

## National Policy on Labour

To have a proper appreciation of the Labour Policy of the Govt. in the country it is necessary to know the different phases through which the industrial development and organisation in general have passed. The attitudes and characteristics of the persons who form the labour force, the attitude of the employers who own and manage the industrial establishments and the attitude of the Govt. itself are very relevant factors which go a long way in the determination of the labour policy. It would, therefore, help in proper assessment of the merits and demerits of the labour policy followed in the country, if we first analyse these developments.

Since the early middle ages there have been three principal types of industry- handicraft type, domestic type, and the factory type.

### Handicraft type:-

The industry was scant and simple and its general characteristics were; universality of handicraft system, crude and inexpensive machinery, the family with a small number of helpers was the unit of industrial organisation; raw materials used were locally produced, a complete absence of capitalist element, the division of labour was longitudinal rather than transverse, the productivity of labour was low, the production was for local consumption and the work people were organised in guilds. The term handicraft devoted a form of industry not only based on hand labour but devoid of a capitalistic element. The guild was an association of the artisans in a town or district engaged in the same occupation. No one could carry on a trade in a town unless identified with the guild maintained by his fellow craftsmen. There were three clearly defined grades of workmen, namely, masters, journeymen and apprentices. The apprentice was not paid any wage for the period he was learning the trade. After the period of apprenticeship, the youngman became a journey man, that is, a travelling workman practicing his craft for wages. And finally, after accumulating the modest funds necessary for setting up his own shop and after admission to the guild he became, a master.

The fundamental object of the guild was to secure and maintain for its members substantial equality of opportunity and a permanent basis of subsistence through the restriction or exclusion of competition. It also preserved a parity of rights and opportunities among its own members. This was done by controlling the supply of materials for manufacture; regulation of production both with reference to quality and quantity and by supervising the sale of products. There was, therefore, no question of labour problems in this system.

### Domestic Type:-

In course of time the guild declined due to certain disadvantages in the system like growth of monopolistic tendency and the



rigidity of rules which discouraged enterprise and depressed wages. The system was replaced by a new type of industrial organisation known as domestic type under which an entrepreneur or manager, gave out work to employees who performed their labour in their own homes. The employer furnished the tools and materials and the employee received a piece wage. The employer was merchant and not a craftsman. This introduced the element of capital and competition in the industry and the worker lost his independent status and was obliged to accept such wages as the employer was willing to offer giving rise to the strained relations between the employer and the worker. This marked the beginning of the exploitation of labour by employers and of the labour problems.

Factory Type:-

During the second half of 18th Century and the 1st half of 19th Century <sup>for</sup> reaching changes in the organisation and technique of industry were introduced in the west commonly known by the name of 'Industrial Revolution'. The changes led to the rise of factory system replacing the 'Domestic System' which had replaced the guild system. Prominent ~~max~~ manifestations of the transition were the localisation of industries in factory centres, the shifting of population to those centres involving a notable growth of towns and an enormous increase in the country's output of manufactured commodities. This brought together a large number of wage-earning youngmen in capitalist owned establishments where costly machinery was operated by water or steam power.

Beginning of conflict between Capital and Labour:- The Factory System flourished first in countries where there was abundance of capital, skilled labour, technicians, remarkable development of inventions, extension of markets, sources of power and combination of capital and efforts. The rise of factory system produced a through going differentiation of capital and labour and a ~~sharp~~ line was drawn sharply between the employer and the employed. The one not only supplied the raw materials but also owned the buildings and also the machinery used, the other merely worked for wages. Thus the interests of the two tended to grow apart and became irreconcilable. The other notable effect was exploitation of women and children as their labour could generally be had at less cost than that of man. This threatened the men of being thrown out of employment and reversed the normal relations of home. The most deplorable aspect was the physical and moral disadvantages to which the working classes were inevitably subjected. Men, women and children were thrown together in large establishments with few or no facilities for the preservation of health and comfort and none whatsoever for moral control.



This accentuated the struggle between the employees and the employers and called for the intervention of the Govt. with a definite labour policy for the benefit of both the labour and the employers. Factory system in India and its effects:- In India, however, the industrial revolution proceeded along different lines because of her dependence on foreign rulers who always kept her as a preserve for marketing goods manufactured in their country. The result was that industrialisation in India was kept deliberately slow for reasons mainly political and partially economical and social. A beginning was made only where vast raw materials were locally available namely cotton and jute. During the Seventeenth and Eighteenth Century, India was known as the 'Industrial Workshop' of the World. The Industrial Commission in 1918 observed "At a time when the west of Europe, the birth place of modern industrial system, was inhabited by uncivilized tribes, India was famous for the wealth of her rulers and for high artistic skill of her craftsman". The advent of factory system in India after the middle of 19th Century destroyed all its indigenous handicraft centres, heightened the pressure on land not so much by migration from cities as by retaining the people on land who would, otherwise, have been absorbed into urban industries with the result that number of dependents on agriculture increased from 61% in 1891 to 75% of the total population in 1931.

