We are very categorical in saying that if we want to bring well-being to our people we must realise that it cannot come unless we are prepared to hold the machine and industrialisation in suspense, if need be, and admit technology fully on our own terms as suiting to our values of life and living. It is the human mind and not machine that has to be the central pivot for all planning.

324. The organic totality of Indian Culture can never be understood by ignoring the master idea of Indian Culture viz., realisation of the soul and making of human living the Life Divine. It is not necessary to dwell at any length on this central fact of our existence in this submission. It has been spelled out by many Masters since immemorial times and one who knows nothing about it cannot be regarded as a true Indian - not Arya but Anarya. The way towards this soul-realisation is called Dharma ( of course as is well-known in India - a word which has no English parallel). This Dharma reconciles life and spirit, puts the two first and grosser parts of human aim and conduct viz., interest and hedonistic desire in its proper relation to the course of spiritual existence. It is well-known in India that a people, a great human collectivity 'समष्टि' is in fact an organic living being with a collective or rather a common or communal soul, mind and body. The Dharma founds the status and action of this collective being of man on the realisation of the deeper spiritual truth, the yet unrealised spiritual potentialities of our existence and so ensoul the life of the people as to make it the lila of the greater Self in humanity, a conscious communal soul and body of Virat, the universal spirit. This is the Samaj-Purusha- the thousand-headed 'सहस्रशीर्षि', thousand-eyed 'सहस्राक्ष' God.

In order that he may be truly worshipped it is entirely necessary that we surrender all our wealth and wisdom and efforts and possessions at His Feet - the worker - and not sacrifice the worker to produce wealth. Thus alone the worship is received and done. The real place for Lakshmi -the Goddess of Wealth - is at the feet of God -the Worker. By this surrender to the feet of the Universal God, the Dharma rises in the human heart. This is not mere symbolism but a real truth. Thus according to the conception of our life, the worker is not a means of production but an object of true worship - for whom all possessions should flow like running waters. The welfare of the worker is not an incidental or secondary concern of industry - it is to be the whole object of its existence.

325. The way in which this common worker can rise to his god-hood 'स्वामित्व' has been the hidden meaning of all our submissions on wages, wage-differentials, productivity and industrial relation. They are the well-marked stages of Indian gradation which has but various names to the steps of this ascent as and when the original worker becomes first a bargainer, then a ruler and finally an accomplished self-possessed master. In this Chapter it is our endeavour to follow his another line of growth - so to say horizontal in relation to the vertical first - which visualises his atonement with the universal self or God. The lines of fulfillment on this second path gives us our social philosophy which must be the base of our thinking and action regarding social well-being. This again is a line of development which the soul of man naturally chooses in its universal manifestation. Its keynote is freedom and the essential nature of unity which flowers in that freedom as the need of spirit grows in an organic fashion. The individual's oneness with family, caste or class, occupation, community, village or town, province, nation and finally the humanity and creation and the creator is seen in this scheme of thinking as a natural order of development. Following this order we cannot allow industry or modern technology to take precedence over requirements of individual and family life and require the free and natural growth of soul's progress to adjust in formal patterns imposed by an industrial civilisation. The Western civilisation has apparently missed this central truth of real welfare. The Western thought has therefore tended to look too far away from the reality of the society as a living growth. It has treated it as a mechanism which can be manipulated at will and constructed like so much dead wood or iron according to the arbitrary dictates of the intelligence. That civilisation has therefore cut itself away from the secret roots of life and has lost its hold on simple principles of a people's vitality. As a result, under capitalism or communism (for both are equally ignorant orders of living), there has been an exaggerated dependence on system and institution, on legislation and administration and the deadly tendency to

develop in place of a living people, a mechanical state. The instrument of the communal life has taken the place of life itself. There is created a powerful but mechanical and artificial organisation and the truth of life of an organically self-developing communal soul in the body of a free and living people is entirely lost. Unless this fundamental error is corrected the communist world will not be able to realise even its own ideal of communes in a stateless society, nor will the capitalist world bring to its members its own cherished ideal of freedom. The imprisoning action of the intelligence has deceived the West of her own aspiration by driving it far astray from its true significance. As we meet with a fresh and unprejudiced or unoverpowered mind this giant of scientific and industrial civilisation of the West, the sob of the wounded spirit and its deep cry of suffering is unmistakably heard under its giant wheel. The frustrated voice of the retired employee whom the West has left wandering on forlorn despairing route symbolises the tragedy of Western civilisation. Looking to this plight of the West, one indeed remembers the Poet who has said:

" A sense of limit haunts her masteries  
And nowhere is assured content or peace  
For all the depth and beauty of her work  
A wisdom lacks that sets the spirit free."

(Savitri Bk. II, Canto six pg. 222-23).

326. We must therefore first make a firm resolve that we shall refuse to make that unwholesome substitution of the mechanical for the natural order of the life of the people. For this purpose we should disintegrate the metropolitan centres and fall in love with a net-work of township planning - a decentralised pattern of industrial location. We may say that throughout India we should have many small towns and between any two towns there must be the healthy connecting belt of agricultural land. Each town may be noted for one major industry, surrounded by ancillary units, but beyond this one should not permit any more centralisation. Thus since Bombay is the natural harbour of India, Bombay should be the central place for overseas trade and nothing else. Then only the health of Bombay shall remain good. We have disturbed the educational seat like Poona or the political capital like Delhi by unnecessarily bringing many industries to these cities. They can be accommodated elsewhere with great comfort for all people. With the cheap transmission of nuclear energy this will become all the more easy and will also fit in well with requirements of modern Defence. Then each town will house one industrial family and people will feel at Home as against the present position when they are somehow housed in a chawl. If India lives and should live in villages, the Indians do live and must live in their homes. The home is the centre of Bharatiya Sanskriti. It is the

only place where all the best of samskaras can be given to a child who is the tomorrow's citizen. The stability of the home is not opposed to dynamism of social action. On the contrary a home is the dynamic centre of human activity. Right from the early morning when the mother in the home milks the cow to the late evenings when the boys water the gardens and gather round the parents to give their daily account of life and listen to their words and stories of wisdom and love - and all pray and dine together in a surrounding of Mother's love, the Indian Home is the very centre of all important activity by which the culture of man flowers. To destroy this home at the altar of a monstrous ruthless machine and then to run to press and worker's education class for mental culture is the greatest cruelty which intellect and science has inflicted on men. To search for happiness in this heart of pain is another moonshine of that arrogant intellect. Instead of going on this path of ruin, we must tame the machines as we have tamed through the ages the cats and dogs and other animals. A quiet home is a more potent educator and builder of mind than all the three great gifts of West viz. Press, Platform and Publicity. But for this purpose the man should not be required to run after the machine, the machine should be brought as near as possible to the man. This man lives in homes and small communities and towns and rises steadily to a national and international stature. It is still only in a small circle that he finds or can find and retain his individuality and harmonise the same with the collectivity. It is in such surroundings of a natural group that he can arrest the attention of collectivity to his individual demands or can himself understand and sympathise with the demands of other individuals or collectivity. A jump from man to mankind is the harbinger of many deceptions. Such an unnatural jump will not be able to cultivate the true brotherhood - which is the reconciling factor between Freedom and Equality. The West has missed this brotherhood. That is why it found in pursuit of freedom the growth of inequality and had to denounce capitalism and is now finding in pursuit of Equality the destruction of freedom and is therefore condemning socialism and communism. The brotherhood holds the key to the triple gospel of the French Revolution Liberty, Equality and Fraternity and brotherhood takes its birth in the Home and the Hearth. An ideal family life and an ideal Home ( गृहस्थाश्रम ) is the first self-determining unit of socio-economic structure. The essence of this harmonious self-determinism has to be widened into a greater tree in industrial family, nation or such other larger groupings. The principle of an organically self-determining communal life - self-determining not only in the mass and by the means of the machinery of vote and a representative body, but in every pulse of its life and in each separate member of its existence is the most permanent of all principles of true nation-building activity in India. It is the very base of her construction.

The profoundly intuitive habit of Indian mind flowers in these circumstances into illuminations, inspirations and higher experiences of the spirit and by its discovered greater self and spirit and through its innate power of unity, sympathy, spontaneous liberty, supple and living order of life gives to communal existence its law of freedom, perfection and oneness. This is how the most elemental, simple, universal and equal leverage of soul strength of individual is invited for the construction of a nation-building activity in an integrated manner. The dream of Integral Humanism will grow only on this construction and a little patience will demonstrate to us that there is no mightier, speedier and all-pervasive power than this equally founded and faultless ( निर्दोषं हि समं ब्रह्म ) power of human existence. The apparent slow evolution of custom and institution that takes place in this conservatism about the principles of settled order is in fact a hundred-fold swifter and wiser process of multiplying human happiness than what the ways of artificial organisation of the bureaucratic and industrial state can think of with their mechanising rational intelligence, aided by every possible sophistication and efficiency which modern science can give. Thus indeed we should digest the gifts of modern science and stand as a leader in the human race in its effort of greater attainments of the future. The true welfare and social security schemes which a high body like National Commission on Labour should suggest as worthy of effort for the remaining part of this century should not be an inch lower than these requirements of our national mission. There lies the way and ideal of human well-being.

### Housing.

327. The above discussion makes it clear that provision of a Home for the family of each and every worker becomes the first pressing necessity of any welfare programme. This cannot be done unless we put a definite and final halt to indiscriminate acceptance of foreign technology for our industrial development. At present we are witnessing the spectacle of lakhs of rupees being spent in a city like Bombay to reclaim just a few miles of land from the sea. This costly reclamation does not provide any guarantee that it will serve any purpose to house any considerable number of souls that are today lying on Bombay's pavements or huts or those lakhs of other male workers who for want of accommodation live as a crowd of 15-20 persons in a single room - all keeping their wives and children away at thousands of miles. Even to facilitate a movement on road Bombay is thinking of pouring crores of rupees to construct overhead bridges and under-ground tunnels and railways. And at the same time in the very heart of country the Madhya Pradesh presents us a picture of vast land - athirst for the look of a man - a vast unutilised natural potential - a gift of resources lying idle, left without any worthwhile

communication. In the interest of human welfare, national productivity and equality it is quite essential that we must spread out our population and house them well in all parts of the country. Each Industry should be compelled by law to build for each of its worker's family a good house. Without that it should not be allowed to keep in its employ any person. For all new industries that may come hereafter, this provision should be made absolutely binding. The compulsion fits in well with the decentralised nature of industrial frame-work which we have visualised in the opening paras of this Chapter. For the industries which are already functioning a phased programme of housing for workers should be made obligatory. If on this account it becomes necessary to shift the location of any industry or industries, the Government should come forward to facilitate this shifting. Just like a minimum of education, a minimum of living place should form an obligatory part of national programme.

328. We are aware that the Government as a financing and even constructing agency is undertaking a vast housing programme - specially for industrial workers, low-income groups and backward classes and tribes. The various housing boards, the local and port-trust authorities, the housing co-operatives and employees in private sector are getting sumptuous loans from the Central and State Governments, the L.I.C., the commercial banks and the apex housing co-operative societies. Even some central co-operative banks and urban co-operatives are extending financial help for housing, though like the commercial banks their help too is in the nature of a stop-gap financial arrangement to tide over transitory financial stringency. The credit to usher in the era of apex co-operative housing finance societies with two-tier long-term credit structure system in the field of co-operative housing finance goes to the late Shri V.L. Mehta a veteran co-operator. The first co-operative action in the form of building society appears to be initiated in 1913-14 in Coimbatore in Madras State and was followed by a similar action in Bombay under the name of Sarswat Co-operative Housing Society. But till we were confronted with the problem of heavy influx of our people from Pakistan, following the cruel partition of our country, the Government action in the sphere was almost nil. Following the pattern of massive refugee rehabilitation programme based on grants and subsidies, the first five-year plan envisaged a similar house-building activity for industrial workers, low income groups and depressed sections of the community - or shall we say for industrial and social refugees as well as political refugees. For in both the political and economic spheres our large-scale actions have resulted in making it impossible for people to live in their traditional homes. They are made to seek refuge in utterly humiliating conditions of modern cities which are to large sections of

populations a compulsory dungeon and prison-cells damaging their health and morals. And then to whatever little help we have given to give a single room to these help-less families- we have given the name of a welfare activity.

329. The subsidised Industrial Housing Scheme, which was introduced in September 1952 contemplates financial assistance in the form of loans and subsidies by the Central Government to State Governments and through them to the housing boards, the municipal bodies and the industrial undertakings for providing housing finance accommodation to industrial workers as defined under the Factories Act 1948 and/or whom the Employees Provident Fund Act 1952 is applicable. The housing co-operative societies formed by industrial workers are eligible for aid to the extent of 65 p.c. as loan and 25 p.c. as subsidy on the graded cost of each tenement, while the remaining 10 p.c. can be drawn as non-refundable loan from the provident fund account. But all these calculations are based on the limits of the maximum estimated costs prescribed under the scheme and it has been noticed that the actual costs always surpass these limits. Moreover there are almost invariable delays in obtaining the approval of the Government to the projects. Various procedural formalities attending disbursement of instalments make irksome additions to these delays. Difficulties in acquiring suitable sites and building material such as cement further aggravate the problem. All this world of shortage and delays is again invested with under-hand dealings and this factor coupled with unfair practices in use of low-quality building material severely curtails the utility of the scheme from its own contemplated standards. It is no wonder that large amounts ear-marked for housing for industrial workers are lying idle while the sufferings of workers for want of shelter are on the increase. In order to increase the utility of these schemes various State Governments have made frequent changes in details of operation, but the total effect of these changes has been the creation of a greater confusion following absence of any continuity in regard to the implementation authority for the scheme. Thus on the one hand we see a vast section of society aspiring for decent housing, while on the other hand we have a Government waiting with large amounts of money offered on a scheme that claims to meet the full cost of construction and the paradoxical result is that workers are losing faith in the Government that it can ever assist them in giving a good house. This amazing state of affairs is a sad commentary on the welfare administration of our welfare state and it will be seen that this gap between promise and plan on the one hand and performance on the other afflicts the whole subject of welfare at all levels - starting from effectivity of welfare officers and welfare budget on the plant level to the welfare schemes of State and Central Governments. As if in a desperate bid to bridge this gap various



public bodies like housing boards, municipal authorities have come ahead with slum clearance schemes or housing schemes for scheduled castes, the scheduled tribes, the nomadic tribes and denotified tribes. The institutions like dock labour boards, plantation labour boards, mines welfare fund, etc., have also made a useful contribution. Wherever these agencies have assumed the role of a construction agency instead of mere financing agency they have indeed given some relief by way of providing tenements for low income groups. The L.I.C. has provided a large part of working capital to these as well as other agencies like apex housing societies and "Own Your House Scheme". Likewise for contractors and other private house construction agencies the commercial banks, the mortgage banks and even central and urban co-operative banks have provided short-term financial accommodation to facilitate the work of construction. The workers on their own part have also made special efforts to bring into service their own specialised institutions. The Majoor Sahakari Bank Ltd., or the People's Co-operative Bank Ltd., - both of Ahmedabad - are instances in point that have specialised in financing housing schemes for industrial workers. On the construction side too notable contributions are being made by some individuals or firms having interest of workers at their heart. The most notable effort in this regard is of cheap but sound houses built by Shri G.D.Naidu of Coimbatore for industrial workers. The Hon'ble Shri V.V.Giri, the Vice-President of India, has applauded Shri G.D. Naidu's efforts and has recommended its study for wider application. Some employers notably the commercial bankers are also coming forward to give liberal assistance for their own employees and officers for construction of houses by giving interest-free or cheap loans. The Employees Provident Fund Organisation - the second biggest institutional investor of the country with its 900 crores of rupees of investment potential, next only to L.I.C. having Rs.1000 crores, has also decided to go in for construction and purchase of building and houses in important cities to be rented out though on profit basis.

330. Such are the efforts to help the workers in their struggle to meet their bare necessity for a shelter, and yet it has touched hardly a fringe of the problem. The rapid urbanisation, the constant rise in cost of living, shortage of building site in cities, high land-costs, shortage and high prices of building material, especially cement, iron and steel and building equipment have made a moderate home a dream for the worker and a choice for location, design or technique and form of architecture for one's own dwelling place - an impossibility and a chimera. Even the one-room tenements that are eating half the worker's income by way of monthly rent are not available unless he mortgages his all to give the first pagree. The uneven distribution of wealth brought in by indiscriminate

industrialisation and urbanisation finds its standing proof and monument in the great bungalows of the rich and residential blocks of the higher middle class that are seen by envying eyes of millions who are sleeping on roads or in crowded hutments and single-room tenements. It is indeed high time that provision of decent housing for workers is made a compulsion for each and every industry, business-house, firm, establishment or government department or undertaking. It should be considered as a sin to engage a man for producing something for the factory or working otherwise for a wage without giving him a residential accommodation worth living for his whole family. Similarly this housing should not be a mere cement-concrete stable where somehow the human beings are huddled as in a prison cell or dungeon - but a good and decent Home which one can love for his life. This is the minimum necessity in any welfare programme. Rather the word welfare is even inapplicable at this stage - it is a bare need of human living - just like food and clothing - a must to keep soul and body together before one can think of work - a birth right of man. And this cannot be done unless we put a halt to indiscriminate acceptance of foreign technology and its appalling urbanisation and re-order our planning process on saner and more human lines. In the process of planning the Life of Man is the central deity to whom everything should be offered for his well-being. The first collective embodiment of human living is the life of the family flowering in its own Home. The moment the industrialisation ignores or bypasses this Home and its requirements, it destroys the well-being of Man. No welfare activity will be able to substitute a good home. Therefore the first consideration of true welfare is this that it should require the whole gamut of industrial activity to adjust itself with the requirements of a family life. Machine should not be the master of man, but the Man must command the Machine. Then alone true welfare will begin.

