# Replies to the Questionnaire of the National Commission on Labour Government of India



Kerala State Trade Union Council

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*By*

## The Kerala State Trade Union Council

**Q1 Kerala State Trade Union Council of the AITUC, Glass House Junction, Trivandrum-14**

**Q2 All India Trade Union Congress**

**Q3 This is the Kerala Branch of the AITUC representing all the Unions affiliated to AITUC in Kerala. Our membership in Kerala State is 1,80,000**

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

Only a few questions have been discussed in our memorandum. On all other matters, including those contained in the questionnaire issued by the National Commission on Labour, the KSTUC as well as all the affiliated unions endorse these submissions made by the AITUC centrally.

### I. Recruitment and Induction

Q. 5-11 In the private sector there is generally no definite mode or method for recruitment In the traditional industries like coir, handlooms, beedi etc recruitment is made from among the families, relatives or friends of existing workmen but no definite rules exist. Reference to Employment Exchanges are made only to satisfy formality in the Units of modern industry belonging to the private sector

Due to the large scale unemployment in the State there is very great pressure exerted for each available job

In the public sector also the above is more or less the case.

The criteria and mode of selection in the industrial establishments in the public sector are more or less those adopted for regular Government Service.

Physical strength, skill, aptitude for the particular job in question etc ought to be given greater consideration than academic attainments, general knowledge, etc

Whethere the system of Communal Motation adopted for recruitment to regular Government Service should be applied in the same manner to industrial undertakings is also a matter for consideration.

Provisional appointments in Govt. departments are limited to three months, at the end of which employment is terminated even if the vacancy continues and another person is entertained again for a three month period This may not be objectionable in respect of menial or clerical work But in industrial establishments, skill and experience acquired should be considered an asset and such employees allowed to continue

About 12000 persons complete training in Industural Training Institutes every year and most of these trained persons are unemployed in Kerala. Many industrial establishments do not give these trainees any preference for fear that they may have to be paid higher rates of stipends or wages.

There are instances of certain establishments having their own Training sehemes when there are persons who have passed I T I course in the same trade, looking for employment.

Recruitment in the industrial sector should be a powerful instrument to break caste barriers. But recruitment is even now largely made on the basis of Caste No incentive exist of persons of other castes to go in for trades which are not their caste trades.

The main export of Kerala is man power In the recent period due to movements like the siva sena and the sentiments worked up against Malayalees & South Indians in the North, thousands employed in Metropolitan Centres like Bombay, Calcutta, Delhi have lost their jobs. Such parochial feelings have to be fought.

The casual system of employment is vastly prevalent in occupations which are in nature not casual one is the construction Industry Another example is the Reserve system in Motor Transport. This is resorted to chiefly in industries in which minimum wages have been statutorily fixed.

## II. Conditions of Work

### Working Conditons Q 12-17

Q 12 In Foundries where workers have to work in conditions of excessive heat the legilation does not provide any protection. Similar cases where legislation provide necessary protection can be seen in the case of workers engaged in Fishpealing manureblending etc These should be remedied The list of occupational diseases have to be enlarged taking into consideration the various branches of industries now being newly established. Although the weekly off is provided no provision is made for payment for the weekly-off-day. The provision of annual leave-with-wages is circumscribed by this being made conditional upon the worker working for atleast 240 days in the year. In ever so many industries the employer taking advantage of this condition manages to deny the workers this benefit by restricting their employment to less than 240 days. So also the number of days provided is unsatisfactory This should be doubled i e 30 days a year. and workers should be made eligible to one days leave for every ten-days attendance put in For work on holdays no overtime payment is provided for in case an alternate off day is allowed The Worker should be granted extra wage also in such cases At present there is no limitation for regulating conditions of work in the case of agricultural labourers Toddy tappers etc. Even in the case of Motor transport workers The Motor Transport Act covers only the running-staff. And even here all the running staff. e. g Checking Inspectors are not covered These should be looked into and necessary legislation provided.

Q 14. The existing Conditions of work in employments such as construction work(Road, Dams, Hydro electric Projects, Irrigation Canals etc) quarrying, primitive transport (Head load, Bullock cart) God own services, (Petrol pumps etc) Inland water transport are completey unsatisfactory They are more or less uncovered by any kind of statute Although all of these are of a permanent nature, the

workers are employed more or less on a casual basis. The work is given out on contract if the contractor who employs labour, with all the attendant evils The contract system should be abolished. All these employments should be decasualised.

With the establishment of rationing in many parts of the country, food grains transport has assumed extreme importance. The main employer is either the Government or the Food Corporation. But they are getting the job done through contractors. This system should be abolished & the work departmentalised.