The origin of industrial labour in India may be traced to middle of last Century when mines and factories began to be developed and continued to multiply in the second half of the 19th century drawing workers from the different parts of the country mostly rural areas into industrial centres because of economic pressure, decline of village crafts and social disabilities. The migration of workers from country side to industrial centres created the same social, moral, environmental and physical problems for the workers as was done in other countries, with the only difference that India being under the foreign rulers, the Govt. paid no attention to the solution of their problems and they were left entirely at the mercy of the employers. The result was that the industrial worker in India who came from the agricultural family retained his village link and did not develop a permanent interest in his employment in the city. Besides he found himself in an entirely unfavourable environment of customs and traditions with a severe strain, because of radical difference of climate, excessive congestion and lack of sanitation and the temptations of enforced separation from the family. His frequent absence of work owing to repeated visits to his family village, made it difficult to establish contact between employers and employees and there could not be any effective organisation among the workers themselves with the result that the exploitation by the employers went unchecked and no attempts were made for mitigation of the



suffering of the workers either by the employers or the Govt. of the country. This explains the development of a hostile attitude of the workers towards both the employers and the Govt. and their disinterestedness in the work itself.

Workers Organisations- Until the end of great war in 1918 there was no real organisation among the industrial workers of India. There were strikes occasionally but they roused no interest among the middle class politicians who led the political movement and industrial disputes were regarded with complete apathy. In April that year a small incident occurred in Madras which proved the signal for all industrial workers to obtain better economic conditions. One Shri B.P. Wadia an assistant editor under Dr. Annie Besant formed the first union of all workers in Madras without distinction of industry or calling to safeguard the interests of workers against the treatment meted to them by European masters. Wadia was the first man to recognise labour movement as an integral part of national movement. In Bombay as well, efforts were being made by social workers since 1884 to improve the conditions of workers in Textile Mills. But all these efforts were spasmodic and subsided as soon as some definite end was achieved.

After the end of World war of 1918, however, a psychological change in European Superiority was brought about and the economic factors added to it, created a ground favourable to the growth of organisations among workers. But still the organisation of workers was suspect in the eyes of the Govt. as inspired by political motives and any official effort to introduce labour legislation was regarded by capitalists as a subtle design to check the growth of industries in India.

Labour Policy before and after Independence:- During the pre-independence period, therefore, very little was done by the Govt. to formulate a definite labour policy except some attempts made here and there for the benefit of the workers and employers mostly regulated by legislation on British Model which acted as a brake rather than an aid to accelerate industrial development in the country.

After independence the entire scene has changed and an industrial worker today is far more awakened and urban in taste and outlook than his predecessor. The industrial complex has also changed. Sophisticated industries are coming up and new centres of industries have come into existence with greater concentration of working class population. The Govt. now works under a constitution which guarantees social and economic justice and equality of status and opportunities to all with fundamental rights enforceable through a Court of Law. The Govt. of the country, therefore, could no longer neglect the deplorable conditions and aspirations of the working class after the attainment of independence.



In the first plan the following principles on labour policy to be followed by the Govt. were adumbrated and reaffirmed in successive plans:-

- (a) Recognition of the State as the Custodian of the interests and welfare of the community.
- (b) Recognition of the right of workers to peaceful direct action if justice is denied to them.
- (c) Encouragement to mutual settlement, collective bargaining and voluntary arbitration.
- (d) Intervention of the State in favour of the weaker party to ensure fair treatment to all concerned.
- (e) Primacy to maintenance of industrial peace.
- (f) Evolving partnership between the employers and employees in a constructive endeavour to promote the satisfaction of the economic needs of the community in the best possible manner.
- (g) Ensuring fair wage standards and provision of social security.
- (h) Co-operation for augmenting production and increasing productivity.
- (i) Adequate enforcement of legislation.
- (j) Enhancing the status of the Worker in Industry.
- (k) Tripartite consultation.

From the foregoing it will be observed that from the time a worker was reduced to the position of a mere wage-earner without any share in the management and gains of the industry, the labour disputes have arisen and have been further accentuated by the disinterestedness of the employers and the Govt. in the welfare of the working class and by the decline and replacement of small scale industries by large scale industries which left no alternative for the workers to fall back upon. Mostly these disputes centre round the question of wages, lack of amenities, want of co-operation from the management, victimisation of workers and inter union and intra-union rivalries. The emphasis of the Govt. labour policy in practice has so far been reciprocity and mutuality of obligations, the modes of settlement of disputes by bilateral arrangements and better labour management relations by strengthening of trade unions.