#### Health and other Amenities.

331. The next question that should engage our attention in a welfare programme is the health of the worker and his family. This again is a question of good living. The aim of any health programme is to minimise the incidence of sickness and premature death. From this aspect it is clear that the preventive aspect of medicine must be given a far greater importance than merely curative one. No doubt, the preventive system of medicine requires a good deal of propaganda and it starts right from pre-natal stage and occupies a place of central importance in building up sound and healthy habits during the school-days. This is a wider field of activity than what the N.L.C. can consider. But its foundational importance has to be noted - more so because with the coming up of workers colonies and industrial housing the care of children in community living is becoming as much a part of industry's welfare activity as

that of any other social body. Many industries have already given a great deal of encouragement to family planning. It will be better that they also consider public hygiene, growth of health-habits and bodily culture and preventive system of medicine as a part of their duty towards workers. Especially it is necessary that each industry affords or compulsorily makes a full medical check-up of each worker during the course of a year and provides a free follow-up treatment as found necessary for each man during the said check-up. The facility should be extended to worker's family as well. This in itself will promote health and well-being, reduce absenteeism and medical costs. Next it should be the duty of the Industry to see that perfect cleanliness and light and ventilation is provided at the place of work and no natural conveniences are forgotten in the design of a work place. This is especially necessary to be noted for many small establishments and shops. The law should provide certain minimum requirements such as drinking water, latrines first-aid, specified light and ventilation, protection from smoke or like nuisance, cleanliness, etc., as absolutely necessary for carrying on any business or employment of any individual. If it is found that any owner of any establishment is negligent in this respect the Government should enforce these provisions by undertaking construction if need be and realise expenses from the owner. For some other facilities such as canteen or medical aid it may not be economically feasible for each small establishment to do anything more than to provide an eating place and arrangement for heating or cooking food. This much should then be done. Perhaps in this case it will be better if the local government is empowered to declare a group of establishments in a given locality as one industry or one establishment for the purpose of making provision regarding canteen and curative medicine. The definition can be extended for making provision for some other conveniences such as creches for children where women are employed, or fair-price shops or transport from place of work to place of residence or nearest railway station. A group of establishments whose total employee-strength exceeds a defined number should be considered as one establishment for providing these facilities and the employers of these establishments should be required to share the costs of these benefits on a pro-rata basis according to the number of workmen employed in each establishment. It is also very necessary to see that the type of food provided in these canteens is nutritious and cheap and the medical treatment given by doctors appointed by industries conforms to professional standards and given with courtesy and cheer. We have received many complaints in regard to unwholesome food in canteen and misbehaviour and arrogance of doctors and carelessness in giving medical prescriptions. It seems that the industry having set a canteen and employed a degree-holder of medicine loses all further control over them and takes no responsibility in their working. This stage of affairs has resulted in

workers losing all their faith in country's institutions and has promoted a cynical attitude. Good food and medicine are factors of cardinal importance for human life and any wilful neglect in this regard should be treated as a criminal offence. It will be better if in the management of these welfare activities the workers are given a prominent share. They should be financed from an industrial fund which can be built up by providing for a cess on production or sales or earmarked as a fixed percentage on working capital and entrusted to an appropriate Tripartite body at local, state and all-India level. The Government and local bodies like Municipality should also be required to contribute to this welfare pool. In the case of small establishments a central administration on the lines of Provident Fund or Employees' State Insurance Corporation may manage certain defined activities, while for others a group of establishments may be declared as one unit as defined earlier. In the financing of these schemes we do not see any particular merit in recovering any amount from the workers. For the worker as such do not constitute an income-generating or revenue-collecting unit like industry or government. Once such a fund is established for the sole purpose of welfare, then many types of different activities can be undertaken at different places according to the need of workers and availability of funds. They can include various types of educational facilities, sports, arts, recreation facilities, reliefs, cash benefits for needy or deserving children, men and families, promotion of various tastes and habits through system of rewards, provision of various facilities at the place of work or residence, such as cheap laundry, medical utensils for sick and old, rest rooms and libraries, encouragement for tours or provisions for holiday-homes, all types of aid such as books and milk for children or sewing machines for ladies, rehabilitation-cum-convalescent homes for disabled individuals, and many types of entertainments for all types of workers and people. The list can be un-endingly long, because welfare is an expanding concept. In this context it is necessary to remember that the out-door worker - who is out of sight - is not forgotten. It is not sufficient to give him only the rain-coats and umbrellas and winter clothing and uniforms and gum-boots and a suit-case. All this he must necessarily get. But his special difficulties of accommodation, irregularity in food and sleep consequent upon incessant travel, the difficulties in regard to education of his children and deprivation from family life must be amply compensated by suitably regulating his hours of work and work-load and provision of special facilities and leaves for him to enable him to participate in community life. His needs for food and shelter can be better looked after by universalising the concept of traveller's bungalow and making it obligatory on municipal and local bodies to provide decent food and shelter for men on line-duty, and travel. The pitiable sight of workers engaged in a road

or railway construction and maintenance works gives no credit to an employer or government engaging these workers. Their status as casual or contractor's labour should not become a bar in providing them and their families reasonable welfare amenities. The workers often derive their standards of reasonable performance from the standard of welfare provisions made for them by the employer and it will not be wrong to conclude that one of the chief reasons for poverty of Indian craftsmanship, skill and productivity lies in the poverty of attention given to the needs and well-being of workmen.

Welfare Officer:

332. With the development of specialisation which has attended large-scale techniques of production, the welfare work in industry is being entrusted to a special agency under the command of welfare officers. This is as it should be. But many employers stop only at this appointment or at the most ask the welfare officers to fulfill only the statutory obligations regarding labour welfare or manage to see that the complaints regarding welfare facilities do not assume menacing proportions. There is also a school of thought in Indian Industry that looks upon the welfare officer as a third force acting as a buffer-zone to cushion the opposite forces of labour and management or as a liaison officer. Quite often a utilitarian outlook is brought in evaluating the role and work of a welfare officer and his output is measured in terms of production and profits which his activities can bring to the concern. Still another class of employees who consider themselves as progressive grant a certain neutrality to the welfare officers and do not mind if in situations of conflict his open vote goes in favour of labour. It may be that a broad humanitarian attitude or a charitable purpose may be informing this attitude of the employer. But all these professions of employers who are ultimately paying the welfare officer for performing certain functions as their nominee cannot disguise the fact that it is something other than pure welfare which is still sought as an aim under the name of welfare. This double-dealing is not without its inevitable rebound. A time does come in the sphere of industrial relation in each industry when this role of welfare officer working as an agent of management stands woefully exposed and makes the welfare officer the most miserable creature in the whole spectrum of industrial relation. In many strikes the welfare officer has been the first victim at the hands of leaders of labour.

333. A real welfare officer should be looked upon as a servant of workers or at least a social worker entirely dedicated to the task of promoting the well-being of work-people. He should have no other function but looking after the happiness of workers and their families. No other task

is nobler than this duty to labour - it is a worship done directly at the feet of God. And like true worship, it should be done with devotion and without any expectation of return. In terms of Western thought this may be treated as a social service done through a professional cadre. It seems this is how Shri V.G. Mhetras, Professor of Labour Economics in the Bombay Labour Institute, has conceived the welfare officer's task in his extremely well-written booklet 'Labour Welfare and Welfare Officer in Indian Industry'. The chart given at the end of this book depicting the duties of a welfare officer and the analysis of his role as a social worker are well-taken. But still the whole treatment looks like one of giving emphasis to welfare orientation as against a job centred round the organisation, a persuasive role of reducing tensions and improving the climate of mutuality. But this too is an imperfect worship - a work done without any innate faith. Its failure is predestined in its very conceptions and can be safely foretold. Nothing else than the genuine welfare of workers should be the theme of welfare officer's role. The concept that he is an employer's man should totally vanish. He is a man of God, dedicated to the goodness in humanity. It must be the faith of the industry that such an unreserved consecration to the goodness of all - in at least a corner of industrial relation programme - will bring in automatic good results. In fact such a role alone will save the industry from a great peril. 'स्वल्पमप्यस्य धर्मस्य त्रायते महतो भयात्'

In order that this role may be played by the labour officer or welfare officer with immunity, it will be a good practice that his appointment and removal should be done only on the recommendation and consent of the Chief Labour Commissioner or such outside agency or better still by an authority constituted under the standing tripartite machinery suggested earlier by us in para 144 of our submission.

#### Absenteeism:

334. The absenteeism is considered to be one of the greatest diseases afflicting the efficient functioning of Industry in India. The man-days lost through the strikes in India are found to vary between 30 lakhs in the best of year ( e.g. 1963 when with the chinese aggression all labour struggles were voluntarily abandoned ) to 100 lakhs in the worst. But the man-days lost through absenteeism are far more. One estimate puts this figure as exceeding 150 lakhs man-days in a year. Shri N.B. Khory in his article in Economic Times dated 28th December 1967 has given very interesting figures of average annual rates of absenteeism in certain industries and centres in India during the period 1960-65. The averages for the whole period worked out by him give the following figures:

Industry	Place	Average annual rate of absenteeism for 1960-65.
Cotton Mills	Bombay	12.7
" "	Ahmedabad	7.9
" "	Sholapur	16.5
" "	Kanpur	16.4
Engineering	Bombay	14.1
"	W. Bengal	13.2
"	Mysore	12.9
Plantations	"	20.3
Coal Mines	All India	13.3

These figures are the total of voluntary and involuntary absence put together, or annual leave, casual leave, sickness leave, etc. but exclude weekly offs. Hence they will be required to be read with the necessary discount. But even then the figures are gigantic enough. Speaking in terms of effect of absenteeism on production Shri Khory concludes that just one percent rate of absence over a year will be equivalent to 5 or 6 fully successful Bandhs observed by the organised industrial sector in all major Indian cities at a time. The most notable amongst this absence is the sickness absence or certified absence. It is said that this phenomena has increased after the introduction of the Employees' State Insurance Scheme. The phenomenon of this absenteeism is quite general and has a tendency to increase with more and more generous sickness benefit schemes. This is so in England, Germany, Australia, America and Japan. Even Communist countries are finding that the incidence of sickness is rising. The average industrial worker in Hungary stops away from work for 19 days per year due to illness while the one in Czechoslovakia does so for an average of 14.5 days. It is observed in Western countries that quite often psycho-somatic tendencies aggravate even minor feelings of illness into compulsions for staying away from work. The escape-habit and lax certification by doctors can also be a cause. The Imperial Chemical Industries in U.K., where a generous sickness benefits scheme exists entirely at the cost of the employer is said to have the highest rate of absenteeism in the chemical industry in U.K. Be that what it may, the production losses due to absent employees are quire enormous even in Western countries. One British report on the subject puts that while the days lost through strikes in British industry total to three million days, those lost due to absenteeism come to about 300 million days. The phenomenon is quite great in Asia and Africa. In India it is further aggravated due to general depression of

discipline in industrial community. It is even said that the average worker in Indian factories works for only four hours a day and a clerk hardly puts in 3-hour work. An S.Q.C. study puts overall wastage in Indian Industry at as high as 20-25 per cent and further points out that even in the best managed industrial units the overall plant utilisation is less than 40 per cent.

335. This subject of absenteeism has received an attention of many students and writers on industrial psychology. But it appears that the question has eluded all solutions. Quite recently Mr. Vaid conducted an intensive research in this regard in the Textile Industry in Delhi. After making a distinction between the authorised absence and the unauthorised absenteeism, the author has classified the case histories of the chronic absentees into five categories viz., entrepreneurs, status-seekers, epicureans, family oriented and the sick and old. The first two belonged to a category of imposing activists - the entrepreneurs being engaged in too many pursuits to care for daily attendance at mill and the status seekers exercising their status considerations in an unauthorised manner. The rest belonged to the class of escapists of which the epicureans are a class, the family oriented are in love with their home-affairs while the sick and the old are helpless. The author has however only one major suggestion to make to cure this tendency and that is to fit the right man for the right job. For this purpose he suggests a careful selection programme based on aptitude tests and a counselling service to help individuals to make proper adjustments to the job. It is yet to be seen how far the suggestion is practicable in Indian situation and what will be its utility to reduce absenteeism. It points out to however one significant fact that the Indian worker is not happy with his present position and surroundings. He finds his job distasteful. There is no other reason why he should lose a part of his already low wages and prefer to stay away from work. In this context it is very significant to note that the tendency for absenteeism is totally absent in the self-employed sector. The Patiwalla, the riksha-puller, the taxi-driver, the dubbawalla, the milkman, the street hawker, the cobbler, the doctor, the advocate, the politician, the trade union worker never absent themselves from the work even though they are not accountable like workers. They are often found working on Sundays and for late hours with a willing heart. So also the house-wives that constitute half the country's working population hardly think about a rest day. A general laxity can hardly be described as an oriental attitude. No doubt we have a general indifference, relatively greater than that of others for motivations of monetary incentives and industrial discipline and so no external remedy may compel us for a work for any longer time than what pure bodily needs demand. But a work that absorbs the mind and its interests, a work in which



one can pour his body and soul does find an immensely fascinating adventure for the Indian mind. He can forget all other things in the presence of such an inviting task. And here lies the key of making a perfect approach to his work habits.

336. The urge for creation is universal in human mind. Work in its true form is the manifestation of this inner urge. This urge is the nature of creation. The tree flowers by creating urge. Work in this sense is born with the Man - सहजं कर्म . Man cannot live without any work.

न हि कश्चित् क्षणमपि जातु तिष्ठत्यकर्मकृत् ।  
Even for his physical needs he has to work - the journey of his body is impossible without it. शरीरयात्रा ऽपि - य ते

न प्रसिद्धयेत्कर्मणिः । Moreover for each man there is a work appropriate to his innate nature - a type of work peculiar to his individuality, born with his nature which naturally binds him as if in spite of himself. He is appointed for a task which he has to recognise as his way of fulfillment. स्वभावजेन कर्मणि निबद्धः स्वेन कर्मणा ।

as the Gita puts it. It is for all of us to help each individual to recognise the work most appropriate to his nature - a work which is his birth-right. In our treatment of industrial family we had already occasion to lay down the first principles of a socio-economic system of self-determined and self-governing communal bodies. स्वयंशासित-समष्टि . In dealing with the question of individual's interest in work we have to understand and second the process of self-unfolding and therefore self-disciplined individual growth स्वाधीनव्यष्टि and ways of its harmonious fulfillment in consonance with the general aims of society. In fact it is inconceivable to think about the life of the society without thinking about the life of its individuals. And yet this is a mistake that is too often committed by intellectuals who conceive of a social life first, plan its operations and then go ahead to find out men to recruit in the designed patterns. Everybody is made to fit in a pre-tailored uniform. And when on such recruitment they do not find right type of men, they go on complaining about others and society and invoke the help of state and other agencies to order human natures to their planned requirements. They pass strictures upon others for not doing the work which was never heartily approved by these others. They forget that these others are also human beings just like them - they have their own urges of work and self-expression and if they are not allowed to grow according to their own way of being and becoming then great peril is bound to be the result. परधर्मो भयावहः ।

Industrialisation of the Western type is an alien rule. It seeks to introduce aims and principles of existence which are foreign to our culture and which bring in our life social and economic discords, moral plagues and cruel problems. The absenteeism of Indian worker is a war

declared against this foreign and cruel rule. The nature of each individual is for all practical purposes a strongly established and persistent actuality of life. The spontaneous and natural inclinations and actions of the child and the trend taken by his education gives us a type of man whose creative pursuits become well-marked for each individual in a distinct manner. It is this individual who is to be invited or encouraged to select his own appropriate work in life. The social order can do the work of a gardener but it has to accept the nature of each seed as given by the God स्वभाव-नियतं कर्म . The collective life should grow organically with the additions and placing of individual; as a 'समाष्टि' grow organically like a tree or human body assimilating fresh current of food and energy and quite naturally re-forming its growth by a process of natural assimilation. So also each individual must find his natural place in the organic growth of social life in such a way that his nature gets flooded by the great urge of creative spirit which informs human living. In other words if we begin to build our society not on the foundation of machines and capital, but on the basis of the varied treasure of human beings and their bountiful nature, then we shall find that each and every man is of immense use to the whole society and everybody is indeed eager to take his station in life and create. Even the technique of Scientific Management in the West has begun to realise the supreme importance of this care of each individual in administration. They have already developed personnel developed programmes to suit phases and lines of each individual's unique growth-needs. The recent trend in distribution of functions and powers does tell us that they should not be fixed according to the posts but should change according to the capacities and qualities of individuals occupying different posts from time to time. This is the pre-requisite to interest an individual in a occupation. And as we have already shown the real task is to give to each person his self-appointed mission. As an old Sanskrit proverb goes-

अमंत्रम् अक्षरं नास्ति । नास्ति मूलमनोषधम् ॥

अयोग्यः पुरुषो नास्ति । योजकः तत्र दुर्लभः ॥

Indeed there is not a single unfit human being - but it is the planner who is at fault. He must put each being in his proper place. As is well described by the poet of 'The Mountain and the Squirrel', the squirrel rightly says to the mountain:

" Everything is well and wisely put  
Talents differ.  
If I cannot grow forest on my back,  
Neither can you crack a nut. "

Each is perfect in his place and none can outwit the other in his own field. A faith in the creative urge of every man, a constant search to find a matching form for the manifestation of his urge, a vast structure of social life

on the basis of this creative urge of each individual, and a knitting together of their lives and lines of free self-fulfillment, this is indeed a way out not only to cure absenteeism but more positively to lay down a way of perfecting the ever-fulfilling technique of presenteeism of each individual in the ever fresh and youthful life - stream of the race.

