

## ANALYSIS OF THE PROPOSED INDUSTRIAL RELATIONS BILL

That the successive governments have been trying to bring a "comprehensive" labour bill is well known. It should be of interest to know that even non-congress governments have tried to do so. While the Janata Party government actually introduced a bill the Janata Dal government set up Ramanujam Committee to make recommendations for a new bill. In between the Rajiv Gandhi government also introduced a bill which for all practical purpose stands withdrawn.

Finally, the new IRB seems destined to be introduced and passed during the winter session, 1992 of the Parliament. Government will be determined to do this since first of all they are committed to bring about changes favourable to employers as part of the new economic policy. Secondly, the government will not want labour unrest to be coupled with the new budget to be introduced in February.

Here we have made an attempt to analyse the Ramanujam Committee Report and get to the roots of government's concerns and also present specific changes and new clauses which are likely to be introduced based on the past proposed bills as well as various suggestions which have been made by different parties. Find annexed to this a detailed commentary on the Ramanujam committee report, views of the group of labour ministers as published in the material circulated for discussions during the Indian Labour conference, views of senior officers which have been circulated as "proposals" and specific corresponding provisions as found in the past bills.

There are about five broad areas in which the government seeks to make changes, which are as follows:

1. Trade union registration, membership, elections and verifications, and disputes (intra union).
2. Representation of workmen, bargaining or negotiation councils, recognition of unions, etc.
3. Strikes and lockouts.
4. Layoff, retrenchment and closures.
5. Dispute mechanism and labour judiciary.

The fourth is the only one not covered by earlier proposed bills.

The intentions behind whatever changes are being proposed can only be understood in the context of the realities of the trade union movement, the labour conditions and the crisis in the economy both in India as well as the world over.

Much of the present set of labour and industrial laws were brought in when the Indian Industry was in infancy. Also that

major governing laws were not uniform over the whole nation. Since then the Indian industry as well as the trade union movement have become extremely complex and management practices differ basically from region to region and industry to industry. Similarly, the trade union movement is also divided and segregated with trade union practices differing widely. Consequently, the government will try to achieve too much in one go trying to take care of varying tendencies within the labour movement. This can only be achieved by introducing a flexible system with "control" being vested with managements and the government. Only time will tell whether the Indian Trade Union movement falls to these designs or rises to the occasion with effective counters.

## STRUCTURE OF THE INDIAN TRADE UNION MOVEMENT

As of now there are about five major trends in the Indian trade union movement which are co-relates of specific different industries.

1. The trade unionism in manufacturing public sector.
2. In multi-national sector.
3. In private Indian corporate sector.
4. In national resources extraction sector such as mining and plantations, and
5. Unorganised, largely small manufacturing sector.

The trade unions as well as management practices differ widely in these five sectors.

### 1. Manufacturing Public Sector :-

Trade unionism in this sector has been largely in the hands of central trade union centres with only a few exceptions such as HMKP. Further, since over the last couple of decades this sector has been non-competitive and operating below desired productivity and profitability levels, the trade unionism itself has remained largely non-competitive and non-penetrative. The collective bargaining has been largely centred around wages; shopfloor bargaining has remained non-institutionalised. The trade union control over workers has therefore been largely political and non-participative.

In this sector there are two particularly large concentrations of industries - West Bengal and Bangalore. The former is a highly politicised state and CITU and INTUC are the two main contenders. However, large number of industries in West Bengal are sick and operating much below par. Therefore the trade unions in this region lack effective control over production process and do not compare favourably with modern trade unionism. The industries in Bangalore are much newer and modern as compared to those in West Bengal and though being in monopoly/oligopoly sectors have been

keeping pace with contemporary trends. The trade unionism here is also much more competitive as compared to West Bengal with atleast four organisations - CITU, AITUC, INTUC and HMKP having large bases. Consequently shop floor bargaining and control over production process are much better evolved as compared to West Bengal.

The size and scale of the manufacturing public sector are not uniform. Some industries are much smaller, older and comparable to private corporate sector and have come under public sector due to nationalisation following industrial sickness; much of these industries are in West Bengal and some in Uttar Pradesh.

Other public sector industries are much larger multi-state corporations having been set up with specific national needs in mind. They can also be called the genuine core sector. Collective bargaining in the such industries is carried out on industry basis (e.g SAIL) or corporation basis (e.g BHEL, HMT). The pattern is largely that of tripartite bargaining involving trade unions managements and central government with the central government being the "appropriate government" as well as "promoter".

## 2. Private Multi National Sector :-

This sector is largely concentrated in Bombay-Pune region with the older establishments being in Calcutta/West Bengal. However, this sector has been expanding steadily with scattered units coming up all over the country. In the Calcutta/West Bengal based units trade unionism is largely in keeping with the trends in that region but with enhanced emphasis on shop floor bargaining and control over the production process.