National Labour Commission:- The Govt. of India appointed a National Labour Commission in December, 1966 under the Chairmanship of Dr. Gajendra Gadkar to review the changes in conditions of labour since independence and to report on existing conditions of labour. The terms of reference also included a review of existing legislative and other provisions intended to protect the interests of labour and the national objectives of establishing a socialist society and achieving planned economic development and other allied matters like role of Trade Unions, arrangements for



social security, levels of workers' earnings, provisions of incentives to workers, state of relations between employers and workers, existing arrangements for administration of labour welfare both at the centre and in the States including standard of living, health, efficiency, safety, welfare, housing, training and education of workers. The commission submitted its report in August, 1969. Some of the main observations and re-commendations of the National Labour Commission along with their backgrounds on important matters like wage-policy, Industrial Relations, Trade Unions and workers participation in management which form the core of the labour policy are given below:-

Wage Policy:- Wage policy is a complex and sensitive area of public policy. This is because the relative status of workers in the society, their commitment to industry and attitude towards management, their morale and motivation towards productivity, their living standard and in fact their way of life are all conditioned by wages. Hence a policy dealing with this crucial problem can not be simply economic, as it has to reckon with the realities of multi-dimensional social phenomena, in which besides the worker and the management, the consumer and the society at large, and in consequence the State, are all vitally interested.

Fixation of Wages:- For a long time, laissez faire operated in dealing with wage problems. The Whitley Commission recommended a minimum wage fixing machinery of a wage board type for industries satisfying certain criteria laid down by it, that is, prima facie establishment of a case for Governmental intervention, as much as feasibility of enforcement, including the cost of such enforcement. It, however, rightly observed that in adopting measures for the betterment of industry of of industrial worker, the interests of the community as a whole should not be overlooked and that the problems of wages of the industrial worker should not be considered in isolation. But there was no significant development in the field of wage policy consequent on the Whitley Commission's Report. Towards the end of thirties, however, adhoc committees were appointed for settling the wage structure in some Provinces. Active Govt. intervention started on All India ~~xxxx~~ basis during the Second World War. Additional payments in the form of dearness allowances and bonus to workers for rise in prices was found more acceptable. The Rege Committee which surveyed the position at that time felt that in the matter of wage fixation the guiding principles appeared to be in favour of maintaining the status-quo ante. It felt that the practice of thinking in terms of short gains without adopting a scientific attitude in regard to wage fixation would be in the long run detrimental no less to labour than to industry. It also felt that the fact that agricultural wages were low could not be a justification for keeping industrial wages low as well. The Industrial Truce Resolution (1947) adopted in context



of industrial unrest immediately prior to and after independence stated that the system of remuneration to capital as well as labour must be so devised that while in the interests of consumers and the primary producers excessive profits should be prevented by suitable measures of taxation and otherwise, both should share the products of their common effort after making provision for payment of fair wages to labour, a fair return on capital employed in the industry and reasonable reserves for the maintenance and expansion of the undertaking~

Minimum and Fair Wages:- The Industrial Policy Resolution (1948) emphasized inter-alia its intention (a) to fix statutory minimum wages in sweated industries and (b) to promote fair wage agreements in the more organised industries. For (a) the minimum wages Act 1948 had already been passed and for (b) the Govt. appointed the Committee on Fair Wages (C.F.W.) to determine the principles on which fair wages should be based and to suggest the lines on which these principles should be applied. The CFW defined three distinct levels of wages-living wage, fair wage and minimum wage. The 'living wage' denoted a standard of living which provided not merely for a bare physical subsistence but for the maintenance of health and decency, a measure of frugal comfort including education of children, protection against ill-health, requirements of essential social needs and some insurances against important misfortunes. The 'minimum wage' was to ensure not merely the bare sustenance of life but the preservation of efficiency of the worker by providing some measure of education, medical requirements and amenities. For 'fair wage' the lower limit was the minimum wage and the upper limit was set by the capacity of the industry to pay. Between these two limits the actual ~~wa~~ wage would depend on the productivity of labour, the prevailing rates of wages, the level of national income and its distribution and the place of industry in the economy of the country.

To give effect to the recommendations of CFW, the Fair Wages Bill was introduced in the Constituent Assembly of India (Legislative) but could not be enacted and lapsed after the dissolution of Constituent Assembly and was not pursued in the Parliament later. The Constitution of India, however, included the securing of a 'living wage' to workers as one of the Directive Principles of State Policy.