### Social Security:

337. This is a great and unending field. The constitution of India embodies quite a fundamental thinking in this regard. The preamble of the constitution declares a solemn resolve to secure for all citizens justice - social, economic and political and equality of status and opportunity. The Directive Principles of State Policy lay down that "the State shall, within the limits of its economic capacity and development, make effective provision of unemployment, old age, sickness and disablement and in other cases of deserved want". The first five year plan recognised the fact that in order to translate into action these directive principles of state policy the socio-economic framework has itself to be remoulded so as to enable it to accommodate progressively those fundamental urges which express themselves in the demands for right to work, the right to adequate income, the right to education and a measure of insurance against old age, sickness and other disabilities. Accordingly the five year plan indicated that during the plan period the Employees State Insurance Act and the Provident Funds Acts should be properly implemented before any new steps are taken because of the novelty, administrative and other difficulties and financial implication of the scheme. The first plan achieved its target. The second plan contemplated the extension of schemes to new industries and members, enhanced the rate of contribution to Provident Fund and recommended the integration of the P.F. and E.S.I. Schemes into an integrated system of social security. The integration is now said to be under way. The rest of the things were done in a phased manner. It must however be noted in this regard that after the initial legislative accord being given to P.F. and E.S.I. Schemes the two other benefits viz. Pension and Gratuity are not yet given any legal status. This lacunae needs to be fulfilled now. So far, the social security approach was confined to wage earners in organised industry. The Third Five Year Plan declared that progressively, the State and local bodies urban and rural will need to participate in schemes undertaken by way of social assistance and social security. A modest beginning on these lines was supposed to be done for three groups of persons - the physically handicapped, old persons unable to work and women and children who are altogether lacking in the means of livelihood and support. It was also laid down that the E.S.I. Scheme will be extended to areas with an insurable population of between 500 to 1500 persons. The Government

has made quite commendable efforts to fulfill the ambitious targets of the third five year plan. A review of E.S.I. Scheme has recently been taken by a Tripartite Committee under the Chairmanship of Hon'ble Shri C.R. Pattabhiraman. The Committee has again stressed the need for evolving an integrated programme of social security. Recently in June 1964 the G.O.I. has taken a major step to promote various social security and welfare measures by setting up a separate department of social security under the Ministry of Law and Social Security. The first annual report of this department declares that it is the intention of the Government to investigate and introduce additional schemes for strengthening this aspect of social security and to enhance the level of benefit wherever possible. The various schemes operated by the State Governments in this regard with the assistance of central funds extend assistance to the 65 million scheduled castes and 30 million scheduled tribes people. An assistance in the nature of educational facilities has been extended not only to the denotified communities and the nomadis tribes, but also to families whose annual income is below a specified minimum. So far the pensioners were forgotten from these schemes. But in October 1964, the Government made a small beginning in this regard by granting an ad hoc increase in amount of pensions. The Government employees are already having a P.F. Scheme as an alternative to pension. For a decade now they are also covered by a contributory health scheme. The Family Pension Scheme has also undergone a revision so as to provide for a grant of a pension for life to the widow of an employee and payment of allowance to minor children. For teachers in Government and private schools a triple benefit scheme consisting of pension and gratuity, contributory provident fund and compulsory insurance has been recently introduced. The health service scheme started in December 1966 by the University Grants Commission is estimated to benefit nearly 12 lakhs students and 70,000 teachers and other categories of staff and their families. The Railways have undertaken a scheme to extend medical facilities to their retired employees and for wives of retired employees. An unemployment Insurance Scheme has recently been approved by the Parliament to cover about 48 lakhs members of E.P.F. and Coal Mines Provident Fund. The subject of unemployment insurance has been engaging the attention of Government since 1954 when a working group under the Ministry of Labour had recommended a scheme for industrial workers providing for a cash benefit at the rate of about half the daily wage for a period of 13 weeks in one year. It is felt that in the Engineering and Textile Industry where frictional unemployment following constant technological renovations is likely to become a rule, an unemployment insurance will provide a better alternative or addition to retrenchment or compensation on closure. It is understood that the question of evolving a suitable Model Old Age Pension Scheme for the whole country is also under active consideration of

the Government. If this scheme comes into reality it will be a unique achievement for the Indian Government. Recently in 1966-67 the Government has earmarked a sum of Rs.20 lakhs as Relief and Assistance Fund to grant relief and assistance to handicapped persons and to destitute old persons, women and children. An integrated programme for extending social security to rural families has also been drawn up. This is indeed commendable. The Ministry of Rehabilitation provides free rations, clothing, medicines, milk, etc. for displaced children and expectant mothers. About 100 voluntary organisations provide institutional care and non-institutional service for socially handicapped women and children, widows, deserted and neglected children, to the deaf and the mute. These various social security measures in the form of legislative enactments, in the form of social assistance and in the form of financial allowances are already under way - as far as the economy can bear. The E.S.I. Scheme today covers 3.1 million workers, medical care under various schemes is provided to 51.2 million persons, employment injury benefits are admissible to about 6.5 million workers while the various P.F. schemes give a cover to 13 million persons in their old age. The ultimate power of administration of social security schemes is in the hands of tripartite bodies. This is as it should be. An integrated programme of social security which includes the merger of E.S.I. with P.F. Schemes is already under way. The Government has done well in declaring that this unification of all social security measures will be given a first priority since it can provide a strong administrative and financial base for the future development. Qualitative improvements in the existing measures such as provision of adequate hospitals and specialised services, provisions for rehabilitation, re-employment and retraining of the handicapped, extension of present schemes to small factory units, shops and commercial establishments, trading concerns, etc., provision of medical care to self-employed and non-employed sectors both in rural and urban areas, gradual extension of entire social security scheme for self-employed persons giving in the first instance a protection against risks such as invalidity, old age and death and a scheme of National Health Insurance for the entire population of India are already on the declared programme of the Government. This is indeed one spot in the whole effort of the Government where a sincere and praise-worthy work is done and planned for the future. The only sad feature that marks these efforts of a long-ranged nature is that with the constant increase in the price-level the real benefit of these various schemes is becoming less and less with time. It is to be presumed that the amount that is ear-marked for these schemes from the nation's revenue budget is invested properly in high yielding projects. If this is so then it should not be very difficult for the Government to tie up these various old age benefits and pensions to the cost of living index. Recently the Finance Ministry of the Government of

Sweden had circulated a booklet giving information of how the Swedish Government became successful in introducing index-bound schemes of P.F., Pension, Gratuity, etc. We know that recently the E.P.F. administration has made some sound rethinking on the investment of P.F. Funds. But the benefits of such sound investment programmes, if any, are not yet accrued to the labour. In these circumstances the benefits under the various social security schemes only inflate their true worth. In fact, however, it is only an illusory abundance. The basic programme of true social security undertaken and planned by the Government is indeed noteworthy, the skeleton is as nearing to perfection as is possible at this time, but it needs to be made sound in its footing and utility by looking with care to its day-to-day administration and depth of base given by soundness of supporting investment pattern. Then only the real benefits of these schemes will match their present promise.

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विद्यां च अविद्यां च यस्तद् वेद उभयं सह ।

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अविद्यया मृत्युं तीर्त्वा विद्ययामृतमश्नुते ॥

ईश उपनिषद् . ११.

Research ( Routine ):

338. There is clearly a case for unification of research work that is being conducted by research cells under the Planning Commission and the various Ministries of the Government of India. Whether the unified research agency should be placed under the Planning Commission or the Government of India is a matter that can be best determined by the experts in the science of administration. But even if the entire section is placed under the Government of India, it should not be difficult for the Planning Commission to get its work done through it.

339. There is also a case for the unification of work that is being carried out today by the research agencies of the Central Government and the State Governments. The work conducted by the various departments of the state Governments should be taken over by the corresponding departments of the Central Government.

340. Both these suggestions, if implemented, will eliminate duplication of work and promote efficiency.

341. So far as Labour Research under the Government of India is concerned, there is much scope for rationalisation and re-organisation of work. For example, there is a need to strengthen the co-ordination of such work that is being done under the Director General of Mines safety and the Director General of Factory Advice Service and Labour Institutes. True, the safety problems being handled by the two are somewhat different in character. Nevertheless, closer co-ordination between them will effect economy and increase efficiency.

342. It is also advisable to unify research work being done by the Labour Bureau, the Director General of Employment and Training and the office of the Chief Labour Commissioner.

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\* He who knows That as both in one, the Knowledge and the Ignorance, by the Ignorance crosses beyond death and by the Knowledge enjoys Immortality.

Isha Upanishad (11)

343. Such a unified agency of the Government should maintain closer links with the Central Statistical Organisation and the National Sample Survey on the one hand and the various bodies, such as E.S.I.C., C.P.F.C., Railway Board, P. & T., etc., on the other. Needless to add that the labour research sections of the various state Government Departments should also be merged into this unified agency. This agency should be in constant touch with the research work done by Universities, Social Science Institutes, Indian Society of Labour Economics, Schools of Social Work, research centres of the organisations of employers and trade unions, and the UNESCO Research Centre in India. The need for co-ordination of research work done by various agencies has been rightly appreciated by the Estimates Committee of the Lok Sabha and the eight-man Committee has proposed the constitution of the Council for Social Science Research, for this purpose. Till the proposal is approved and implemented, the work of co-ordination will have to be carried out by the unified agency suggested by us.

344. Universities and Social Science Institutes have potentialities of playing a much more important role in this respect. Presently, they engage themselves mainly in the academic aspect. But, with proper co-ordination and greater financial assistance, they can be profitably entrusted with research work on specific practical problems. This will render the nature of their research more applied than theoretical. If this is done, their research personnel will acquire respectability in industrial circles and being impartial, command confidence of both, the employers and the employees. From this position of vantage, they can fulfill the long felt need for the emergence of a class of impartial experts who can be depended upon by both the employers and the employees for advice and guidance on matters technical and industrial. Conscious efforts must be made for raising such a class through our Universities and Social Science Institutes. Not being partisans, they can become guides and philosophers to all parties to industrial relations.

345. Cultivation and development of research-mindedness among employers and workers is the prime necessity. In absence of such general statistics-consciousness, it would be very difficult to carry out research work accurately and efficiently. We do not think that this consciousness can be created among the trade unions only by providing them with financial aid for this purpose. Such aid would be immensely helpful, if it follows rather than precedes the growth of such consciousness.

346. With a view to co-ordinate on state level the work done by the Government agencies, the Universities and other non-official agencies, and the workers and the employers organisations, a state co-ordinating committee should be formed in every state.



347. The Government of India has been making systematic efforts to raise personnel trained in research and allied works. But, obviously, these efforts need to be further intensified, and the Government is also moving in that direction.

348. In view of the importance of research work, we think it necessary to accord special social responsibility to persons working in this field, so that, along with somewhat higher emoluments and job opportunities, Social status also should prove to be an incentive for such work.

349. If all out and concerted efforts are made to re-organise and further revitalise our various research agencies, along the lines suggested above, we can ensure arrangements for research and studies in the field of labour, adequate enough to meet the requirements of policy making in labour and economic matters. With the growth of research mindedness, it would be possible to ensure fullest use of all research work by all the parties, official as well as non-official. Presently, only the Governments are putting the existing information on labour matters to any practical use, and, that too, mainly in connection with the enforcement of various Labour Laws. Even in formulating their labour policies, the various Governments are not utilising fully the information available. The employees and the workers, with the new orientation would be inclined to draw heavily upon the information thus collected, compiled and published, because they would be convinced of its utility in safeguarding and promoting their own interests. Sociologists, economists and other experts are sure to derive its fullest utility under all circumstances. Prompt publication and wide circulation of such information is, of course, a condition precedent. Present arrangements for the same are admittedly inadequate.

350. There should be a single Act providing for submission of all the returns under different Acts - the State and the Central - to one single agency. This will eliminate the difficulties arising out of non-uniformity of concepts and definitions under the various Acts and their varied coverage. It will also avoid " a good deal of unproductive work and unnecessary duplication" that is the result of the various statutory requirements of maintenance of different registers and sending of different filled in returns under different Acts.

351. Collection of statistics should not be related solely to the requirements of Acts. Nor should it be restricted by the limitations imposed by them. The coverage of statistics should be comprehensive so as not to suffer adversely on account of changes introduced by amendments to the Acts or varieties in coverage of the statistics on the same item under different Acts. The Collection of Statistics Act 1953, should be amended suitably with this end in

view. It should also introduce uniformity of concepts, definitions and coverage of various items.

352. Data presently collected and compiled in respect of work-stoppages (strikes and lock-outs) are not adequate for assessing the extent and variety of industrial unrest. Number of work-stoppages, number of workers involved, number of man-days lost, total wages lost in rupees, and total production lost in rupees, on account of factors other than strikes or lock-outs, such as power failure, inadequate supply of raw materials, difficulties in the movement of machines and materials, political agitations, sympathetic strikes, bandhs, local troubles, etc., must also be collected. Similarly effects of 'absenteeism', 'go-slow', 'work-to-rule', 'gheraos', etc., should also be made available. Even regarding strikes, the coverage should be wider so as to include the classification of the causes of strikes and their settlements, etc.

353. The present data deals mainly with the economic aspect of worker's life. Consequently, they present a lopsided picture. Social and sociological aspects which treat workers as general citizens must also be given due importance. The present compartmentalisation is unrealistic and likely to lead us to wrong conclusions. We must be furnished with data about the influence of social vices on workers' mental habits and that of industrialisation on the morality and well-being of their families. Data about their social customs are also valuable.

354. Even the economic data available today are inadequate. Adequate and regular statistics in construction, coffee plantations, transport, cottage industries, small-scale industries, self-employment sector, agriculture, mines other than coal mines, and establishments employing less than 10 workers should be collected and compiled. Similar statistics about unemployment and under-employment in the country, workers' indebtedness and expenditure-patterns, conditions of contract labour, productivity movement, the frequency and severity of industrial accidents, time-loss due to deaths and permanent disability, and actual working hours in different industries should also be collected.

355. Statistical data about unemployment, employment, consumption, expenditure, etc., that are being collected in respect of rural population annually by the National Sample Survey are not adequate. It is feasible and advisable to make these data available separately for rural labour for each state/Region. Relevant information, including that about wage-rates, on agricultural labour should be collected annually.

#### Index Statistics:

356. In recent years the workers organisations have

shown in great detail how the compilation and maintenance of different cost of living indices has been done on a faulty basis. The correctness of index number and its speedy publication is of vital concern to wage earners since a large component of their total emoluments is related to the monthly or quarterly index. In paragraph Nos. 141 and 229 of our submission we had already the occasion to point out that the compilation and maintenance of consumer price index numbers for agricultural, and urban and rural manual and non-manual workers and construction of indices for comparative costliness for different cities and regions should be done by a unified agency working under the supervision and control of the National Tripartite Body. It is necessary here to make it clear that like all labour statistics and more so in case of cost of living statistics the active association of workers and their representatives is of great importance at all the stages of survey and publication. The association should start directly from the stage of preparing the design of survey, the stage of pilot study, finalisation of questionnaire, training of survey or investigation staff, selection of sample and continue through the long process of enquiry and subsequent tabulation and preparation of weightage diagram and monthly enquiry form, determination of specification of articles and process of inevitable substitutions, selection of shops for collection of month by month statistics regarding retail prices of all items and periodic check up for items like house-rent, travelling costs, education, medicine, etc. Unless the workers are associated at all these and various other stages of compilation and maintenance of index statistics and survey of living and working conditions of workers' families, and the decennial survey is done with thoroughness and its results used very widely to frame wage policy and labour legislation this most important aspect of social enquiry and pivot of labour statistics will not get its rightful place. It will be a good practice to test hypothesis built from these statistics by making detailed sample enquiries either on random or stratified basis from time to time. As discussed earlier the compilation of a need-based minimum wage index should also be tried by taking the help of decennial survey and periodic sample enquiries. The different concepts of wages viz. the minimum, and the living wage and the range of fair wage can also be given monetary quantification by using the data made available by these enquiries. So also the policy for consumer credit specially the loan programme for housing and policy regarding life insurance, social security schemes, small savings drive, taxation, etc. should emerge through relevant discussions and seminars and studies made by analysing these surveys of living and working conditions of employees. The information statistics has a great role to play in this regard.

Research (Basic) :

357. It is further necessary to conduct research in the modern as well as the Indian technology with a view to:-

- (i) scrutinise western technology to ascertain what portions of it are adaptable to our cultural pattern, and in what manner,
- (ii) scrutinise the traditional technology to ascertain what portions of it are adaptable to modern conditions,
- (iii) develop our own indigenous technology in consonance with our cultural pattern with the following precautions:-
  - a) that it should lead to decentralisation of processes of production with the help of power and atomic energy;
  - b) that it should not lead to sudden decapitalisation of the existing, traditional means of production, on the contrary it should introduce suitable changes of mechanisation in them without decapitalising them,
  - c) that it should utilise and promote the existing skill, talent and genius of our traditional artisans and craftsmen, instead of rendering the same useless for productive purposes,
  - d) that it should utilise the small units of capital available in the country, and
  - e) that it should utilise and promote the available managerial skill in the country, instead of throwing it out of job.

358. It is also necessary to carry out research in the patterns of industrial structure, industrial relations and legislation in ancient India, with a view to determine what parts of the same can be utilised profitably today. Since research is meant to give a definite direction, and labour field cannot be considered or treated in isolation, it is advisable to evolve the guide lines of future socio-economic structure best suited to Indian genius and modern conditions. In absence of a general blue-print of such a socio-economic order, it would be impossible to give a definite direction to our efforts in the labour field. All directionless moves are merely a patch-work. This work cannot be entrusted safely to dogmatic politicians. For, what we are aspiring for is the assimilation of all knowledge eastern or western, and its conversion into the basis of our socio-economic renaissance. By assimilation we mean that we must not take it crudely in the European forms, but must go back to whatever corresponds to it, illumines its sense, justifies its

highest purport in our own cultural conception of life and existence, and in that light work out its extent, degree, form, relation to other ideas, application. More than any one else, research scholars are competent to accomplish this supreme task.

359. Whether these research projects can be placed under the unified agency specified above is a matter for administrative decision. But this agency should ensure that the work is undertaken and accomplished.

The Press:

360. Organisation of workers and employers use circulars, journals and news-bulletins for communicating with their members. Conferences, study classes, seminars, booklets, pamphlets, leaflets, posters, press-releases, press-conferences, gate-meetings, processions, morchas, demonstrations and hunger-strikes are also used by workers for publicity. Recently, employers have started publicising their cases and view points in the news-papers through paid advertisement. Such publicity made by the BEST management at Bombay during the last strike-period is a remarkable example of the success of this method.

361. A few trade union centres run their own periodicals. But their circulation is confined only to a section of their regular members. The foundations of the Labour Press are being laid, but its progress is far from being satisfactory. It is necessary to strengthen the Labour Press through workers' education and official aid.