In the case of workers engaged in oil distribution (Petrol pumps etc) and Inland water transport special legislation guaranteeing permanancy, fair condition of service etc: should be introduced.

Q 16. The conditions of work of the contract labour and the labour employed by the contractors have not in any way improved. Only complete abolition of the Contract System will be of any help. Tinkering with the problem by trying to civilize contract system only creates more difficulties to the workers.

**Safety and Health**

Q 18-25. The Wokmen's Compensation Act along the relevant provisions of the Employees State Insurance Scheme should be amended so as to (i) abolish the waiting periods in case of accidents and sickness (ii) grant the worker his full wages for the period of absence and (iii) give him the entire expenses for the treatment including price of medicine, special food and expenses for the attendant should borne by the establishment.

18. The main Causes of accidents have been the cussedness of employers, who pay scant heed to security-provision. The workers are generally security conscious. If at any time they throw caution to the winds it is because they are goaded by the employer either by force or by promise of handsome payments. Hence the employers should be made security conscious Strict penal provision will also help as a deterrent in the case of obstinate employers.

Workers have hever been found reluctant to use safety equipment.

The value of money has been daily declining, with the result that the real value of compensation expressed in terms of money has been going down. Hence the amount of lumpsum compensation should be immediately doubled with provision for its increase for every slab of 10 point rise in the cost of living index-bace 1955.

Q 26-38. Trade Unions are still the most maligned institutions in our body politic. Employers, upper class politicians, all vested interests & bureaucrats are all joined in a holy alliance to deprecate trade Unions. This malignment and deprecation assumes diverse forms from one of direct opposition to subtle indirect propaganda During the period of struggle for independance, bourgeois class politicians at times used to adopt a position of neutrality towards trade unions, because they realised that trade union struggles also served to weeken the hold of imperialists on our mother land. But with the advent of independence all this has Changed The pose of benevolent neutrality changed overnight to one of open hostility, & all methods have been resorted to by the employing and ruling classes & the ruling party to stem the growth of this movement, if not to behead it. Hundreds of thousands of workers have been lathi charged, thousands of Trade Unionists arrested & brutally treated Hundreds of our comrades had to pay with their lives for the simple reason that they dared orgainse workers against the expressed will of these in seats of power Many trade unionists have been murdered in cold blood by hired hooligans of the employers. That the trade union movement, facing all these odds & have out- lived them, forged ahead & has become a mighty force compeling recognition even from these hostile forces only speak to the virility of the movement & the high ideals it represents. The movement rose & developed as a fightinng organisation of the workers. This fact is the secret of the growth of trade unionism in India.

## III. Functioning of Trade Unions

Q 39-65. There is an opinion in government, employer and some other non-union circles that more curbs should be placed in the formation of trade unions and their functioning subjected to more stringent control by government

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

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

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

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

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

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

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

## III. Trade Unions and Employers' Organisations

The KSTUC is of the considered view that recoginition of Unions be based on a free and secret ballot of the workers Trade Unions represent the workers & act as their agents or the representatives in matters which affect vital interests of all workers in the mill/industry / area and it is only fit and proper that the selection of who will represent the particular workers should be left to the democartically expressed the will of workers themsleves.

At present unions are either not recongnised or they are recognized under the Code of Discipline. In Maharashtra recognition is granted under the Bombay Industrial Relations Act, so also in M. P. under the Industrial Relations Act of that State, which in effect is through verification of membershi

records which in effect is the BIRA as made applicaple to the whole State after the reorgnisation of Maharashtra, Gujarat and M P

Provisions for recognition under the code of Disciple is voluntary and the procedure is through verification of membership records of various unions by Government machinery apart from the fact that no enforcement is possible under the Code The procedure is faulty and carries with it all the defects of the procedure under the BIRA and similar acts

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

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

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

It is undersirable on other grounds also that the State machinary should determine the representative character of a union. Verification is only a convenient smokescreen to hide the gross interference of the Government in foisting a union of its choice on the workers.

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

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

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

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

The AITUC is against recognition being given to craft unions whether of operative or clerical and other strff etc. All workers in a mill, whatever their trade or occupation including

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

A point which is very important is that voting must be conducted outside the premises of the mill by a committee consisting of one representative each of the unions participating and a representative of the labour department of the State The union which secures the largest number of votes should be declared as representative for a fixed period. After that term fresh elections should be held if only interested union so demands in writing.