Five Year Plans:- The First Plan recommended that wage increases should be granted to remove anomalies or where the existing rates were very low. It also recommended restoration of the pre-war levels of real wages as a first step towards the 'living wage' through increased productivity. The Second Plan, that improvement in wages should result mainly from increased productivity brought about not merely by efficient work on the part of labour but also by better layout of plants, improvements in



management practices and the like. It was recommended in Second Plan that for settling industry-wise wage disputes, tripartite wage boards which gave the parties themselves a hand in shaping the wage structure would be more appropriate. The 15th Indian Labour Conference and the Second Pay Commission in respect of Central Govt. employees recommended a need-based minimum wage which raised a public controversy. The Third Plan generally endorsed the recommendations of the earlier Plans in regard to minimum wage fixation, reduction of disparities, wage differentials and the like but laid more emphasis on the role of productivity in improving the living standards of workers. While the policy in regard to wages as enumerated in the Plans remained more or less the same, a shift in emphasis towards productivity in recent years is discernable.

Recommendation of National Labour Commission:- The National Labour Commission has observed that increases in money wages of industrial workers since independence have not been associated with a rise in real wages nor have these been commensurate with improvements in productivity. It upheld that the wage changes beyond a certain level must reflect productivity changes but it was difficult ~~for the~~ as contribution to productivity levels and changes therein are not easy to measure and also for the reasons: (a) Issues concerning wage policy are inter-related on the one hand with broader economic decisions and on the other with goals set for social policy; (b) The wage policy has to be framed taking into account such factors as the price level, the employment level, requirements of social justice and capital formation for future growth. (c) It has also to take into account the structural features of the economy and has to be in accord with the pattern of income generation and distributions as envisaged in the development plans. The Commission did not agree with the contention that industrial wages should not be out of alignment with per capita income, the wages earned in the agricultural/cottage industries and the levels of productivity and held that a certain amount of disparity between industrial and agricultural wages is necessary and must continue for the general growth of the economy and that the wage variations may not always be based on productivity changes. The Commission has suggested that the wage policy should aim at a progressive increase in real wages which can not be brought about without increasing productivity. The Commission considered that the present policy of paying dearness allowances ~~and~~ and above the basic pay to mitigate the hardship due to rise in cost of living ~~may~~ may lead to inflation and so keeping living cost under check should be an integral part of the wage policy.

Fixation of wages:- For fixation of wages the commission has recommended different institutional arrangements for different groups like Commissions/Boards for framing wage awards, bipartite arrangements between workers and employers and tripartite <sup>all</sup> machinery ~~are~~ of which may co-exist depending upon the tradition and experience





which are built up for utilising them. The main aim of wage policy should be to bring wages in conformity with the expectations of the working class and in the process seek to maximise wage employment.

Statutory Minimum Wage:- Regarding minimum wage the commission has held that once the minimum rates of wages are fixed according to the procedure prescribed under the Minimum Wages Act (1948) it is the obligation of the employers to pay the said wages irrespective of the capacity to pay but the appropriate Govt. should revise the prescribed wages atleast once in three years or earlier if the adverse price situation so requires. and the criteria for fixing minimum wages should necessarily be flexible.

National Minimum Wage:- The Commission considered the fixation of a National Minimum wage for the country as a whole neither feasible nor desirable but suggested that an effort could be made to fix a regional minima in homogeneous regions in each state.

Need-based Minimum Wage:- Regarding the need-based minimum wage and the wages at the higher levels of fair wage, the commission has observed that these may and can be introduced by convenient and just phasing, keeping in mind the extent of the capacity of the employer to pay the same. This has to be pragmatic process which the wage-fixing authorities will have to keep in mind. In fixing the need-based minimum which is in the range of the lower level of fair wage, the capacity to pay will have to be taken into account. The Commission added that every worker in an organised industry had a claim to this minimum and the onus of proving that the industry did not have the capacity to pay it should lie on the employer.

There has been a sharp criticism of the recommendation of the commission with regard to payment of need-based minimum wage. It is said that in a developing country like India it is likely to aggravate the unemployment situation, hamper efforts for an equitable incomes policy between industrial and agricultural labour and may lead to price inflation. These fears are considered imaginary as any investment in manpower will certainly reflect in the increased production and make it worthwhile for the employer to pay the wage. The inflationary effects can be curbed either by direct controls or resource allocation or by amending the price system. India has a planned economy with a definite objective of achieving a certain level of social welfare where the consumption needs of the worker as a human person have to be satisfied and as such the need-based wage is said to be fully justified.

The labour policy in the country has to be refashioned in a way that the industrial costs are not inflated and the price of industrial goods do not rise beyond the means of the mass of our countrymen, otherwise, the industrialisation will be retarded and employment opportunities will be further restricted. The melancholy fact must be recorded that, under given or similar circumstances, the out-put per head of our workers is low as compared with most



other countries. There is, therefore, a need for a change in the attitude of the worker towards work. There should be greater emphasis on duty than on rights.