362. During the last decade the Indian Press is showing progressively greater interest in labour matters. There is marked increase in their coverage of labour news and some of them feature labour columns regularly. Language papers are generally more liberal in the coverage of labour news. A few technical dailies like Economic Times and Financial Express are also doing a good service.

363. Nevertheless, it is true that labour disputes and problems do not receive adequate publicity through the columns of the news papers. Publicity, when given, generally pertains to strikes, hunger-strikes, anti-social activities, damage to public property, etc. It is so because, according to journalistic standards, such sensational incidents constitute a news, while industrial harmony and constructive achievements of workers have less news value, even as a man biting a dog is a first class news while a dog biting a man is no news at all. Education of the people in general and the workers in particular in industrial matters is not accepted by Indian Press as one of its objectives. Hence, its efforts to cater to public taste, instead of attempting to mould it. So long as the

Press is run only on commercial lines, there is no chance of research activities and constructive industrial achievements finding their way into the columns of the newspapers. What is needed is the reorientation of the approach and attitude of the Press. Under the present circumstances, press can neither educate the public on labour matters nor can it shape decisions on industrial disputes. It cannot play any effective role in helping or hindering the promotion of just and good industrial relations.

364. The remedy lies in building up labour press on the initiative of workers themselves and bringing about a change of attitude on the part of the general newspapers by convincing them of the importance of their role in the national reconstruction. How far this is practicable is anybody's guess.

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THE ROLE OF VARIOUS AGENCIESThe Central Labour Organisations:

365. Since one of the important agency that brings changes in the labour field is the central organisation of workers, it becomes important to consider what are the sanctions of this organisation and how far it can be relied upon to discharge whatever responsibility that may be placed upon its shoulders in matters of industrial relation, implementation of policy and agreements or for matters relating to training and improvement etc. Before going to the details of this question we may quote here one view advocated by the late Shri G.D. Ambekar that no union should be left without some central affiliation. He considered an unaffiliated union as more dangerous than a union affiliated even to the most irresponsible of groups, because the unaffiliated union is not amenable to any discipline at national level. We do not wish to go to that length. But we certainly appreciate the spirit of the attack. In order that we may be able to pursue any national policy in respect of labour it is very necessary that we encourage affiliation of unions to some national centre or centres. Our country is so vast and varied and the play of many conflicting ideologies is intense and multi-dimensional that a blanket imposition of having only one central organisation for workers will not solve any question. We have already shown in our chapter on history of trade union movement that the Indian workers have not yet consciously formed their own trade union centre. So it is better that the process of voluntary affiliation to different central labour organisations continues as at present. But once a union is affiliated to a particular central labour organisation it must abide by its discipline. How can this be ensured? And without ensuring it no firm policy can evolve at national level. The two normal channels that are considered to ensure this co-ordination between centre and unions are constitution and finance. The constitution of unions or regional and national federations may provide certain compulsions such as disaffiliation of union, restriction on voting right or qualification for becoming office-bearers, etc. that may act as sanctions for following the directives of central leadership decisions, or alternatively the rank and file and the various office-bearers may hold the sanctity of constitution as a cardinal point of union discipline and thus provide guarantee to carry out the centre's directions. Further, one can also conceive of financial sanctions whereby the central organisation can, when need be, withhold all financial and other (such as legal) aid to a defaulting unit. If in the normal process the unions are deriving a substantial amount of help from the national centre, then the prospect of losing such help may compel the adherence of unions to the directions of the centre. Of course, a multiplicity of central

labour organisations and their comparative stands on different issues and capacity to help will still provide the restraining influences against such compulsions. In this context, one other observation is also worth mentioning. That is about trade union finance. The trade union work being a day-to-day affair, the normal tendency in union finance is that the money is desired to be kept at the unit level. The money-gathering centre is always the unit. It is only after certain persuasions and pressures that the units do part away with any considerable amount of their collections. The normal affiliation fees are too meagre to run the central office and though the central organisations have at times succeeded in imposing levies at the time of annual bonus or after successful settlements of claims, yet there are also many instances where units are financially better off than centres. In some other instances the central labour organisations find out other sources of finance from political or other agencies. Many full-time trade union workers are supported from such funds and they are lent almost free of charge, to the service of units. In such cases it becomes comparatively easier to control the units since the specialised, full-time, energetic worker easily assumes a commanding position by dint of his service to the units and his word becomes a law for the union under his command. The political repercussions of this type of control are too patent to need any elaboration. But the system has also many dangers for implementation of a constructive policy at the plant level. The bossism enters and the common worker is never encouraged to participate in the formulation of union policy. He develops then a sort of indifference in policy formation. The union leader also does not want him to question about the wisdom or propriety of any stand taken by him on any issue. There have been many instances in India when many individuals who started their trade union career with a zeal to serve the workers ended their career by becoming union boss or even despots. Whatever may be the capacity of such union bosses or leaders to build up sustained agitations by marshalling the forces of hatred and want, they are of no use in inspiring people to give dedicated service in day-to-day work. If this leadership further degenerates into a type of press and platform leadership of professional agitators then that is the collapse of all construction. Then the instruments of constitution and finance will lose even their limited sanctions and what will remain in the name of a central labour organisation will not be the organisation in its real sense but a disintegrated mass or groups of people and states within states with a common surname.

366. The real strength of the organisation lies in the personal and informal contact of the leaders with the field workers. In fact, the leader must be an ideal field-worker standing in the forefront of the march, an idealist and a crusader working shoulder to shoulder with his men, an elder



member of the family of each of his co-workers. The whole group of activists of the central labour organisation and its affiliated unions must form a common family of persons with shining character. They must know each other's strong and weak points, have intimate relationship like close friends so that a family of one can depend upon the family of other in all times of need and share common feelings of life. Then alone the master-mind group of such a central labour organisation will be in a position to commit workers for a common policy. In such an atmosphere all the activists and in varying degrees all the worker-members will participate by a natural process into the formulation of policy and decision-making and abide by the same in letter and spirit. A mere office vested with constitutional control and financial sanction, an imposing headquarter run by strong men may create for sometime an illusion of a well-knit organisation, but as soon as the question of translating difficult issues of policy will seriously confront this organisation it will immediately be found to be a mere paper organisation or agglomeration of careerists with no real control over labourers and their units. Otherwise it will be only a sena of agitators and so-called revolutionaries who have no capacity for any constructive end of policy. On the other hand, a central labour organisation whose leaders may be difficult to be found in any central place or difficult to be booked for high-level consultations but who are always available to any of their workers at any corner of the country, whose public appearances and utterances may be a rarity but who enjoy the confidence of many souls will be found to be the most dependable for giving a real influence and direction to national policy on labour. These are the qualitative tests for central labour organisations which can become the agencies of national reconstruction. The constitution and finance have only an auxiliary or derived value. Any exclusive reliance upon them as factors contributing to the intrinsic strength of trade unionism will be a mistake while formulating a programme of practical application of a national labour policy. Many internal bickerings, lack of public trust and faith in the capacity of labour organisations arise because of the non-recognition of these real tests in depending upon the strength and support of labour organisations in the field of policy formation. If we want that the workers of the country should adopt a particular direction in the conduct of the trade union movement through the programme agreed by the central labour organisations then we must be well informed about these real sanctions of central organisations. The labour organisation is essentially a free association of individuals. The nature of the sanctions of this social body is therefore bound to be different than that of an official body like state or industry.

367. This discussion leads us to yet another topic viz. that of union finance. A suggestion is made by some friends of labour that in order to build a strong trade union movement

the membership of a trade union should be made compulsory for each employee and the membership fee should be kept sufficiently high by a legislative enactment. We hold quite a contrary view in this matter. We are of the firm opinion that a uniform realisation of membership fee should not be the criteria of the strength or solidarity of a union. The real strength of a union is felt in day-to-day dealings and does not require to be proved by membership register or ballot. The finances of a union are likewise built not by constitutional subscriptions but by a loyalty and dedication of workers to the cause of their own trade union. All other methods of raising finance carry a corrupting and deadening influence on union strength. We are therefore of the view that the idea of a monthly or periodic subscription as a measure of reckoning union membership is of no value for a real work. It should be enough for a worker to enrol himself voluntarily as a member of the union. Once duly enrolled he should be held to be continuing as a member till such time as there is a willing termination of such membership from either side by a similar open declaration. The neglect of a member for a continuous period in taking any active part in union work or in making contributions to union funds can be one of the reasons for the termination of his membership by a union action - but the membership should not be considered as automatically lapsed due to neglect of making the periodic contribution. There should be no fixed rate of union subscription. However, there must be a standing union fund to which each member is called upon to contribute or donate any sum he finds fit from year to year or on specified occasions or as a regular routine. The funds so built in will form a real trust of the workers and give the soundest support for its growth and development. The central labour organisation will likewise draw funds from their affiliated unions as one body of workers or a common family and thus carry forward the cohesion and fusion of elements which alone make a sound and lasting construction or building of a nation. Not a pie of these funds should be allowed to be diverted for a political cause. That will then make the central labour organisation an effective and dependable limb and organ of a free nation.

#### Employers' Organisations:

368. As the industry-wise bargain and wage-board and tribunal begin to take a serious grip of the industry, the necessity of a well-knit organisation of employers having sanction against their members becomes more and more evident. Recently we have come across many wage-board decisions and even settlements which are being openly flouted by many employers on one ground or the other. Many employers in news-paper industry have characterised the award of wage-board for working journalists and non-journalists as beyond their means. Even in the Banking Industry the various provisions of bi-partite settlement have not been implemented by various

banks on grounds of administrative inconvenience. It is necessary to go to the root cause of these happenings and find out a lasting solution. At the root of things there appear to be three major causes for the present state of affairs. The first is the condition of mutual suspicion and competition between various employers making them reluctant to exchange information about each other's business dealings and financial position. This leads to the second difficulty of nominating a bargaining agent on behalf of all employers in one industry who can carry the necessary mandate to fully represent and commit all the employers in a bargain or place their full views before a tribunal or wage-board. The third is the utter lack of sanctions necessary for implementation. As a result, the unity of employers' organisations, just like the unity of workers, is often held by indulging in only an indiscriminate attack on the other party. The tight self-discipline that is necessary for any give and take is almost absent. No serious approach to the solution of problems of industrial relation is possible under these circumstances. One way to find out a solution in this regard can be to divide the employers as a matter of general policy into three groups viz. small, medium and big for purposes of representation in industrial meetings. The division can be on the basis of working capital or number of employees in respective firms or profits or any other suitable criteria. This will stop the tendency of big fish swallowing the small one in the process of industry-wise bargain. A well-marked division of employers in these three classes and wherever necessary even a further division in them on basis of the rural and the urban shall go a long way in influencing the thinking of employees by a corresponding change in presentation of demands and other grievances. The class-wise associations of employers can then be more free and confident in facing the issues at the stage of discussion and finalisation of a bargain and can arm themselves with effective sanctions to deal with violations of agreement or award. The sanctions for employers organisations have got to be different from those of workers'. They will have to be based in the present circumstances on statute and law till such time as the concept of industrial family becomes once again general. About this, we shall speak later in this chapter.

#### Discipline and Efficiency:

369. Much has been said in the recent days about the indiscipline in the rank and file of employees and irresponsible poses of the union leaders. In this connection it cannot be denied that one section of labour leadership more prominently the one following the Chinese dictator Mao Tse-tung is openly against making any improvements in work standards. As the latest thesis of Mao on trade unionism puts the position "If the five elements; viz. money

welfare, production, experts and technique are permitted to take command, then proletarian politics could not. These monetary incentives are pushed to stir up the evil mind of economism in order to smash the unity of working class and undermine the socialist economic base. The vicious intention to make the workers bury themselves in production is to make them ignore revolution and politics and forget class struggle and the dictatorship of the proletariat. The concentration on production would lead them on to the road of capitalist restoration." The trade union leaders who follow this doctrine of Mao or its like do undoubtedly indulge in promoting habits of non-cooperation and destructive militancy. That is, they will say a class war. And war means destruction. In a national concern for discipline and efficiency all such poisonous elements have to be weeded out from the body-politic and body-economic of the nation. They have pitched their tents as base of operation in the field of industrial relation and are casting an evil influence on worker's morale and are misguiding their enthusiasm. It appears that many employers and politicians and even some nationalist labour leaders have not yet understood the technique of this communist movement which is a great promoter of indiscipline and inefficiency on the production line. The persons following this technique either openly or under any disguise must be isolated and severely dealt with in an effort to bring in improvement in discipline and efficiency.

370. Once the above influence is isolated in our thinking and practice about bringing more and more efficiency and discipline, then it will be clear that the average worker in India is not either less or more disciplined or indisciplined than the average citizen of the country. He shares the general psychological climate of the country and does not pose an isolated question. The lack of a disciplined approach proceeds from the top-most politicians and ministers who appear to have no ideal of service to the country but to run after power, prestige and position. In the industry the concept of 'Adhikar' the natural command flowing from proficiency and tapasya- has given place to bossism, industrial excellence is forgotten before business profits. A change is necessary in the valuations of life. After all, Industry is people and Management is Behaviour and behaviour flows from attitude and valuations. The attitude of an employer must be as the Jain School has put it, that of the 'परिग्रह परिमाणव्रत' - the fifth vow for Shravak Grahasthas, the vow of setting a limit to the maximum wealth that one would possess. And what is this maximum - but the one just necessary to feed one's belly. In the most natural order of human living what one takes into his stomach is his only private property.

यावद् भ्रियेत जठरं तावद् स्वत्त्वं न देहिनाम् ।  
अधिकं मोऽभिमन्येत स स्तेनो दण्डमहीति ॥

This concept about limitations of private property has been repeatedly held by Indian thought as in Isha and other Upanishadas and in various discourses such as the famous one between Janak and Sulabha as reproduced in the Shanti-Parva of the Mahabharat. The whole trend of Ashram Dharma was based on non-material pursuits of life. Once these concepts are enshrined in the formal structure of society - just as the idea of industrial family embodies it in a natural way, then the whole attitude undergoes a necessary change. The ends of work also then get themselves uplifted from the two Purusharthas of अर्थ and काम - to the two others viz.

मोक्ष i.e. Perfect Freedom and Mastery through the धर्म. The Indian worker has got a deep-rooted innate instinct in this direction. The real fact is that this best part of his nature is either totally ignored or belittled or is sought to be employed to serve the greed of the rich and wealthy few. Even today, when he takes up the cause of a trade union movement it is not so much to further his pretty selfish interests. He takes it because of either the interest of general collectively or because he desires to set right the disorder - the अधर्म - which he finds that the mighty ones are persuing by wrongful appropriation of wealth and property and powers to themselves for their own selfish ends. In fact it is the business of the State who holds the rod of law to book and punish the culprits or

अधर्मगामी. It can do it by taking appropriate penal action to see that no one moves with a lust to possess or own more than what the society has decided as the maximum. The work of trade unions is done as soon as they point out to the Government the aberrations of धर्म done by the employer or any officer. In fact, the true intentions of Indian worker are also limited to this view. He is interested in the establishment of Dharma - the discipline of the race and culture. That is the motivation which has thrown up the best of leadership of the Indian worker - a leadership whose motivation has not been self-seeking or a career and profit - a leadership that has born out of sacrifice and hence followed faithfully by many. But the Government and rulers of economic machine have not yet given any channel for the exercise of these aims of Bharatiya Mazdoor Manodharma. A spontaneous discipline - a discipline evolved out of one's own mind and not imposed by outer rule presupposes a sacred altar to which it can surrender and dedicate itself without any calculation. The inspiration for such an obedience can never spring to oblige the changing whims of a directionless authority. It has been well said that 'First Obey and then Command'. This is true not only for the narrow discipline or individual apprenticeship but also for the great work of a nation-building activity. Let the leaders of industry and State obey faithfully and religiously the dictates of a true dharma and the obedience of worker will naturally follow. In order that we may enthuse the worker with ideals of discipline and efficiency we must surcharge the whole atmosphere with the spirit of dedication

and sacrifice and give to the people a vision without which they may easily perish. And the start must be from above - for people adopt their attitudes from those of high -

यद् यद् आचरति श्रेष्ठः तद् तदेवैतरो जनः ।  
स यत्प्रमाणं कुरुते लोकस्तदनुवर्तते ॥

This is the true method of inculcating discipline - the influence of a high ideal and example at the top level and there is none other.