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

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

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

Q 65. The attitude of the Govt. as employer has been most disappointing Instead of the model law abiding employer one is expected to find the Govt. owned establishments one discovered the most hardened exploiter caring a tuppence for any & every statute enacted in the land. The Industrial relations in the public sector was the most dislocated, with a hoary history of personal vendetta & stark victimisation We could cite numerous examples Disputes in the Govt owned establishments are seldom referred to adjudication because of the pulls of the top bureaucrats in charge. Workers had in numerous cases to invite the intervention of high court through writs to get relief from the steam roller of illegal actions of the managements. Only through recognition of majority Unions decided through secret ball could this situation be remedied.

## IV Industrial Relations

Q 66-129 In the position existing today in the field of industrial relations collective bargaining is hampered rather than promoted.

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

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

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

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

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

Hence the scheme of industrial relations should guarantee :

a) a union compulsorily recognised as a result of secret ballot of workers;

b) basic trade union and democratfc rights of functioning to such a recognised union;

c) right to strike and incidental rights like peaceful picketing.

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

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

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

Interference by the State through conciliation officer constitute another hindrance to the development of collective bargining.

## V. Wages, D. A., Wage Differentials and Bonus

Q 130—164 Wages at the minimum level represents the cost of unskilled physical labour to the worker. That is to say minimum wages must be related to cost of living at a given standard without imparting into its determination any extraneous consideration like capacity to pay, productivity etc.

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

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

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

Once the minimum wages has been fixed on the basis of parity between the money wage and real content, suitable differen tials should be fixed for semi-skilled, skilled, highly-skilled supervisory jobs. Clerical jobs and managerial jobs should be brought into the scheme of differ-

encials. In a poor country like India where argument is still raging around the feasibiliiy of giving a subsistence wage in the name of industrial survival, the present imbalance between managerial and staff salaries and wages is intolerable.

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

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

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

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

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

The present payment of bonus act which incorporates the view point of employers to the exclusion of the unanimous opinion of all others, including one representative of employers, is unacceptable It should be replaced by a new Act which should be based on the new formula put forward by trade unions i. e. LAT formula without rehabilitation and 50 per cent of the surplus to be given to workers after taking into account the benefits of the tax rebate.

Q 165-175 There is a 'mantram' which is being often repeated about linking wages with productivity We oppose this. Productivity is a resultant of many factors right from layout of the plant to type of machinery. raw material, inventory control maintenance, managerial skill and workers' efficiency. One cannot link wages to variable factors totally outside the control of workers and unrelated to their efforts. This is apart from the difficulty of arriving at an objective measurement of productivity.

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

## VII. Social Security

Q 178-182 The convention on minimum standards of Social Security adopted by the International Labour Organization has not been fully implemented. No unemployment benefit is now provided Even the provision for partial wages during lay-off period is evaded by the managements by the simple expedient of fining the workers Old-age benefit is more or less nil, because once the worker is superannuated and discharged he loses even the limited sources of the ESI. The first thing in the realm of social security should be unemployment benefit All other benefits should be extended with the utmost expedition

Q 183 The propaganda that absenteeism among workers in the factories covered by ESI Scheme has tended to increase is a false one Absenteeism occurs due to various causes of which one is illness. Institution of a bonus for better attendance may be tried.

Q 184 The administration of medical benefits under ESI should be taken by the Corporation itself. It is only thus that it can redeem it pledge of giving diseased person a better type of treatment than is given in the ordinary hospitals.

Q 185 Workers should be exempted from contribution to the ESI.

Q 186 A pension scheme is desirable. But it should not be at the expense of the Provident Fund.

Q 189 It is a suggestion worth examining.

Q 190 Gratuity payment should be made compulsory.

Q 191 Full wages should be paid for lay-off periods. Retrenched workers should be covered by unemployment benefit scheme.

Q 192 Yes. No pre-condition except that it should be the majority union. The accounts could be subjected to current audit. This would be more satisfactory than any other kind of administration.

## VIII. Labour legislation

Q 200–204 The question of codification is a must. But such legislations as tend to restrict the right of labour need not find a place in it. What is necessary is the codification of various acts which confer rights on workers like Minimum Wages Act, Payment of Wages Act, Workmen's Compensation Act, Factories Act, Trade Union Act, certain sections of the Industrial Disputes Act, Provident Fund Act, E. S. I. Act, Standing Orders Act etc. Stringent penalties should be provided for infringment of these acts. Special Courts should be set up to adjudicate on matters pertaining to those where the parties can directly take the matter. Cases relating to termination of service through any method may also be made justiciable in these courts through a direct complaint lodged by the party concerned.

All laws should be equally applicable in the private and the public sectors. Public sector cannot claim any special treatment. All discremination against employees and their dependants in public sector such as police verification should be discontinued.

Yours faithfully,

A. GEORGE CHADAYAMMURY

Secretary.