Industrial labour in India had from the very beginning enjoyed a better status and more rights and amenities than labour in other countries as judged in relation to the national per capita income or the stage of economic development. The result has been that the gulf that existed between organised industrial workers & the vast army of unemployed or under employed agriculturists and others went on widening. The minimum wage legislation has retarded absorption of rural and urban <sup>un</sup>employed into employment on rates cheaper than the prescribed wages. The tendency to fix wages on the basis of the capacity of the prosperous employers is likely to lead to the closure of the weaker units during depression, thereby throwing out of employment even some of those who are employed today. A minimum wage pitched above the level of per capita income may not prove in the interests of the economy of the country as a whole. In a just society labour should be rewarded according to the amount of energy expended and the skill required but with due regard to the per capita output, national per capita income and the wage and price level in general. Purely financial incentives prove in-effective unless there is attitudinal readiness for a positive response, otherwise the higher wages are likely to bring in greater absenteeism and lesser production. Judged in the light of our per capita income, the wages of Govt. servants in India compare very favourably with those in other countries, and the number of public holidays here is larger than anywhere else.

We have to work harder, better and longer than we have been doing. India can not flirt with the idea of plenty for all out of minimum work. Mahatma Gandhi held, "What is required is an alteration in the condition of labour. The mad rush for wealth must cease, and the labourer must be assured, not only of a living wage, but a daily task that is not a mere ~~xxx~~ druggery".

Industrial Relations:- Industrial Relations affect not only the interests of the two participants, labour and management, but also the social and economic goals. To regulate these relations in socially desirable channels is a function which the State is in the best position to perform. The Commission felt that system of industrial relations, as it has developed since independence, has not been effective, possibly because of the ~~the~~ absence of united trade unions movement, the provisions for recognising unions and the present emphasis on compulsory adjudication for settling disputes. The existing machinery has several drawbacks; time consuming procedure, its heavy expenditure, its largely adhoc nature and the provision where-by reference of disputes to adjudication is subject to Govts.' discretion. Also there have



been complaints of political pressure and interference, though just, have not appeared to be so to the aggrieved parties. It has, therefore, favoured procedures encouraging effective tripartite consultation and collective bargaining by the parties concerned and replacement of the present adhoc machinery by a permanent one, entirely independent of the administration, expenditure <sup>also</sup> and equipped with expertise.

Collective bargaining:- The Commission has observed that in the absence of arrangements for statutory recognition of unions and provisions which require employers and workers to bargain in 'good faith' the collective agreements have not made any headway in our country. Its extension to a wider area is certainly desirable but any sudden change replacing adjudication by a system of collective bargaining is neither called for nor is practicable. The process has to be gradual. A beginning has to be made in the move towards collective bargaining by declaring that it will acquire primacy in the procedure for settling industrial disputes. Suitable conditions have to be created for promotion of collective bargaining and the most important is the statutory recognition of a representative union as the sole bargaining agent. Collective bargaining cannot exist without the right to strike/lock out.

Conciliation:- The Commission has observed that conciliation can be more effective if it is freed from outside influence and the conciliation machinery is adequately staffed. The independent character of the machinery will alone inspire greater confidence and will evoke more co-operation from the parties.

Labour Courts:- The Commission has recommended that standing Labour Courts should be constituted in each State to deal with disputes relating to rights and obligations, interpretations and implementation of awards and claims arising out of rights and obligations under the relevant provisions of law or agreements as well as disputes in regard to unfair labour practices. Appeals over the decisions of labour courts in certain clearly defined matters may lie with High Court within whose jurisdiction/area the Court is located.

Industrial Relations Commissions:- The Commission has recommended that the present arrangement for appointing adhoc industrial tribunals should be discontinued and an Industrial Relations Commission (IRC) on a permanent basis should be set up at the Centre and one in each State for settling 'interest' disputes. The IRC will be an authority independent of the executive. The National Industrial Relations Commission should be appointed by the Central Govt. for industries for which that Govt. is the appropriate authority. The National IRC should deal with such disputes which involve questions of national importance or which are likely to affect or interest establishments situated in more than one State. Its scope should be broadly the same as that of National Tribunals,



under the Industrial Disputes Act, 1947. The Industrial Relations Commission in the State will be for settlement of disputes for which the state Govt. is the appropriate authority. The main functions of the National IRC will be (a) adjudication in industrial disputes (b) conciliation and (c) certification of unions as representative unions.

The Conciliation wing of the commission will consist of conciliation officers. The Commission may provide arbitrators from amongst its members/officers in case parties agree to avail of such services. After negotiations have failed and before notice of strike/lock out is served, the parties may agree to voluntary arbitration and the Commission will help the parties in choosing a mutually acceptable arbitrator.