#### The Middle Management:

371. In the whole sphere of industrial relation the role of the middle management and technicians is one other focal point that demands considerable attention in any national programme. This is indeed a key sphere of industrial activity, the back-bone of routine administration, a nerve centre of industrial life. One competent observation of both the capitalist and the communist world gives us a verdict that both these systems have already given way to a managerial state in which the day-to-day executive dominates the whole show. The position of these layers of managements, starting from the first line supervisor to the top executive is quite delicate in terms of employer-employee relationship. While they are a management and employer to the worker, for their own problems they are still employees even worse placed than the ordinary worker. A neglect of this delicate role has many demoralising effects on industrial relation. We have already opined in other parts of our submission that separate legal provision should govern their relations and problems. This is necessary but not an adequate condition. What is further necessary for this stage of personnel is constant refresher programme to widen the horizons of understanding on the one hand and a respectable status in formulation of industrial policy on the other. It is at this level that day-to-day attitudes in work, understanding of details, maintenance of routine efficiency, implementation of developing policy, building up of human relations in industry, etc., take their practical shape. Delegation of power and responsibility, decentralisation and co-ordination in administration, customer satisfaction, accounting details, technical sophistication, achievement of day-to-day physical targets of production - all depend for their effectivity on the behaviour of this middle level in personnel hierarchy in Industry. This is also therefore a field where many currents and cross-currents of ideas, shades of policy, degree of emphasis and priorities among various alternatives, shrewd calculations of timing and placing of things find their vast play-ground. And in their trail these forces toy with fortunes and ambitions, prides and prejudices of persons having a wealth of relations and intelligence. A skill and touch in human dealings finds its most effective office at this level. Power runs speedily from hand to hand at this stage. It was not for

nothing that Emperor Aurangzeb said from his death-bed, "In a twinkling, in a minute, in a breath; the condition of the world changeth". This is a constant experience (though on a small scale) at this level which makes for persons in this position all the more difficult to hold out any firm promise to anybody in their day-to-day affairs. And yet this is the level which must play for society a stable and dependable role. This difficult work is not possible unless we take great pains to create and maintain the competency for this class of persons. It may be noted here that in the trade union hierarchy also there is a similar class of field-workers and union-level leaders who are constantly faced with similar problems - no sooner they divert their attention from purely agitational postures to the solution of day to day problems. When the problems arising out of complaints regarding change in job content, work-load, seniority, promotion, transfer, change in comparative positions, reconciliation of disputes between various categories and regions, determination of wage differentials, acceptance of rationalisation schemes, handling of various grievances and individual or group cases, complaints of discriminatory treatment, containment in case of disciplinary action, maintenance of incentive schemes and productivity targets, and various questions arising out of personal treatment etc., begin to engage their attention - as indeed they should for any genuine trade union - they also find a need for the development of a mental culture akin to that of the middle management group. We have therefore two suggestions to make in this regard. Our first suggestion is that a programme of supervisory training and refresher course should be launched on a national scale with great vigour and competence to build up a national profession of administrators. In these classes for supervisors the trade union leaders should also be encouraged to participate on an equal footing. So also under the programme of workers' education scheme the classes for trade union workers should be left open for supervisors and it should be compulsory for any administrator that he must take a proper training in trade union work. This practice will promote mutual understanding, widen the mental horizon and equip the key personnel in industrial relation for the tasks that nation expects from them. In order that the united march of people may become a living reality the economic casteism between layers of management and layers of workers must be abolished just as the new casteism and touch-me-not-ism of political parties need also to be abolished. Our second suggestion in this regard is that the technical and managerial personnel should also find a distinct representation in ownership and control of industry. Between the two factors viz. capital and labour, the collective share of technical and administrative personnel may remain smaller in total quantum than that of the labour, but every individual share shall be bigger than that of average worker's individual share. It is our hope that these two methods will go a long way in binding all the

personnel in industry in one hoop or a common ring and facilitate the growth of that another institution i.e. the industrial family. Mahatma Gandhiji used to say " True social economics will teach us that the working man, the clerk and the employer are parts of the same indivisible organism. None is smaller or greater than the other. Their interests should be not conflicting but identical and inter-dependent." The commonness between the so-called two sides of industrial relation is so deep that in many countries it is being increasingly found that the trade union leader and administrator, not unoften, change their positions for each other. We who have a better cultural heritage of equality and brotherhood and who possess the advantage of a late start in industrialisation when pitfalls and lessons of west can be profitably used from the beginning, should now start viewing the problems and equipment of trade union workers and administrators on a more comprehensive basis. This will hasten our march towards the establishment of a industrial family system.

#### Industrial Family:

372. The original concept of Indian industrial family did not contemplate existence of employer-employee relationship. It consisted of all persons connected with the processes of production or distribution of any one commodity. Within the family, all members enjoyed equal status, and elected unanimously their Executive or पंचायत which was a collective कर्ता of the Family. All members had the status very much akin to that of co-parceners. Every industrial family was autonomous and self-governed so far as its internal administration or property relationship were concerned. The state was required to assist its internal affairs only when it was called upon explicitly to do so by the Executive or members of the family. Every industrial family had a measure of freedom in dealing with other industrial families, though the state had authority to regulate these dealings in general public interest and every family was expected to consider itself as part and parcel of the entire nation - which rendered mutual harmony and homogeneity practicable.

373. There are no such industrial families in India today, employer-employee relationship has come to stay except in some parts of the self-employed sector and a new class of managers and technicians has emerged in the process of industrialisation.

374. Under the new circumstances, it would be necessary to build up in every industry, on the original principle of internal autonomy, separate industrial families for these three sets of people. It would be possible to unite the three units into one industrial family after the workers and the managers and the technicians are made co-partners



of their respective industries sharing with their present employers not only the profits and the management but also the ownership of their industries.

375. It would be least difficult to unite workers in their industrial families, if their trade unions are strengthened and made disciplined. Their national industrial federations, if properly organised, can play the role of such families.

376. National federation of the associations of managers and technicians in every industry, when organised, can fulfill this need, provided they do not confine themselves to the task of mere exchange of views and experiences, and bring within the purviews of such federations all the various subjects connected with their role in the industries.

377. National federations of the associations of employers in different industries must also be organised and their Executives vested with sanctions and authority very much similar to those of the Executives of the original industrial families. The management of the entire capital invested by various employers in the industry should be entrusted to the national federation, which should treat it as a common industrial fund for the purposes of formulating and implementing policy decisions on all subjects within its jurisdiction, such as, rationalisation schemes, wage policy, bonus, implementation of labour laws and awards, etc. While all such federations should enjoy internal autonomy, it should be obligatory on them to follow the national financial discipline. They will bear the overall accountability to fulfill the targets of the plans. While every member-employer will have a right to own his own capital, its management and deployment will be the sole charge of his federation in whose decision-making he, along with other member-employers, will have a right to participate. Instead of dealing directly with individual employers the Government will be required to deal with their federations only.

378. These, in brief, are the broad outlines of the industrial families envisaged by us for the immediate future, though, as stated earlier, we aspire for large return upon the original idea through the merger of the three sets into one, consequent to the copartnership of workers, managers and technicians in the ownership of their respective industries. That would be the ideal condition for which we have to strive, while the concept of three sets of families within every industry is only a stop-gap arrangement during this transitional period.

379. In keeping with the original pattern, we stand for participation of all industrial families in the government and administration of the land through the principles of

functional representation. How this system can be introduced alongside the current system of territorial representation will have to be worked out as and when these families are organised.

380. We lay great stress upon internal autonomy of these families which will themselves be subject to national discipline. The self-determining family living according to the right and free law of its being is the ideal. We conceive of a state whose business, in the words of Sri Aurobindo "is not to interfere unduly with the life of the society, which must be allowed to function for the most part according to its natural law and custom and spontaneous development, but to superintend and assist its right process and see that the Dharma is observed and in vigour, and, negatively, to punish and repress and, as far as may be, prevent offences against the Dharma."

#### Outsiders:

381. Who all are the constituents of the industrial family or workers? Workers who are employed in the industry, the ex-employees of that industry, and the whole-time-workers of trade unions functioning in that industry. For the purposes of trade union activity the latter two must be considered as part and parcel of the industrial family, provided their sole work is trade unionism only.

382. We stand for complete elimination of 'outsiders' from the trade union movement. They are like creches to be dispensed with as early as possible. Their indispensability only indicates the weakness or the backwardness of the trade union organisation in the country. For, trade union is an organisation of the workers, by the workers, and for the workers. But ex-employees and whole-timer, genuine trade unionists should not be treated as 'outsiders'.

#### Workers' Education:

##### The Board's Work

383. In view of the fact that the workers' Education Scheme is so recent and so novel in India, we are inclined to feel that its present rate of progress is satisfactory. Though the programme is not being operated presently by an autonomous central and Regional Boards, to be taken over, in time, by the trade union movement, - as recommended by the experts' team initially, the operation of the scheme without legal sanctions so far is in itself a bold experiment in pioneering. It is true that the scheme is not yet adequately trade union oriented; the suggestion of Dr. Charles A. Orr, an I.L.O. expert, to appoint active trade unionists as education officers at regional centres is not yet implemented; the recommendations of the Review Committee of the

Board regarding much greater involvement of trade unions, State Governments, Universities and Colleges in the Programme and direct involvement of Universities and College in the educational programme and assessment of the results, is not yet paid the regards it deserves; and the recommendations of the Bombay Committee are not yet successful in moulding the character of the Scheme. Nevertheless, in view of the available time, energy and funds, the progress made so far seems to be commendable.

384. Broadly speaking, the main organisational pattern which raises Educational Officers, worker-teachers and trained workers in phased programmes is suitable for the purpose in this initial stage. A detailed evaluation of the scheme on the pattern of that by the Bombay Sub-Committee, is already overdue and will help determining the future direction of the scheme. Even the present scheme can be treated as a pilot project and we have had already time to learn and profit from its mistakes. Our experience in the past will indicate the line of qualitative improvement in the future.

385. It must be admitted that the scheme has failed so far, to catch the imagination of trade unionists who feel that the products of the scheme will not necessarily be better trade unionists, since the syllabi are not trade union oriented. Trade Unions themselves did not sufficiently draw upon grants-in-aid from the Board, because of the rigidity of rules and conditions for the same. We are happy to note that the Board has realised this fact and has taken certain steps in the right direction, but further liberalisation and simplification of procedure is called for. Trade Unions should be encouraged to conduct similar classes on their own initiative, with the syllabi, grant-in-aid and supervision of the Board and, if they so desire, with the assistance of education officer of the Board services of active and promising trade unionists should be made available to the scheme, and academic qualification prescribed for the purpose should be waived.

386. We agree with the recommendations of the Committee on the curricula and syllabi for the various courses. Greater concern for and concentration upon the subjects that have direct and urgent bearing on the inculcation of trade union leadership qualities in the context of the modern times; development of productivity - consciousness, dominant place to (i) the purposes of trade unions, (ii) trade union organisation, administration and procedure, and (iii) trade union - management relations and problems of collective bargaining, in the syllabi, replacement of the present unit level classes pattern shaped on the fashions of one-worker-teacher-schools by three-teacher schools, emphasis in the unit level classes on lectures of guests and education officers; arrangement of refresher-courses for worker-teachers; production of educational films; equipment in the

form of film-cum-library vans, projectors, etc.; improvement in the quality and diversity of visual aids like film-strips, Flipcharts, Flash cards, etc.; conduct of case studies on important, current industrial topics; preparation of model lesson plans; vertical coverage of workers on industrywise basis, a third level training to shop-stewards; special training programmes for executives of the unions in the same industry, and seminars and conferences for senior executives of the unions in the same industry; special training programme for branch executives and senior executives of unions; these, among others, are the main recommendations that we endorse. But we do not agree with the suggestion that we should have different courses as between persons who are to become worker-teachers and those who are to engage in trade union work. There should be one single comprehensive course for both, extending over a larger period. If the duration of course is extended, there need be no fear of essential parts of the training being diluted or relegated to secondary position. True, the objective of the workers' education scheme is to expand and strengthen the trade union movement, to help building up constructive leadership of trade union movement understanding both its rights and responsibilities in a dynamic and growing economy, leadership democratic in the management of its own internal affairs and responsible in its relations with employers, society and Government. But we cannot appreciate the utility or advisability of bifurcating courses for worker-teachers and trade unionists. Such bifurcation will render trade unionists narrow-minded and worker-teachers merely academic. A comprehensive syllabi covering both the aspects with equal emphasis, to be extended over a longer period, is the proper course. We do appreciate the recommendations of the Bombay Committee; but their implementation need not necessarily lead to the bifurcation of courses. We further plead for organisation of joint courses preferably with vertical coverage for executives of both - trade unions and managements - with a common syllabi consisting of subjects of common interest such as, productivity, industrial psychology, principles and procedures of collective bargaining, etc.

387. In cases of vertical coverage - whether in workers' education classes or joint courses referred to above, the syllabus should be modified so as to suit the special needs of the concerned industries. Preparation of somewhat separate syllabus for each industry is certainly difficult, but that will go a long way in enthusing trade unionists and in rousing active interest in the minds of those at the helm of the managements - whether in the private or the public sector. Provisions of time-off and of facilities for conducting the unit level classes in their own undertakings, would not be as difficult a problem than as it is today. We are convinced that all-sided co-operation can be best achieved if the classes have vertical coverage and corresponding syllabi.

388. The formation of a non-official workers' Education Association acting in cooperation with the adult education movement is a good suggestion by the team of experts. But we feel that the time is not yet ripe for the implementation of such a scheme. Let a stage be reached when the workers' education scheme can be handed over to non-official agency first and then to trade union centres. Then the scheme worked out by the trade unions will be in a better position to encourage and initiate the formation of such voluntary association or associations. Any such move at the present juncture will be immature.

389. Even the quantitative expansion of the present workers' education scheme may be postponed for sometime to come, and great stress laid upon the improvement of its quality. Once the model of such a scheme is perfected even on a smaller scale, it would be easier to extend the frontiers of such a model. This should be a period for consolidation and improvement, and not for expansion, which can be profitably planned once we reach our qualitative targets in this respect. Development of the central training institute, into a workers' university, transfer of the scheme on a pilot basis to selected trade unions, complete transfer of the scheme to the trade union movement, - these are the measures that can be taken up later on. Extension of the benefits of the scheme to agricultural and other workers may also be postponed. Let there be complete concentration on the qualitative improvement of whatever is already undertaken.

390. Vacation labour schools being run in the universities and labour institute is a commendable idea. Establishment of workers' education departments in the trade union centres is also a helpful measure. But initiative in both these matter should be taken by the Labour Ministry, and the Board should not be entrusted with this work, at least for some time to come.

391. It is obvious that no long-ranged programme of workers' education can achieve sizeable success so long as illiteracy among workers is not completely removed. The Government should encourage and assist various organisations, such as, the Indian Adult Education Association, to further expedite their work in this direction. This is a must, but the Board should not be involved, directly or indirectly in this effort. The Government of India must shoulder this responsibility squarely.

392. What we want to emphasise is that the concept of "workers' education" is much more comprehensive, and should not be limited to the work we wish to be entrusted to workers' Education Board. The work of the Board is important enough; but it constitutes only a part of the total concept of workers' education which should also enable a worker to

become an efficient promoter of his industry and an ideal citizen of the country. Hence the need to bring into play the various other agencies for this purpose. It should be the responsibility of the Government of India to activise these agencies in this direction.

#### On-the-Job-Training:

393. Another aspect of workers' education is on-the-job training programme to be carried by each industry or even firm and undertaking. The second world war has witnessed a splendid growth of the technique of training within industry, on-the-job-training, short-term refresher or retraining course etc. for acquiring of new skills by the workers or development of existing ones. A variety of methods such as demonstrations, documentaries, miniature models, etc. were used even during the intensity of war efforts as quick and effective ways of imparting technical education which is so necessary in a fast-developing world as ours. All this experiment of the west, the science and technique of ground-to-the-earth type of technical education, the way of giving technical insight for a common worker and arousing of his interest for technological renovations is all for the good and can be mostly copied from the economically developed countries. We have already said elsewhere that we should not borrow indiscriminately foreign technology but develop our own indigenous one. But this does not amount to saying that we should neglect the development of scientific temper and generalisation of technical skill and regard for modern developments of science in our own people. That will be a suicidal mistake. The west has shown a spiritual curiosity in understanding and utilising the qualities of matter, ways of chemical action and processes of energy and has religiously developed a Shastra of its minute application. It has given a detailed ritual for the construction and maintenance, invocation and growth of mechanical power, has studied its whims and fancies and is continuously giving us the cares and precautions that are necessary to keep this deity pleased and in order. All this religious zeal about science and technology has been indeed the true contribution of West to East. This should be studied well and imbibed for our own benefit. A complete education of the worker should include all these schemes as developed by western thought and practice.

394. We may add to this one another important dimension. This too is acknowledged by the west. But it is most used to break the worker's monotony and keep him interested in the job. But in fact it is quite capable of being developed to larger and far higher proportions. This aspect consists of giving to each worker a perfect and full idea about the importance of his job in co-ordination with other functions carried on in the industry. Without such a knowledge the worker regards his job as a mere monotony. He does not understand the true effects or seriousness of his mistake,

if he does not see the importance of the end result and contribution of his work in that end result. The perspective of the whole work, the specialising virtues that produce the distinguishing brand of his company, the imbibing of the spirit of his firm and industry (कुलधर्म, जातिधर्म) are the aspects in a worker training programme which must not be lost sight of by holding to a narrow definition of on-the-job training. The difference in outlook that such a wider view can give to the worker is indeed life-giving. Without it he will be a human skeleton. In a large-scale undertaking with its division of work and specialisation there is a tendency to neglect this factor at the floor level. This neglect widens the distance between the common worker and top-executive to such a degree that when they talk together about their plant they speak indeed two different languages and do not understand each other. So this understanding of the objective of work and importance of each detail in the whole plan should form the essential part of on-the-job training schemes. In this connection, a story is told of three workers who were doing an identical job of stone-cutting. On being approached by a third person with a question to each worker as to the nature of job he was doing, the first angrily replied, "Can you not see that I am cutting stones?" The second pitifully said, "What to do? I have to do something to fill my belly. So I am cutting this stone." But the third hardworking one said with cheer, "We are going to build here a beautiful temple. I am working to realise that dream of my people." The first one is a man who is in conflict with his own work. The second has resigned to destiny; while the spirit of the third is indeed the essence of true education. The aim of all workers education must be to bring to every worker the great realisation of the fact of how through the perfection of his daily routine the shrine of Nationalism, Bharat-Shakti - is being built in the country. Thus the industry can prosper both technically and socially, by bringing in its on-the-job training programme the vision of its national goal. For though the agency of on-the-job training has to be the Industry- it will not be able to make its programme of workers' technical education perfect till it informs the details of its technical education with the wider vision of its goal.

#### Worker's Education as Citizen

395. No scheme of worker's education can be complete or yield desired results so long as average worker is not elevated to the status of an ideal citizen, a responsible member of the society. Apart from formal, academic education, cultivation of idealistic attitude and approach also becomes necessary for the fulfilment of this objective. This presumes voluntary adoption of the goal of national reconstruction by all citizens and their will to strive their best, at all sacrifice, for the achievement of this

goal. Only such an atmosphere can inspire workers to make highest possible contribution to the national production and prosperity.

396. Number of institutions, educational, social and cultural, that are functioning in the country today will have to undertake this work. Concerted efforts of all these who mould the public mind would be welcome and inevitable. It is not for us to name or enumerate all such institutions, probably many more will have to be set up. What all we want to stress is that bad citizen cannot make a good worker, and that workers can be expected to play their role in an ideal fashion only after the general citizens of the country imbibe and manifest in their day-to-day affairs the spirit of high idealism. This is a far bigger problem that waits to be tackled by the real leaders of the nation-whosoever they may be.

#### The criteria of Success

397. Every seed is known by the fruit it yields. We have discussed the various aspects of workers' education. What is the criteria of their success?