In essential industries/services when collective bargaining fails and when the parties to the dispute do not agree to arbitration, either party shall notify the IRC with a copy to appropriate Govt. of the failure of negotiations whereupon the IRC shall adjudicate upon the dispute and its award shall be final and binding upon the parties.

In case of non-essential industries/services following the failure of negotiations and refusal by the parties to avail of voluntary arbitration, the IRC after the receipt of notice of direct action (but during notice period) may offer to the parties its good officers for settlement. After the expiry of the notice period, if no settlement is reached, the parties will be free to resort to direct action. If the direct action continues for 30 days it will be incumbent on the IRC to intervene and arrange for settlement of dispute.

When a strike or lock out commences, the appropriate Govt. may move the Commission to call for the termination of the strike/lock out in the interest of security of state, national economy or public order and if after bearing the Govt. and the parties concerned, the Commission is so satisfied, it may for reasons to be recorded, call upon the parties to terminate the strike/lock out and file their statements before it. Thereupon the commission shall adjudicate on the dispute.

The National Labour Commission's proposal that the industrial relations machinery should be brought into play after strike/lock out has lasted for 30 days in case of non-essential industries/services, amounts to sanctioning a fighting period of 30 days. The parties knowing fully well that adjudication will ultimately be available will prefer to precipitate a fight. This is likely to injure the interests of the workers and the unions in the bargain.

The Standing Labour Committee-the Supreme tripartite labour policy making body of the Govt. in its session in July, 1970 considered the recommendations of the National Labour Commission in



this respect and approved the main recommendation of the Commission to set up Industrial Relations Commissions with certain modifications both at the Centre and in the States with a judicial officer as Chairman and two other members representing industry and labour for adjudication of industrial disputes and certification of representative unions. The Industrial Relations Commissions would not, however, have the powers of conciliation in industrial disputes as recommended by the National Labour Commission. This power will rest with both the Central and State Govts. as at present.

Under the new industrial relations policy following failure of negotiations and conciliations in essential services, either of the two parties—management or representative union can directly refer all matters of dispute for adjudication to IRC. Government's right to refer such disputes for adjudication to the IRC will also remain.

Under the new Industrial Relations Law to be enacted by Parliament, labour in non-essential industries shall have the right of choice between strike and adjudication in respect of demands raised by it and management shall have the right <sup>to strike</sup> between lock out and adjudication in respect of demands raised by them, but it shall always be open to the appropriate Govt. to intervene at any stage in the dispute and refer the matter and disputes for adjudication to IRC and prohibit the commencement or continuance of strikes or lock outs. Provisions will also be made in the law for disposal of adjudications within 6 months unless the time is extended and the reasons therefore are recorded in writing by IRC or labour Courts.

Trade Unions:- The Trade Unions of workers in every country have developed almost on common elements. The setting up of large scale industries, widespread use of costly machinery, establishment of new lines of production, changes in working and living conditions of workers and concentration of workers in large towns, produced a new class of industrial workers who depended entirely on wages for their livelihood. Individually the workers could not obtain better conditions of work, amenities and wages to meet their needs. They had, therefore, to join together to maintain and improve their bargaining power against the employer. Unions in different countries have developed on different lines, depending on social and economic compulsions of industrialisation, political and historical factors and the institutional frame work of the respective societies. The union structure has not been static and the movement has undergone changes every where. India has not been an exception but the movement in India has been slow and not well organised with the result that there are a large number of small unions and the leadership has in most cases passed into the hands of persons with political affiliations. This was because the trade union movement in the country has been built up by leaders committed to the welfare of working class but who seldom belonged to it and



were mostly engaged in political work. Lack of homogeneity and rivalries between workers belonging to different craft groups have also prompted formation of separate associations.

There is hardly a factory or workshop in the country in which the management is not almost in perpetual fright and does not prefer to turn a blind eye to indiscipline and inefficiency rather than invite a clash with labour. Trade Unions, because of the way they have been exploited, have become a crippling burden on the economy and inhibit economic progress, rather than an instrument of increasing the productivity of labour and clearing the ground for rapid economic development of the country.

The National Labour Commission has observed that the basis on which trade unions should be organised is a matter to be determined by workers themselves, in the light of their own needs and experience. But the formation of craft/occupation unions should be discouraged and the craft unions operating in a unit/industry should amalgamate into an industrial union. The formation of centre-cum-industry and national industrial federations should be encouraged. The Commission has further suggested that apart from paying attention to the basic responsibilities towards their members, unions should also undertake social responsibilities such as (i) promotion of national integration, (ii) influencing the socio-economic policies of the community through active participation in the formulation of those policies, and (iii) instilling in their members a sense of responsibility towards industry and community.