398. In the last analysis, man is the criteria. Has education succeeded in making worker a good man? A good citizen identified with the nation? A good promoter of industry identified with his industry? A good trade unionist identified with his co-workers? For, the essence of all goodness lies in identification with the larger and still larger social organism. In its highest form this means complete self-abnegation or in other words, identification of one's self with the universal self. Such person not only exerts himself for

he is in fact <sup>बहुजनहितार्थ, बहुजनसुखाय;</sup> <sup>सर्वभूतहितैस्तः</sup> He is perfectly identified with, and, therefore, dedicated to the non-self. All his aspiration is to make others happy. Like his illustrious ancestor he also declares-

न त्वहं कामये राज्यं न स्वर्गं न पुनर्भवम् ।  
कामये दुःखतप्तानां प्राणिनामातिनाशनम् ॥

"It is neither political power, nor heaven, nor even rebirth, that I aspire for. My only aspiration is to relieve all afflicted beings of their afflictions."

In spirit he is one with Raja Shibi, Buddha, Mahavir, Father Damien, St. Francis of Assisi or Vivekananda.

399. He is an ideal citizen, an ideal promoter of industry, an ideal trade unionist, - a ripe fruit of ideal education. Education will be considered as a success only to the extent to which it helps an average worker to understand this goal, to strive for it and to realise it.



CIVIL AND POLITICAL RIGHTS

400. The employees in the public sector and their dependants have many impediments in the free pursuit of their rights, compared to private sector. The employees in public sector undertakings, especially those run by the Govt. are restricted under the Service Regulations from taking part in political activities on the ground of public interest. Employees of municipal corporations and State owned corporations do not enjoy the political rights. It is also learnt that employees of various public sector undertakings, who want to contest even the civic elections, have to seek the permission of the employer, unlike Private sector employees. The same applies to contesting for the election or canvassing in the election to the State Legislative Assemblies and Parliament.

401. All the citizens of India are equal and must enjoy equal rights, whether political or others. Hence, the denial or restriction of any political right or other rights to the workmen of Public Sector undertaking or to the Govt. servants, or to their dependants, is extremely unjustified and cannot be tolerated in free democratic country, like India. They should not be under any disability as compared to the employees in the private sector. All these disabilities should therefore be removed.

402. However, as regards political rights two exceptions may be made:

One in the case of army where the military discipline is required and other in the case of class I Govt. Officers who are required to take top-level strategical and confidential policy decisions with regard to the administration of the State.

SUGGESTIONS FOR AMENDMENT

403. We submit our further suggestions for amending the labour legislation:-

1. Courts have now held that benefits resulting from agreements and awards continue even after their termination. This provision must be expressly included in statute.
2. The provision of Industrial Disputes Act should be suitably amended so as to enable the workmen concerned to have a direct resort to the adjudication machinery in connection with the disputes relating to discharge and dismissals and the adjudication machinery should have full powers to decide the matters. The adjudicator should be vested with full powers including the power to admit fresh evidence,

to decide as to whether the enquiry, if any, held by the management was fair as also to decide the reasonableness or otherwise of the quantum of punishment and to grant compensation in addition to awarding reinstatement with full back wages.

3. The provisions of Industrial Disputes Act relating to retrenchment should be amended so as to cover all cases of termination of employment excepting these which are by way of punishment, or on account of reaching the age of retirement; or on account of continued ill-health of the workman. The cases of termination of service by way of discharge simpliciter should also be covered within the scope of retrenchment. If necessary the whole terminology of Chapter V-A may be changed by removing the word "retrenchment" and the words "termination of employment" may be substituted.
4. The provisions of the Industrial Disputes Act should be suitably amended so as to specifically provide that if the conditions mentioned in Section 25 F for retrenchment have not been fulfilled, the workman shall be deemed to be in employment with his usual wages and allowances.
5. With a view to remedy the position arising on account of the Supreme Court decision that even a minor union can terminate the settlement or award, the Industrial Disputes Act, 1947 have been amended by Industrial Disputes (Amendment) Act, 1964 and sub-section (7) has been added to section 19 of the Act providing that no notice given under sub-section (2) or sub-section (6) will have effect unless it is given by a party representing the majority of persons bound by the settlement or award as the case may be. It seems this is likely to create complications especially when a Union intends to give notice of termination of settlement or award, as in majority of cases, the union will not be having more than 50 per cent of the workman employed in the concerned industrial establishment as its members, even though such union can raise an industrial dispute on behalf of the workman. It, therefore, seems necessary that sub-section (7) of Section 19 may be suitably amended so as to enable the termination of a settlement or award by workmen through their union having the prescribed percentage of membership amongst the workmen of the concerned establishment. The appropriate Governments may prescribe the suitable percentage for this purpose more or less on the basis of the practice followed by the Governments concerned in admitting disputes raised by unions having

particular minimum percentage of membership for conciliation. It may also be provided that where there are more than one unions in existence in a particular establishment, only the recognised union, if any, should have right to give the notice of termination.

6. It has been held by the courts of law that the inspecting authorities under various laws do not have power to call for and produce the records, documents, etc. in their offices. It is considered very necessary that for the proper enforcement of provisions of laws such as Factories Act, Minimum Wages Act, etc. the inspecting authorities are vested with powers requiring the production of records, documents, etc. in their offices also.
7. It has been noticed that the workers sometimes enter into long term settlement or agreements which are not bonafide or increasing prices of essential articles make them out of date. But the disputes are raised when the workers realise that settlement is not beneficial. However, they are bound by subsisting long-term settlement. The I.D. Act should be suitably amended so as to empower the Govt. to reduce the operation of settlement, as it is in the case of awards.
8. Section 9A of the Industrial Disputes Act should be deleted. No employer can be allowed to effect any change in the conditions of service applicable to the workmen merely by giving notice of change. The service conditions can be changed only by the settlement or an award.
9. The Industrial Employment (Standing Orders) Act 1946 at present covers only industrial establishments, leaving many establishments outside its scope. All the industries within the meaning of industrial disputes act must be included within the scope of the said Act.
10. The Standing Orders Act is applicable to establishments wherein 100 or more workmen are employed. Normally the labour laws are applicable to establishments employing 20 workmen. It is necessary and proper to extend the benefit of the said Act to the workers of as many establishments as possible. The provisions of this Act should therefore be made applicable to all establishments wherein 20 or more workmen are employed or were employed on any day in the preceding 12 months.

PROBLEM OF NON-IMPLEMENTATION OF AWARDS AND  
NON-PAYMENT OF LEGAL DUES

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404. The problem of non-implementation of award and non-payment of wages and legal dues to the workmen by avaricious and selfish employers, threatens the entire social fabric with grave disturbance or ultimate subversion or ruin. This tendency of shamelessly flouting the law by delaying the payment of wages and legal dues to poor workers on one excuse or the other, should be checked immediately and urgently. Otherwise the patience of the workers may be exhausted and they may be compelled to react sharply and violently and resort to various means, legitimate or illegitimate. It is a sad commentary on the administration that even after 21 years of independence, large-scale violation of law by the anti-social employers is tolerated by the Government, and the poor workers are driven to the court even for enforcement of their existing rights and recovery of earned wages.

405. This malpractice of deliberate delay by the employers is of course old one. In 1926, the Government of India addressed Local Governments with a view to ascertain the position with regard to the delays which occurred in the payment of wages to persons employed. The investigations revealed the existence of abuses. The material collected was placed before the Royal Committee on Labour in 1929. The Commission collected further evidence on the subject and as a result of their recommendations, the Payment of Wages Act was enacted.

406. The general purpose of the Act was to prevent employers from delaying the payment of amount earned by the workmen beyond the prescribed period, under some pretext or the other. The Act provides that the wages shall be paid on a working day within 7 days of the end of wage period or within 10 days, if 1,000 or more persons are employed. It further provides that the wages of the persons discharged shall be paid, not later than the second working day after his discharge.

407. Various other acts also provide for the time limit to make the payment of legal dues to the worker or for contributions to the lawfully constituted authority such as Provident Fund Commissioner or Employees State Insurance Corporation etc. The Industrial Disputes Act provides that an award shall become enforceable on the expiry of 30 days from the date of the publication of the award. This means that all dues arising out of award should be paid to the workmen within this one month of the publication of the award.

408. As regards, the payment of Bonus, the Act provides that the payment should be made within 8 months of the end of the accounting year.

409. Under Section 25F of the I.D. Act the payment of retrenchment compensation is a condition precedent to a valid retrenchment and the compensation equivalent to 15 days' pay for every completed year of service or any part thereof in excess of six months, is required to be paid prior to the date of retrenchment.

410. In spite of all the above laws prescribing time limits for payment of wages, bonus, retrenchment compensation, legal dues arising out of the settlement or award etc., it is common experience that payments are not made and awards are not implemented in time by various defaulting employers. For example, the Labourers have not been paid their regular wages for 6 to 9 months in the Mica Mining fields of Bhilwara area in the Rajasthan State. In Bombay, the management of the United Engineering Works refused to implement even consent award of the Industrial Tribunal when approached by the Engineering Mazdoor Sangh, and repeated the same performance before the Asstt. Commissioner of Labour, when the management was asked to implement the award. The workers were therefore compelled to resort to strike for the implementation of award. This law-defying management thus refused to pay the workers even their earned wages, inspite of the Labour Officer's personal request and advice. The wellknown Karnatak Printing Press of Bombay resorted to large-scale retrenchment but refused to pay the retrenchment compensation to the workers, though the labour officers personally visited the Press and advised the payment. Not only this, the Press informed the Provident Authorities that all the retrenched workers were in fact discharged. This prevented the P.F. Authorities from making the payment of the full amount of P.F. dues to the workmen. There are cases in which even the workers contribution to the Provident Fund amount has not been paid by the employers and protracted court proceedings are attracted before it is possible to recover the said amount. Many more instances of such disobedience of laws and malpractices can be quoted.

#### R E A S O N S

411. What are the reasons for this increasing tendency of openly defying the law by the employers? It is mainly due to the following reasons:-

- (i) Inadequate, untrained and powerless enforcement Machinery:

The experience has shown that although the legislation on time-schedule of payment of wages and other dues are existing, the implementation and administrative machinery is not adequately strengthened to keep par with the increased duties and responsibilities on account of increasing number of workers as large number of industrial establishments, scattered over a vast area are coming up slowly and steadily due to growing

industrialisation in the country. Moreover, there is lack of sufficient number of suitable, qualified and trained officers. As a result of this and of the time-consuming process of courts, no Inspector takes initiative to file the cases in the appropriate courts, though they are given powers to institute the proceedings against the defaulting employer. Due to inadequate powers of enforcement, insufficient penal provisions and lack of deterrent punishments to employers in case of breach of law, the implementing machinery becomes some times helpless in checking the frequent evasions and habitual breaches of law.

(ii) Lack of cheap, speedy and simple remedy.

Under the present laws, there is inevitably undue delay in getting quick relief to the workers:-

For example, if the workers do not get their wages by due date, they have to file their claims before the authority under the Payment of Wages or Minimum Wages Act or Labour Court. The investigation starts, statements are filed after frequent dates, false and utterly baseless defences are made by mischievous employers, oral or written evidence is recorded, arguments are advanced, and finally, after long time orders are passed. Even then on very flimsy grounds, just to avoid payment to workers and to acquire monetary benefits out of the amounts payable to workmen, the anti-social employers prefer appeals or file writ petitions, obtain stay order etc., from the superior Courts, which again takes long time for disposal. Thereafter, the proceedings for recovery of the due amount starts. All this takes unduly longer time. Since, justice delayed is justice denied, the workers do not get justice, they become helpless, disappointed and frustrated. Disrespect for law grows in their mind and there is a feeling of revolt against the entire social and legal system which fails to adequately protect even their lawful existing rights.

Whatever be the fairness in an award or in an agreement regarding fixation of wages, the purpose of laying down a wage-structure is defeated, if malpractices in the payment of wages cannot be checked. A good deal of time of a trade unionist and the implementation machinery is consumed in pursuing and inquiring into the complaint about such malpractices.

(iii) Cumbersome procedure for prosecution.

At present the provisions under various Labour Laws normally provide that no court shall take cognisance of any offence under the act or commitment of breach of any law, award or settlement, save on a complaint made by or under the authority of the appropriate Government.

No worker or the union can directly prosecute the defaulting employer under any circumstances. The Payment of Wages Act has provided that a direct complaint can be filed provided an application in respect of facts constituting the offences has been presented under Section 15 and has been granted wholly or in part and the authority granting such application has sanctioned the making of the complaint.

Under these present requirements, it takes inordinately long time even to institute the penal proceedings. The office of the Labour Commissioner always tries to persuade the employer by frequent meetings to make payment, to convince the trade unionists to go to the Payment of Wages Court and other proper forms and argues that no gain will accrue to the workmen by mere punishment of the employer etc. In short, Govt. Labour Officer totally discourages the workmen to insist on prosecution, even if the case is very strong against the employer. For the reasons best known to the Govt., it is found that the Govt. hardly prosecutes any employer.

Moreover, these proceedings are to be instituted in the criminal courts, which are not conversant with the pressing needs of the workers and seriousness and urgency of the breach of award and settlements etc. These criminal Courts, therefore, many times, instead of awarding deterrent punishments, take the lenient view and impose nominal fines only. Consequently the workmen and the Labour Officer are totally disappointed as their pains in pursuing the complaint are not properly rewarded, and the employer is not deterred from violating the laws.

(iv) Negligible Fines and Compensation.

The payment of wages Act provides in Sec.15(3) that the authority may direct the employer to make payment of the delayed wages together with such compensation as the authority may think fit, not exceeding ten rupees. The maximum penalty provided for the breach of various sections varies from Rs.200 to Rs.500 only. The maximum penalty provided under minimum wages act is also Rs.500 only but it is further provided that in imposing any fine, the Court shall take into consideration the amount of any compensation already awarded against the accused employer in any proceedings before the Authority under the Minimum Wage Act. Similarly, the provisions under I.D. Act regarding maximum penalty vary from Rs.100 to Rs.1,000 only. The provision for imprisonment in certain cases has been made, but it is decorative. Firstly, it may be noted that the abovementioned fine or compensation is maximum, which is not normally imposed or granted. Secondly, it is irrespective of number of persons employed or irrespective of the number of legal dues of workers withheld by the defaulting employer. Thirdly, no provision has been made for any

interest to be paid to the workmen on their dues illegally withheld and used by the employer. The employer is therefore interested in delaying the final disposal of the cases.

The net result of all these provisions is that the employers are never afraid of violating the law, as ultimately from a business or commercial point of view, the defaulting employer is allowed to utilise the workers' money without any interest for a very long period and with a very negligible amount of fine and/or compensation compared to the monetary benefits that accrue to the accused employers by holding up the workers wages. The present penalties never act as deterrent punishment to the employer.

412. While noting the callous attitude of the Government towards prompt payment of legal dues to the poor workmen, the anxiety of the Government to collect its own dues on account of sales or income-tax and the punishment prescribed for the defaulters and the powers granted to the officers for the recovery of the same in cases of default are significant and remarkable.

(A) The Bombay Sales Tax Act, 1959 provides as follows:

(i) Section 36(3):

If a dealer does not, without reasonable cause, pay tax **within** the time he is required by or under the provisions of this Act, to pay it, he shall, pay by way of penalty, in addition to the amount of tax, a sum equal to--

- (a) One per cent of the amount of tax for each complete month for the first three months, after the last date by which he should have paid that tax, and
- (b) One and one-half per cent of the amount of tax for each complete month thereafter, during the time he continued to make default in the payment of tax.

(ii) Section 67(2):

Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences punishable under this Act or rules made thereunder shall be cognizable and bailable.

(iii) Section 68(1):

Subject to such conditions as may be prescribed, the Commissioner may authorise either generally or in respect of a particular case or class of cases any Officer appointed under section 20 to assist him to investigate all or any of the offences punishable under this Act.



Section 68(2):

Every Officer so authorised shall, in the conduct of such investigation, exercise the powers conferred by the code of Criminal Procedure, 1898, upon an Officer in charge of a Police Station for the investigation of a cognizable offence.

(b) The Income-tax Act, 1961 provides as follows:(i) Section 139:

Every person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax, shall furnish a return of his income or the income of such other person during the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed-

- (a) In the case of every person whose total income, or the total income of any other person in respect of which he is assessable under this Act, includes any income from business or profession, before the expiry of six months from the end of the previous year, or before the 30th day of June of the assessment year, whichever is later;
  - (b) in the case of every other person, before the 30th day of June of the assessment year;
- For delay in filing or for non-filing of income-tax return within the time limit prescribed hereabove, the assessee is required to pay 6% interest on the amount of tax payable from 1st October of the relevant assessment year to the date of filing the return.

(ii) Section 271:

- (a) If any person has, without reasonable cause, failed to furnish the return of his total income voluntarily u/s 139(1) or by notice u/s 139(2) or Sec. 148 or has failed to furnish it within the extended time allowed and in the manner required, the assessee is required to pay penalty, in addition to interest of a sum equal to 2% of the tax for every month during which the default continues.

(iii) FINE: Section 276:

Section 276 provides that if a person fails

without reasonable cause or excuse to make payments or deliver returns, he shall be punishable with a fine which may extend to ten rupees for every day, during which the default continues.

(iv) Section 220

When tax payable and when assessee deemed in default:-

- (1) Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under Section 156 shall be paid within thirty-five days of the service of the notice at the place and to the person mentioned in the notice;
- (2) If the amount specified in any notice of demand under section 156 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at four per cent, per annum from the day commencing after the end of the period mentioned in sub-section (1).

(v) Section 221:

Penalty payable when tax in default:-

- (1) When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable under sub-section (2) of Section 220, be liable to pay by way of penalty, an amount which, in the case of continuing default, may be increased from time to time, so, however, that the total amount of penalty does not exceed the amount of tax in arrears:

Provided that before levying any such penalty the assessee shall be given a reasonable opportunity of being heard.

- (vi) Under the second schedule, the procedure for the recovery of the tax has been prescribed under the Income-tax act 1961.