Outsiders in unions:- Under the Trade Union Act 1926, any person not actually engaged or employed in the industry concerned is deemed to be an outsider but Section 22 of the Act requires that ordinarily not less than half of the officers of a registered union shall be actively engaged or employed in an industry to which the union relates. Officers include the members of the executive. The Whitney Commission emphasized the need for training insiders for accepting greater responsibilities in managing union affairs and recommended that at least two-third should be more suitable minimum for insiders. No action was taken on this recommendation and the position continues as before. This is because of the illiteracy of workers in non-manufacturing industries like mines, plantation, ports and docks and construction works and the fact that politics and the trade union movement can not work in mutually exclusive compartments. Further, in a democracy, no public organisation can be isolated from extraneous influences and certainly not a organisation dealing with a large body of workers.

The National Labour Commission has recommended that there should be no ban on non employees holding positions in the executives of the unions but steps should be taken to promote internal leadership and give it a more responsible role and the permissible limit of outsiders in the executives of the unions should be



reduced but ex-employees should not be treated as outsiders.

Inter-Union and Intra Union Rivalry:- The splitting up of unions and formation of new unions having sympathies with political parties have permeated unions and in many important industrial units, unions, whether affiliated to central organisations or not, operate independently, each claiming to speak on behalf of all workers undermining the influence of the others. The employers have taken advantage of this rivalry in playing one union against the other. All attempts to bring about trade union unity have so far failed as the statutory restrictions on the formation of unions have neither been considered desirable nor necessary. An inter-union code of conduct was evolved in 1958 at a meeting of the representatives of the four central organisations of workers. The code of conduct recognises the existence of multiple unions, but seeks to regulate their relations on the basis of mutual understanding. There is, however, no provision in the code for joint machinery to be evolved by the organisations themselves. The Code did not prove effective in removing or even reducing the inter-union rivalries. In recent years intra-union rivalries have also been increasing due to personal considerations. The Standing Labour Committee in February, 1966 recommended that where more than one set of persons claimed to be the office bearers of the same union, provision should be made in the Trade Unions Act, 1926 for an election, confined to the members of the Union concerned.

The National Labour Commission has recommended statutory recognition of a representative union as the sole bargaining agent in a unit, building up of internal leadership, shift to collective bargaining as the main method of settlement of disputes and the institution of an independent authority for union recognition to hasten the process of reducing inter-union rivalries. For intra-union rivalries, the commission has left the decision to the Central Organisation concerned to settle and the Labour Court should step in at the request of either group or on a motion by the appropriate Govt. in cases where the Central Organisation is unable to resolve the dispute.

Registration of Unions:- The registrations of Trade Unions is not compulsory under the present law. The National Labour Commission has suggested that there is advantage in requiring all unions to get registered and subject to uniform regulations. The registration should be compulsory also for industrial federations, but not for central organisations. The registration would not impose any undue hardship on unions but would help to improve the functioning of unions. As a safeguard against multiplicity of unions, the minimum number of persons required to form a union, should be raised to 10% (subject to a minimum of 7) of the regular employees of a plant or 100 whichever is lower. It should also be ensured that the initial membership requirement for registration is satisfied by a union to continue its registration.



Recognition of Unions:- The National Labour Commission has held that democracy implies that the majority union should have the right to sole representation, that is, the right to speak and act for all workers and enter into agreements with the employer. The need for union recognition was realised is evident from the provision in Bombay Industrial Disputes Act 1938 and its successor the Bombay Industrial Relations Act 1946 and certain other state Acts. The Bombay Industrial Relations Act 1946 provides for the classification of registered trade unions as representative unions with membership of not less than 15% employees in any industry in a local area, qualified unions with 5% membership and primary unions with 15% employees in an undertaking. The need for a provision for recognition of unions was stressed in the Second Plan. The Commission has, therefore, recommended to make union recognition compulsory under a central law, in all undertakings employing 100 or more workers or where the capital invested is above a stipulated size. A trade union seeking recognition as a bargaining agent from an individual employer should have a membership of at least 30% of the workers in the establishment. If it is for an industry in a local area, the minimum membership should be 25%. Where more unions than one contend for recognition, the union having a larger following should be recognised.

The manner in which the following of a union is to be determined are two; Verification of the fee-paying membership of the union or election by secret ballot. Serious differences exist, however, on the manner in which the following of a union is to be determined. The Commission has felt that best course would be to leave the choice of method, in any particular case, to the discretion of an independent authority and has accordingly suggested that this task be entrusted to the Industrial Relations Commission which should have the power to decide the representative character of unions either by examination of membership records or by holding an election through secret ballot, open to all employees.