The tax Recovery Officer is required to issue notice to the defaulter to pay the amount within 15 days of the receipt of this notice. If the amount is not paid within 15 days, the Tax Recovery Officer is empowered to realise the amount by one or more of the following modes:-

- a) By attachment and sale of the defaulter's moveable property;
- b) By attachment and sale of the defaulter's Immoveable property;
- c) By arrest of the defaulter and his detention in prison;

- d) By appointing a receiver for the management of the defaulter's moveable and immoveable properties.

Moreover, interest, penalty, fine, costs and any other sum payable under the act in addition to the amount of tax is also recoverable from the defaulter.

In short, the provision for recovery of interest and imposition of heavy penalty and fine have been made to recover tax dues. Moreover, the power to recover the interest, penalty, fine etc., by attachment and sale of defaulters' property and to arrest and detain the defaulter in prison has been conferred on the officers. The cumulative salutary effect of all these provisions is that the assesseees are compelled to remain very prompt and punctual in payment of taxes and they voluntarily prefer to pay the taxes within the prescribed time, rather than facing the rigours of the law of the taxation.

#### R E M E D Y

413. Hence, after careful consideration of the prevailing circumstances, realising the urgent need to check the malpractices of employers and guided by the provisions of prompt collection of tax dues, we submit that the following provisions should be made to meet the current acute problem of non-implementing the award and non-payment of wages and all the legal dues to workmen:

- (1) The definition of the "wages" shall have to be made wide and comprehensive so as to include all money and cash-value of all non-monetary benefits, concessions or prerequisites. (Details are given in our views on codification of labour laws);
- (2) The Recovery Officers should be appointed to recover such wages from the employers on an application made by the employee.
- (3) The application form should be very simple, requiring only particulars of wages along with its due date, name and address of employer and such other essential particulars, necessary for the recovery of wages.
- (4) The recurring interest at the rate of  $1\frac{1}{4}\%$  per month, that is the prevalent market rate of interest, from the due date upto the date of actual payment shall be paid by the employer to the employee on the amount withheld by him.
- (5) When the employer makes default in making the payment of wages, he shall, in addition to the amount of wages and the amount of interest payable under

the above clause No.4, shall be liable to pay the penalty of an amount equal to 2% of the unpaid wages for every month during which the default continues.

- (6) The penalty may not be imposed, if the Recovery Officer or the Payment of Wages Court is satisfied that the delay in payment was due to the occurrence of an emergency, or the existence of exceptional circumstances, so that the employer was unable to make prompt payment, though reasonable diligence was exercised, or if the Payment of Wages Court is satisfied that the delay was due to bonafide dispute as to the entire amount payable to the applicant-employee.
- (7) Out of the amount of penalty realised, half of the amount shall be paid by way of compensation to the applicant-employee.
- (8) On receipt of the application, the Recovery Officer shall issue:
  - (i) Demand notice, asking the employer to deposit the entire unpaid amount of wages claimed by the applicant-employee or the undisputed amount of unpaid wages, along with 1 $\frac{1}{4}$ % recurring interest per month thereon within 15 days of the receipt of notice.
  - (ii) Show cause notice to the employer, asking him to show cause within 15 days of the receipt of the notice, why penalty should not be imposed in addition to the interest and amount claimed by the applicant-worker.
- (9) If the amount mentioned in the notice is not paid within 15 days, the Recovery Officer shall proceed to realise the claimed amount or the undisputed amount, whichever is lower, along with interest, penalty, compensation and costs by one or more of the following modes:-
  - (a) by attachment and sale of the defaulting employer's moveable or immoveable property;
  - (b) by arrest of the defaulting employer and his detention in prison;
  - (c) by appointing a receiver for the management of the defaulting employer's property.
- (10) The claims of disputed amount shall be promptly transferred by the Recovery Officer to the Payment of Wages Court for disposal.
- (11) The Payment of Wages Court should summarily and expeditiously decide the case and in addition to aforesaid interest and penalty, the Court shall direct the employer to pay the reasonable amount of compensation and cost to the applicant.

- (12) The habitual breach of the law relating to payment of wages, as defined comprehensively in the Labour Code, should be listed as cognisable offence by suitable amendment and the punishment of imprisonment to all the persons responsible for payment should be prescribed by law in such cases.
- (13) No appeal or writ petition against the order of the Recovery Officer or Payment of Wages Court or Industrial Tribunal or Technical Tribunal should be admitted unless and until the employer has deposited the entire amount, payable to the workmen by virtue of the impugned order or award, in the court and the original receipt of the same is attached with the petition or memorandum of appeal.
- (14) On admission of the appeal or writ petition against the award, which directs the employer to enhance the wages, the employer shall be required to deposit in the court every month the entire amount of enhanced wages payable to the workmen under the award, till the final disposal of the appeal or petition.
- (15) Any strike for the purpose of recovery of wages shall be legal and justified and the defaulting employer shall pay the full wages for the entire period of such strike.
- (16) SPECIAL MODE OF RECOVERY: The Income-tax Act provides for the following mode of recovery:-
226. Other modes of recovery:- (1) Notwithstanding the issue of a certificate to the Tax Recovery Officer under section 222, the Income-tax Officer may recover the tax by any one or more of the modes provided in this section:
- (3)(i) The Income-tax Officer may, at any time or from time to time, by notice in writing require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee, to pay to the Income-tax Officer either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the assessee in respect of arrears or the whole of the money when it is equal to or less than that amount.

- (4) The Income-tax Officer may apply to the court in whose custody there is money belonging to the assessee for payment to him of the entire amount of such money, or, if it is more than the tax due, an amount sufficient to discharge the tax.
- (5) The Income-tax Officer may, if so authorised by the Commissioner, proceed to recover the tax by distraint and sale of the movable property of the assessee in the manner laid down in the Third schedule.

The Bombay Sales Tax Act provides for the following Special mode:-

Section 39: Special mode of recovery:

"Notwithstanding anything contained in any law or contract to the contrary the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the dealer at his last address known to the Commissioner, require--

- (a) any person from whom any amount of money is due, or may become due to a dealer to whom notice has been served under sub-section(4) of section 38, or
- (b) any person who holds or may subsequently hold money for or on account of such dealer,

to pay to the Commissioner, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (but not before the money becomes due or is held at aforesaid), so much of the money as is sufficient to pay the amount due by the dealer in respect of the arrears of tax, penalty and sum forfeited under this act, or the whole of the money when it is equal to or less than that amount."

Similar provisions should be made in the Labour Code, empowering the Recovery Officer to recover the amount of wages from the debtor of the defaulting employer or from the Court in whose custody there is money belonging to the defaulting employer or by distraint and sale of his movable property.

CODIFICATION OF LABOUR LAWS

414. Just as there is one criminal law, that is Indian Penal Code, for the whole country, there should be one single common labour code for the entire country, in the interest of uniformity, clarity and simplicity, For this purpose, there should be common labour judiciary to settle all labour problems, which would help in speedy dispensation of justice. It will be convenient for the employers, workers as well as

enforcement machinery. It is also necessary and desirable that the repetitive and cumbersome character of the present laws is removed and the common definitions of very important expressions like 'Employer', 'Employee', 'Industry', 'Wages', etc., are evolved. Inconsistencies can be removed and unnecessary confusion can be avoided. This will also require the minimum provision for various terms and conditions of service. Further the constitution should be amended and the subject of 'Labour' should be included in the "Union List", and deleted from the "concurrent list".

415. The codification of labour laws can be brought about by providing for different chapters on the following subjects:-

1. Definitions.
2. Trade Unions and Recognition.
3. Law on payment of wages.
4. Various claims and benefits such as retrenchment compensation, lay off, gratuity, overtime etc.
5. Conditions of work.
6. Conditions of service.
7. Law on Apprentices.
8. Law on Statistics.
9. Law on Industrial Disputes (including strikes).
10. Authorities under the code and procedure, powers and duties of Authorities.
11. Integrated Social Security Scheme.
12. Penalty and offences.
13. Miscellaneous.

416. I. DEFINITIONS.

The different definitions of the same important expressions like 'Industry', 'Industrial Dispute', 'Workmen', 'Employer', and 'Wages', in different Acts/created confusion./ has It is therefore, necessary and desirable to have common and uniform definitions of the above terms. Wherever the departure from these definitions is essential for any particular purpose such modified definitions may be included at the appropriate place.

We propose the following common definition of the above terms for the purpose of its inclusion in the common Labour Code.

(a) INDUSTRY:

The word industry should be very broadly and comprehensively defined so as to include each and every kind of employment and the benefit of the labour laws can be extended to all kinds of employees. For this purpose, we propose that the industry should be defined as "any activity where employer-employees relationship persists".

(b) EMPLOYER:

The expression 'Employer' has not been appropriately defined in the Industrial Disputes Act or Bombay Industrial Relation Act. The Payment of Wages Act does not contain any definition of "Employer" at all. However, it is essential to have a common definition for the purpose of Labour Code. We therefore suggest that "Employer" should be defined as "any person who employs, whether directly or through another person or whether on behalf of himself or any other person, one or more employees in any industry and includes -

- (a) any agent of an employer
- (b) an association or a group of employers
- (c) legal representative of the deceased employer
- (d) where the owner of any undertaking in the course of or for the purpose of conducting the undertaking contracts with any person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the undertaking, the owner of the undertaking;
- (e) "Employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and (when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, such other person while the workman is working for him;)
- (f) In relation to an industry which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; and
- (g) in relation to any other industry, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent;

(c) EMPLOYEE:

The definition of the 'worker', 'workman' or 'Employee' in various existing labour legislation like Factory Act, Payment of Bonus Act, Indian Trade Unions Act, Industrial Disputes Act etc., differ from each other while the broadest definition is given in Factory Act and Indian Trade Union Act, the narrow salary limit is prescribed in Payment of Wages Act and Workmens Compensation Act. As we desire to extend the



benefit of Labour Legislation to all the employees, we propose to define the 'Employees' in its widest sense. However, we are of the opinion that the Manager or the agent or such other employee or employees appointed to act on behalf of the employer to exercise all the powers of the employers in respect of matters relating to the employment of persons, administration, control and direction should be excluded from the category of the employees.

We, therefore, suggest that the "Employee" should be defined as " a person employed for wages in any industry but shall not include persons vested predominantly with managerial authority, and shall include the legal representative of the deceased employee".

Persons vested with managerial authority and responsibility, including those from the supervisory or the technical staff whose nature of work is predominantly managerial, constitute, by virtue of the nature of their work, responsibility and authority and also on account of the peculiar strategic position they occupy in the scheme of the industry, a distinct class different from both - the employers and employees. A special legislation would therefore be necessary to safeguard their rights and interests. The supervisory and technical staff of managerial character, drawing more than Rs.750/- (Rupees Seven Hundred & Fifty only) as basic salary per month must be brought within the purview of the labour legislation. The definition of "Employee" can for this purpose be suitably modified.

For the purposes of any disputes regarding retiring benefits, the Pensioners shall be deemed to be the employee.

(d) WAGES

The term "wages" should be redefined so as to enlarge its scope and include all the amounts payable to the employees for the following reasons:-

(1) Preferential Payment:

Section 49 of the Presidency Town Insolvency Act, 1909 grants the priority to wages over all other debts except Government or local authority dues and rent. Similarly under Section 530 of the Companies Act, 1956 the wages of an employee has been granted the priority to all other debts except Government or local authority dues in case of the winding up of a company. In view of the narrow scope of the present term "Wages", the Government had to amend the said section to include retrenchment compensation and lay off compensation. Instead of amending such Acts from time to time to grant priority to one or the other component of "Wages", its definition should be widened to extend this benefit of preferential payments to all kinds of payments due to

the employee.

(2) Benefit of speedy and effective remedy.

We have already proposed the detailed procedure and speedy, efficient and effective remedy, to recover wages in the paras hereinbefore. For the purpose of extending the said benefit to all kinds of payments arising out of various claims, the definition should be made comprehensive.

(3) Exemption of property from sale:

Under section 60 of the Code of Civil Procedure, 1908, dealing with attachment and sale of property for the purpose of executing the decree provides:

Sec.60(p) Where the judgement-debtor is a person liable for the payment of land-revenue, any moveable property which, under the law for the time being applicable to him, is exempt from sale for the recovery of an arrear of such revenue.

We have proposed that similar provisions should be made for the recovery of the wages too and for extending this benefit of exemption to full wages consisting of all kinds of payments to employees of the judgement-debtor (employer), the definition shall have to be wide and comprehensive.

We therefore propose the following definition:-  
"Wage means any money payable to the person employed by virtue of his employment in industry and includes-

- (a) "Bare Wages" that is wages popularly known as basic wages at present.
- (b) "Dearness Wages" that is wages depending on price changes.
- (c) "Incentive Wages" that is wages depending on productivity changes.
- (d) Stipend payable to apprentice.
- (e) Any amount payable under the terms of employment (express or implied), award, settlement, law, order of the court, or any scheme framed under any law.
- (f) The cash value of any benefit or perquisites as defined under Incometax Act, to which the employee is entitled under the terms of employment (express or implied), award, settlement, law, order of the court, or any scheme framed under any law.

Note: Perquisite includes the value of rent-free accommodation, light, water, medical attendance or other amenity or service or any concession and any sum paid by the employer in respect of any obligations which, but for such payment, would have been payable by the employee.

- (g) any allowances, reward or additional remuneration;

- (h) any sum paid or payable to or on behalf of an employee to defray special expenses entailed on him by the nature of his employment;
- (i) any bonus including (festival, customary and attendance bonus); and gratuity.
- (j) any contribution paid or payable by the employer to any pension fund or provident fund or Employees State Insurance fund or unemployment insurance fund or any other fund devised for the benefit of the employee and all sums due to any employee from such funds.
- (k) any commission payable to the employee.

For the purpose of the recovery, all sums paid by the employee to the employer by way of deposit or otherwise, but returnable to the employee, shall be treated as wages.

For the purpose of computing Bonus, gratuity, Provident Fund contribution etc., certain components of the various components of the wages mentioned hereinabove, may be grouped together and termed as "partial wages". Such "Partial Wages" shall be flexible, in as much as its components may vary to meet the special requirements of the fulfilment of the specific purpose in view.

(e) INDUSTRIAL DISPUTE:

The concept of Industrial Disputes should not be confined merely to the differences in respect of employment or non-employment of the workmen. The trade unions must be conferred a right to raise the industrial disputes in respect of any industrial matter affecting the interest of the industry as a whole. In this respect, the definition in the "The Bombay Industrial Relations Act, 1946 can serve as a guidance for enlarging the scope.

We, therefore, propose the following definitions for "Industrial Dispute" and "Industrial Matter".

"Industrial Dispute" means any dispute or difference between an employer and employee or between employers and employees or between employees and employees and which is connected with any industrial matter;

"Industrial matter" means any matter relating to employment, work, wages, hours of work, privileges, rights or duties of employers or employees or the mode, terms and conditions of employment of Labour and capital, and includes:-

- (a) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;
- (b) all matters pertaining to the demarcation of functions of any employees or classes of employees;

- (c) all question of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole;
- (d) Transfer, Promotion or Recruitment policy.
- (e) Correctness of the Balance sheets prepared by the employer.
- (f) Introduction of schemes such as Production Bonus.
- (g) All matters relating to permanent or semi-permanent increase or reduction in capital employed.

#### 417. TRADE UNIONS AND RECOGNITION.

The Workers should have the freedom to form the union and choose their leader and for that, procedure should be prescribed for its registration. Rights and liabilities of the trade unions should be laid down. Outsiders should be allowed to become the Office bearer and their maximum number should be provided for.

With the progress of the trade unions, the question of multiplicity of union shall have to be solved by the law on recognition and the rights of various unions in the same industry or unit. Suitable provisions should be made after considering our proposals.

#### 418. LAW ON PAYMENT OF WAGES.

This chapter should include the provisions for the payment of minimum wages and the 100% neutralisation of the actual wages of the employees in case of rise or fall in price. Moreover, recognising the principle that "Bonus" is the "Deferred Wage", the provisions regarding payment of Bonus should be included in this chapter. Time limit should be prescribed for the payment of wages and provisions for allowable deductions should be made.

#### 419. VARIOUS CLAIMS AND BENEFITS.

Provisions relating to lay-off and retrenchment should be made. The definition of retrenchments should be widened on the line suggested by us hereinbefore. Principle of "last come first go" should be incorporated and the right of reemployment at original wages should be statutorily recognised. The provision of "average pay" should be deleted. The provision should be made for the grant of gratuity to every employee. In case of death, the gratuity should be payable to nominee of the deceased employee. Similarly the statutory provisions regarding Sunday-Holiday working allowance and night duty allowance must be made. Above provisions should be made, keeping in view the industrial practice, judicial decisions and our proposals at various places, in this memorandum.

420. CONDITIONS OF SERVICE OR EMPLOYMENT.

To define with sufficient precision the conditions of employment and to make the same conditions known to workmen employed, it is necessary to frame the standing Orders. It should provide at least for the industrial matters described in the list appended hereto. These orders should be applicable to all establishments and should provide for the procedure to introduce change in the said orders to meet the special requirements of different establishments. Permanency should be made automatic after 3 months' service. Badli workmen should be guaranteed minimum wage and minimum leave. Mere participation in illegal strike should not be misconduct.

LIST.

1. Classification of employees, e.g. permanent, temporary, apprentices, probationers, badlis etc. and Employees' tickets, cards, registers, service certificates, record of date of joining and date of birth.
2. Manner of notification to employees of periods and hours of work, holidays, pay days and wage rates.
3. Shift working including notice to be given to employees of starting, alteration or discontinuance of two or more shifts in a department or departments.
4. Closure or reopening of a department or a section of a department or the whole of the undertaking.
5. Attendance and late coming.
6. Procedure and authority to grant leave.
7. Procedure and authority to grant holidays.
8. Liability to search and entry into premises by certain gates.
9. Temporary closures of work including laying off, and rights and liabilities of employers and employees arising therefrom.
10. Termination of employment including notice to be given by employer and employee.
11. Age for retirement or superannuation.
12. Punishment including warning, censure, fine, suspension or dismissal for major or minor misconduct, suspension pending inquiry into alleged misconduct and the acts or omissions which constitute misconduct.
13. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.
14. Any other matter which may be prescribed.