The recommendation of the National Labour Commission for compulsory recognition of trade unions has generally been favoured by all and the Standing Labour Committee in its session in July, 1970 supported this view when the outlines of the proposed measures were finalised. A private Bill has been tabled recently for amendment of the Trade Union Act 1926. It proposes that a majority union in a plant or an industry in a local area should be granted recognition by a Registrar to be appointed for the purpose. The management concerned thereafter be required to recognise it. The law would apply to the whole country and would supersede existing statutory provision contained in the State Laws on the subject under Article 254 of the Constitution. The proposed measures do not follow the recommendations of the National Labour Commission and the Standing Labour Committee in all respects and ignore the important aspect that is the selection of a representative





union.

There has been some criticism of the recommendation of the National Labour Commission particularly of the way suggested for determining the majority union and a statutory recognition of a majority union as the sole bargaining agency in an establishment. It is feared that the procedures suggested for settlement of disputes will inhibit collective bargaining. The combination of these methods collective bargaining, voluntary arbitration and compulsory adjudication will satisfy neither the protagonists of collective bargaining nor the votaries of third party adjudication. The recommendation of the commission is in good faith and it is expected that in course of time the suggested procedure for settlement of disputes will become popular and recourse to adjudication would become less and less although there is no provision for compulsory bargaining by the employer with the representative union.

Workers participation in Management:- The Union Labour Minister Shri Ex D. Sanjivaya told the Lok Sabha on 27th April, 1970 that his Ministry would soon place a proposal to encourage partnership between the workers and the management before the Indian Labour Conference and the Standing Labour Committee for consideration. The final decision has not yet been announced by the Govt. in this respect. Before this the Labour Minister had announced that the Govt. had decided to associate workers in the management of public sector undertakings by appointing an employee as one of the Directors of the plant. He said that this was on the lines of the recommendations made by the Administrative Reforms Commission. There has been a general demand for associating employees with management as productivity and efficiency could be improved by winning the confidence of workers. To achieve this end there should first be a free exchange of thoughts and ideas between management and workers to develop a sense of responsibility in workers towards productivity. Thereafter they will begin to participate in the management of the process of production. Serious and sustained efforts on the part of the management would make it possible. It will come in course of time through an enlightened approach and gradual evolution of correct attitudes. There is a provision in the Industrial Disputes Act 1947 for works committees in a factory but these were required to discuss and recommend measures for securing amity between employer and employees. In many cases these committees proved useful but in some places the experience was sad. A tripartite committee was set up to go into this question in 1957 which submitted a report suggesting a draft model agreement for settling up joint management councils. The concept of a joint management council took shape but in spite of repeated efforts by the State Govts. and the Central Govt. the Scheme has not gained ground. The overall objective of the councils is to improve productivity, encourage suggestions from



employees, assist in the administration of laws and agreements, act as a channel of communication between the management and employees and create in the employees a sense of participation.

The National Labour Commission studied the position in detail and concluded that these councils, where set up, have not been successful. The Commission has recommended that joint management councils might be set up only when the system of union recognition becomes an accepted practice and management and unions are willing to extend co-operation in matters they consider to be of mutual advantage. In the meanwhile, wherever the management and the recognised trade union in a unit so desire, they can by agreement enhance the powers and scope of the works committee to ensure a greater degree of co-operation.

Most of the proposals of National Labour Commission to ensure industrial peace in the country are sound. Some of the other recommendations such as decentralisation of construction labour, the gradual abolition of contract labour, the merging of dearness allowance with basic pay, the fixing of need based minimum wage, the linking of changes in wage-scales beyond a certain level with the productivity are eminently sensible and socially desirable.

The following are some of the important considerations which the Govt. should bear in mind while formulating its labour policy for the country:-

- (i) Out of a total working force of 189 millions in India about 134 million or 70% are employed in agriculture and of the rest only about 12 million are in the organised industrial sector and 46 million in unorganised sector outside agriculture.
- (ii) About 70% of the economically active population in India is engaged in agriculture where as in other advanced countries only 6 to 20% of economically active population is engaged in agriculture. This means that pressure on land is near-highest in India and there is urgent need to find non-agricultural employment for them.
- (iii) The general level of wages in the agriculture sector is very low as compared to wages in Industrial Sector.
- (iv) It is better to find employment for large number of workers at a low income level than to keep most of them unemployed.
- (v) On an average about 4.7 million workers a day were employed in factories registered under the Indian factory Act which works out to hardly about 1% of the total population of the country.
- (vi) Increase in money wages is of no avail to the workers if the rise in prices of the articles in common use is not controlled as it nullifies the increase and creates more discontent among the worker and a cry for still higher wages.
- (vii) Future employment opportunities, capital formation and rapid industrial and agricultural development are not retarded.