421. CONDITIONS OF WORK

The provisions regarding safety, welfare, Health, Hours of work, paid weekly holiday, interval for rest, spread over, extra wages for overtime, employment of women child or young persons and annual leave, sick leave, casual leave and holidays with wages should be made in this part. The employee should not be required to work overtime against his or her will. The provisions of various Acts such as Factory Act, Mine's Act, Plantation Labour Act, Motor Transport worker's Act, Merchant Shipping Act, Dock workers (Safety, Health and Welfare) Scheme, Coal Mines Labour Welfare Fund Act, The Bombay Labour Welfare Fund Act., should be simplified and unified, for this purpose.

Medical examination of every worker in coalmine after every two years, with a view to ascertain whether he is afflicted by Pneumoconiosis, particularly by Anthroecosis, should be made obligatory by law.

The facilities of Holiday-House and other means of nourishment and medicines should be provided by law at the responsibility of the employer.

Periodical medical examination should be made a statutory obligation in case of all industries whose operations are known to give rise to occupational diseases.

422. LAW ON APPRENTICE AND STATISTICS

The provisions contained in the Apprentices Act, 1961 should be reviewed and incorporated in this chapter. Similarly the provisions contained in the Collection of Statistics Act should be revised and incorporated in this code.

423. LAW ON INDUSTRIAL DISPUTES

This Chapter shall contain the provisions regarding the procedure to introduce a change in respect of any industrial matter, to be followed by employer, employee or the Union, as the case may be.

The Industrial matters should be divided into the following three schedules:-

- (1) Matters within the jurisdiction of Labour Court.
- (2) Matters within the jurisdiction of Technical Tribunal.
- (3) Matters within the jurisdiction of Industrial Tribunal.

Strict procedure for arriving at the private settlement should be prescribed and it should be expressly provided that no employer shall, make any change in any industrial matter without following the prescribed procedure.

Law on strikes and lockout in consequence of any industrial dispute, should be included in this chapter.

### SCHEDULE I

#### MATTERS WITHIN THE JURISDICTION OF LABOUR COURT

- 1) Any order passed by employer under Standing Orders.
- 2) Any industrial matter arising out of the application or interpretation of Standing Orders.
- 3) Adequacy and quality of materials and equipment applied to the workers.
- 4) Assignment of work and transfer of workers within the establishment.
- 5) Health, safety and welfare of employees (including water, dining sheds, rest sheds, latrines, urinals, creches, restaurants, and such other amenities.)
- 6) Appeals arising out of the order passed by Labour Officers in respect of Construction and interpretation of awards, agreements and settlements.
- 7) Employment including-
  - (i) reinstatement and recruitment;
  - (ii) unemployment of persons previously employed in the industry concerned.
- 8) Any claim in respect of wages, as defined in the Labour Code, forwarded by the Wage Recovery Officers.
- 9) All individual cases regarding any industrial matter.
- 10) Any offence under the Labour Code.

### SCHEDULE II

#### MATTERS WITHIN THE JURISDICTION OF TECHNICAL TRIBUNALS

- 1) Job evaluation for the purpose of wage differentials.
- 2) Standardisation of Nomenclature.
- 3) Job Description & Specifications.
- 4) Grouping of jobs for the purpose of grades, transfers, seniority and channel of promotion.
- 5) Incentive Schemes & payments (Piece rate also).
- 6) Work load, Work-Study.
- 7) Application of Family living surveys and cost of living Indices.
- 8) Regionwise compensations.
- 9) Occupational differentials & comparisons.
- 10) Break-up of Productivity-gains (industrywise measurement of Productivity.)
- 11) Rationalisation.

### SCHEDULE III

#### MATTERS WITHIN THE JURISDICTION OF INDUSTRIAL TRIBUNAL.

- 1) Reduction intended to be of permanent or semi-permanent character in the number of persons employed or to be employed in any occupation or process of department or departments or in a shift.

- 2) Permanent or semi-permanent increase in the number of persons employed or to be employed in any occupation or process or department or departments.
- 3) Dismissal of any employee except as provided for in the standing orders applicable under this Act.
- 4) All matters pertaining to shift working which are not covered by the Standing Orders applicable under this Act.
- 5) Withdrawal of recognition to unions of employees.
- 6) Withdrawal of any customary concession or privilege or change in usage.
- 7) Introduction of new rules or discipline or alteration of existing rules and their interpretation, except in so far as they are provided for in the standing orders applicable under this Act.
- 8) Wages including the period and mode of payment.
- 9) Hours of work and rest intervals.
- 10) All matters pertaining to leave and holidays, other than those specified in Standing Orders.
- 11) The mode, terms and conditions of employment of capital.
- 12) All questions of what is fair and right in relation to any matter having regard to the interest of the person immediately concerned and/or of the community as a whole;
- 13) Transfer, Promotion or Recruitment policy.
- 14) Correctness of the Balance Sheets prepared by the employer.
- 15) All matters relating to permanent or semi-permanent increase or reduction in capital employed.
- 16) Compensatory and other allowances;
- 17) Bonus, profit sharing, provident fund and gratuity;
- 18) Shift working otherwise than in accordance with standing orders;
- 19) Classification of grades;
- 20) Rules of discipline;
- 21) Retrenchment of workmen and closure of establishment;
- 22) All matters other than those specified in I & II schedules.



424. AUTHORITIES UNDER THE CODE AND THEIR POWERS

Authorities shall include the following:-

1. Works Committee or Labour Committee: any disciplinary action, transfer or promotion should be subject to the prior approval of this Committee.
2. Labour Inspectors: To ensure and supervise the enforcement of labour code they should include Medical and women inspectors.
3. Conciliation Officers or Labour Officers: They must have powers to summarily decide matters regarding disciplinary actions against employees and interpret the awards and settlements.
4. Labour Prosecutors: To represent unorganised labour in all dealings vis-a-vis trade unions, if approached by individual employee or employees and organised labour, if recommended by Labour Officers.
5. Recovery Officers: To recover wages as stated in earlier part, of our memorandum, without any question of time limit.
6. Labour Court: To deal with industrial matters specified in Schedule I.
7. Technical Tribunal: To deal with industrial matters specified in Schedule II.
8. Industrial Tribunal: To deal with industrial matters specified in Schedule III.
9. Technical Appellate Tribunal (All India): To deal with the appeal arising out of the decisions of technical Tribunal.
10. Arbitrators: To decide any matter referred jointly by Employer and employees by a written agreement.
11. Wage Board: To deal with the matters referred by the Government by an order notified in the gazette.

Labour Inspectors, Labour Officers, Labour Prosecutors and Recovery Officers shall be appointed by the Government. Members of Labour Court, Industrial Tribunal, Technical Tribunal and Technical Appellate Tribunal shall be appointed by appropriate judicial authorities.

Any employee can directly approach the Labour Officers, the Recovery Officers, Labour Prosecutors and the Labour Court as the case may be. Reference to Industrial Tribunal or Technical Tribunal may be made jointly by the workmen and Employer directly or through Labour Officers, who shall be bound to transfer every dispute for adjudication to the said Tribunals in case of failure to settle the dispute, without any intervention of the Govt. Any employer, Trade Union or Labour prosecutor can institute the proceedings in the

Labour Court for the Trial of any offence punishable under the code.

The reasonable time limit should be statutorily prescribed for disposal of any matter by various authorities, taking into consideration the nature of industrial matters.

The Tribunals or Arbitrator shall grant retrospective effect to their awards, at least from the date of joint reference or from the date of transfer of the dispute for adjudication by the Labour Officers.

If the termination of the services of an employee is found invalid, he shall be reinstated with full back wages.

#### 425. INTEGRATED SOCIAL SECURITY SCHEME

Various welfare schemes such as Employees Provident Fund, Employees State Insurance, Maternity Benefit etc., should be integrated and put into operation under the general supervision of the National Tripartite Body. The scheme for unemployment insurance also should be included. Various benefits under the scheme such as sickness, medical, accident, disablement, maternity, unemployment etc., cannot be assigned or attached.

#### 426. PENALTY AND OFFENCES.

The offences under the code should be specified and the penalties should be prescribed therefor. Employers should be penalised for committing unfair labour practices, which should be described. If the employee is injured due to offence of the employer, 50% of the penalty realised, shall be paid to the employee by way of 'compensation'. The proceedings can be instituted by any employee, Union or Labour Prosecutor. All the offences shall be tried by the Labour Court.

#### 427. MISCELLANEOUS PROVISIONS.

1. The provisions regarding maintenance of registers and records, Bar of suits, Power to make rules, Delegation of powers etc., should be included in this chapter.
2. The contract system of Labour should be abolished. If due to unavoidable circumstances, the contract labour is employed, they should be treated on par with the direct labour for the purposes of wages, claims and all benefits under code.
3. The protection of the Indian Trade Union Act should be extended, among others, to employees of such of the departments of various Governments as conduct commercial activity.

4. In view of the peculiar characteristics of their work, special industrial disputes laws should be enacted to protect the interests of workers in -
- i) Educational institutions;
  - ii) Social Welfare organisations;
  - iii) Domestic employ; (domestic servants)
  - iv) Hospitals;
  - v) Co-operatives other than workers' Co-operatives;
  - vi) Construction works;
  - vii) Small Scale Industries;
  - viii) Cottage Industries;
  - ix) Seasonal Industries;
  - x) Rikshaw-pulling;
  - xi) Mallah-work;
  - xii) Agriculture;
  - xiii) Forests;
  - xiv) Concerns and Institutes of various arts;
  - xv) Employ of Ex-Rulers (former Princes)
  - xvi) Firms of Advocates, Solicitors and other legal agencies.
5. Appropriate machinery for the redressal of grievances of the police personnel should be set up in every State.
6. Similar machinery for redressal of grievances should be evolved for the benefit of the members of the Central Industrial Security Force.
7. A separate Board comprising of known personalities in the field of religion be constituted in every State to deal with the cases of employees-priestly and otherwise of all religious institutions within the State. Even separate Boards may be set up for institutions of different religions. The Board should be empowered to frame rules and regulations to protect these employees and to ensure implementation of the same. Without interfering directly in the internal administration, the Government should assist the Boards in the process of such implementation.
8. So far as protection of trade union law is concerned, Associations of pensioners ex-servicement should be brought at par with the unions or associations of which they were entitled to become members while in active service.
9. It is our considered view that in a country like India, the Labour Policy must take cognisance of the plight of the self-employed artisans and craftsmen as well as the industrial workers. The Ministry of Labour & Employment should have a separate department under it to safeguard the interests and look after the welfare of these self-employed craftsmen and

artisans who, according to BMS, constitute the Vishwakarma Sector. The department should conduct artwise and craftwise census of this sector. It should possess complete information regarding their credit facilities; sources and prices of their raw material; their present process of manufacture and the results of the research work to be conducted by the Ministry for their benefit as specified by us in our submission on Research; their present marketing facilities and the potential markets at home and abroad; the nature of demands in and requirements of these potential markets and the resultant specifications and the standardisation of goods to be produced; legal protection they enjoy today and the legislation necessary for them in future. It should be the responsibility of this department to regulate their economic activities; to guide them regarding the varieties, standards and specifications of their products; to increase saleability of their goods at home and abroad; and to encourage and assist them in the formation of their varied co-operatives.

10. There should be a Central Legislation on Co-Operation covering the minimum, common, uniform, provisions for the entire country, and the State Govts. should be empowered to make rules and regulations for the conduct of 'co-operatives' within their respective States.
11. The Rayons, which are wrongly included in the category of Textiles should be classified under Heavy Chemicals. The nature of their work justifies this demand. The recommendations of the 'Viscose Committee' should be given statutory status.
12. Contracting out by any employee from the beneficial rights under the code should be prohibited.

#### 428. AMENDMENTS IN CERTAIN ACTS:

##### SPECIFIC RELIEF ACT:

Section 14 of the said Act should be suitably amended, so that a suit for the relief of reinstatement in the appropriate cases can be filed in the Civil Courts by the dismissed or discharged employees.

##### CIVIL PROCEDURE CODE:

Minimum limit of wages or salary exempted from attachment by virtue of section 60 of Civil Procedure Code is the sum of Rs.100/- (Rupees one hundred only) per month. Minimum amount exempted from attachment should be sufficient to meet the minimum needs of the workers' family. Hence, we propose that such minimum limit should be raised from Rs.100/- per month to an amount equivalent to the monetary value of need-based minimum wage as defined by the 15th Tripartite Conference.

BOMBAY SHOPS AND ESTABLISHMENT ACT:

Under Section 54 of the said Act, "if an employees goes to the shop or establishment for work on a day on which shop or establishment remains closed, he shall be punished with fine which shall not be less than ten rupees and which may be extended to fifty rupees."

It is really surprising and shocking that employees are punished for the wrong committed by the employer by calling the employee for work. Under the present circumstances of widespread unemployment, it is impossible for an employee to refuse to obey the illegal order of the employer, who is in a dominating position.

This provision should therefore be immediately scrapped.

COMPANIES ACT AND INSOLVENCY LAWS:

In case of insolvency or winding up, the wages to a certain extent are given priority to debts, other than Govt. due. However, we are of the opinion that entire amount of wages as comprehensively defined in our Memorandum, should be granted priority and for this purpose, suitable amendment should be made in section 49 of the Presidency Town Industry Act and Section 530 of the Companies Act.

INCOME TAX ACT:

- (1) Sec.10 of the Income-tax Act, 1961, provides as follows:-

In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included-

Sub-section (10):any death-cum-retirement gratuity received under the revised Pension Rules of the Central Government or under any similar scheme of a State Government, a local authority or a corporation established by a Central, State or Provincial Act or any payment of retiring gratuity received after the 1st day of June 1953, under the New Pension Code applicable to the members of the Defence Services; or any other gratuity not exceeding one half month's salary for each year of completed service, calculated on the basis of the average salary for the three years immediately preceding the year in which the gratuity is paid, subject to a maximum of twenty-four thousand rupees or fifteen months' salary so calculated, whichever is less;

Sub-section (12):the accumulated balance due and becoming payable to an employee participating in a

recognised provident fund, to the extent provided in Rule 8 of Part A of the Fourth Schedule;

The above provisions should be suitably amended so as to exclude the entire amount of gratuity and the entire amount of accumulated balance due from the recognised provident fund from the total income of the employee.

- (2) At present 60% of the contributions of an employee to provident fund or superannuation is exempted from income-tax liability by virtue of Section 87. We propose that the entire amount of contribution to the above funds should be exempted.
- (3) Similarly contributions of any employee to Employees State Insurance Scheme or any other Scheme should be totally exempted from the income-tax liability.
- (4) All donations to a registered Trade Union should be exempted from tax liability.

#### CRIMINAL LAWS:

Industrial law is a kind of Special law and has all along endeavoured to establish altogether new types of rights and duties hereto unknown to the general law. Its method of giving jurisdiction to tribunals to adjudicate upon any controversy whatsoever between the employer and his workers which is "connected with the conditions of labour, or any person" and which arises out of a mere fact of making a demand by the workers on the employer and a refusal thereof by the latter; its policy to protect the poor against the rich, the weak against the strong, the under-privileged against the privileged and the have-nots against the haves; its liberality in conferring upon tribunals very wide powers to decide disputes according to the principles of law, equity, justice and good conscience; to disregard labour's contractual obligations owing to the presumed economic inequality of labour vis-a-vis the employer, in a fit case to supplant or revise a contract between the parties, to create new obligations or modify contracts in the interests of industrial peace, to protect legitimate trade union activities and to prevent unfair practice or victimization; to grant to employees what they (tribunals) thought fair and reasonable outside the terms of the contract and to enforce terms which they (tribunals) thought necessary to preserve industrial peace. Its latitude in allowing, under changed facts and circumstances, the same controversy between the employer and his workers to be re-agitated disregarding the doctrine of RES JUDICATA on the ground that if applied to industrial disputes, it may, and in most cases, would, come into conflict with the fundamental concept, namely, maintenance of industrial peace and promotion of harmonious relations between capital and labour with a view to achieve greater production (or) lead to stagnation or a

feeling of frustration and so would create more unrest in the industrial sphere, all these are its unique characteristics. Further the Trade Union Act protects officers and members of a registered trade union against punishment for criminal conspiracy under sub section (2) of Section 120B of the Indian Penal Code in respect of any agreement made between the members for the purpose of furthering any legal object of the union, unless the agreement is an agreement to commit an offence. It also protects a registered trade union or its officers or members against a suit or other legal proceeding in any Civil Court in respect of any act done in contemplation or furtherance of a trade dispute to which the members are a party on the ground only that such act induces some other person to break a contract of employment, or that it is interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills. Further, it protects a registered trade union against a suit or other legal proceeding in any Civil Court in respect of any tortious act done in contemplation or furtherance of a trade dispute by an agent of the union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the union. According to the Act, any agreement between the members of a registered trade union is not void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade. This special law grants protection to Trade Unions and its members from civil or criminal liability.

429. We propose that further protection should be granted by making the following amendments in criminal law:-

1. Section 506 which deals with the punishment for criminal intimidation should be deleted, or at least Trade Union and its members should be exempted from its purview.
2. Section 107 of criminal procedure code deals with security for keeping the peace and runs as under:  
 "Whenever a (Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or Sub-divisional Magistrate or a Taluka Magistrate specially empowered by the State Government in this behalf) is informed that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion the breach of the peace, or disturb the public tranquility, the Magistrate (if in his opinion there is sufficient ground for proceeding) may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for

keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix."

This Section should not be applied to industrial field and trade union activities.

Section 144 of Criminal Procedure Code dealing with power to issue order absolute at once in urgent cases of apprehended danger should be reframed.

Whenever imposition of this Section is occasioned by factors other than industrial unrest, meetings, gatherings, assemblies, processions, etc., or workers under the auspices of their trade unions should normally be excluded from the purview of its operation. It should be made applicable to workers' congregation only by special order, and that, too when industrial unrest makes it imperative.

Section 7 of the Criminal Law Amendment Act pertaining to peaceful picketing should be deleted, or, at least, trade unions should be exempted from the purview of that Section.

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