As compared to all other sectors and regions the trade unions in Bombay - Pune region have taken a distinctly different shape. It has become highly competitive with large number of trade union organisations in the fray. However, the central trade unions have been largely marginalised with successive waves of local popular leaderships dominating the trade union movement over the last 3-4 decades. The trade union movement in this region is mainly characterised by enhanced self activity of workers and affiliations are highly competitive and transient. One of the recent trends in Bombay-Pune region is to promote company wide bargaining with Bombay-Pune based worker-leaders trying to reach out to new units which have come up away from the main plants. Much of the industrial conflict is a continuous process with a real struggle between managements and trade unions for shop floor control. Shop floor bargaining and trade-union control over production process are highly enhanced which has marginalized outsiders role in the trade union movement. The over all size of the wage package is the only area in which outside leaderships have some say.

## 3. Private Indian Corporate Sector :-

Trade unionism in this sector is much like that in the above one

except that managements hold a distinct upper hand over the unions.

#### 4. Mining and Plantations :-

This sector has evolved, quite naturally, away from industrial cities wherever such resources exist. Therefore, by and large managements have complete control over the production process. Much of the effective trade unionism is vested in popular, militant leaders on the one hand and mafia on the other hand. There also are a few scattered instances of adventurism and terrorism.

#### 5. Unorganised Sector :-

Labour in this sector remains unorganised, as the name implies, with trade unionism being limited to muscle men and labour law practitioners. Most of the trade union activity is limited to obtaining severance pays and partially to implementation of minimum wages.

On the whole, the trade union movement in India remains highly fragmented with different types of organisations operating in different sectors. Concurrently, the whole structure and content of trade unionism also differ. We have to keep the above in mind while looking at the proposed IRB which is going to be the government's vehicle to subvert the whole trade union movement in one go.

Now we shall come back to the main issue that of the new IR Bill. We shall go into each area in which changes are being proposed and see how it affects corresponding trade unionism and also trade union movement on the whole.

#### 1. Trade Union Act :-

The changes proposed in the trade union act are wide ranging and intended to cause many procedural problems. It is proposed that any union should have 10% (or maximum 100 and minimum 7) membership of a defined bargaining unit for it to obtain registration or to prevent lapse of registration. It is also proposed that no union is legal without registration. People familiar with trade union movement would know that often there is a long gestation period involved before a new union, either in a no-union or multiple unions situation, to come into reckoning. This is particularly true when managements want to prevent a union coming up at all and also when there is a threat to management sponsored union respectively. It must also be mentioned that irrespective of management sponsorship, existing unions would always be against new unions coming up. It must also be mentioned here that some good of trade unions are also likely to favour this clause since their managements have used minority unions to subvert majority, militant unions; however, such unions should note that this problem has nothing to do with registration procedures, it mainly concerns inadequacies or absence of guidelines for recognition of trade unions and totally illegal conni-

vance of appropriate authorities.

There is a dangerous corollary to this proposed constraint on registration, namely that National Federations and National Centres are exempted from this. This clearly smells of a connivance between National Federations and Centres and the government to prevent dark horses from surfacing. Management, government and trade unions with petty self interests can use this provision conveniently to prevent potentially militant unions from destabilising the Status Quo.

Yet another clause which has appeared in the earlier proposed bills but has not figured in the Ramanujam Committee report is that no outsider can be an office bearer of more than 5 or 7 unions. This clause which may yet figure in the final draft proposal, is clearly meant as an impediment to trade unions such as Dr. Sarant, George Fernandes during his haydays in Bombay, possibly people like Michael Fernandes in Bangalore, S.G. Nivogi in Bhillai and Chhatisgarh and many other enterprising and popular leaders who have contributed so much to the Indian trade union movement. I might even go as far to say that even right trade union organisations such as Shiv Sena (in Bombay) and EYS have played a historical role with positive contributions to the trade union movement which they themselves may not be aware of nor have intended. This clause also helps National Federations and Centres since they have the man power to bypass this law.

There are some other proposals also such as ban on unions which restrict membership to specific occupation, craft or trade (among other things such as caste, creed, religion, etc.). This clause is likely to affect sectors such as mining where often militant unions are based on craft, trade or occupation - e.g. miners. Yet another clause prescribes that intra union disputes should be referred to central bodies in the case of National Federations and centres, and in case of others to the labour courts. Often a trade union centre is very much part of an intra union dispute, therefore the aggrieved party may never receive justice.

All in all one must say that the proposals for changes in the Trade Union Act more than subtly favour national federations and centres and seek to pose impediments in the rise of popular, militant leadership, whereas, the very growth and development of trade union is based on the latter. This is also in violation of fundamental democratic space and will hamper the evolution of genuine working class politics. This also is against the fundamental right to form organisations for self enhancement and self determination.

In the final set of proposals circulated as senior officials view, a rather dubious clause has been stated as "one view", that no outsider should be allowed in the trade unions in small scale sector. This basic proposal itself and the way it has been stated by the "senior officials" prompts us to borrow the term "bunch of jokers" from Sunil Gavaskar. What do these bunch of jokers think they are doing? Have they become so ignorant to the basic mecha-

nism\process of unionisation in the small sector? And have they become totally cynical towards the plight of workers in small sector to propose such restrictive clauses? We want to know from these bunch of jokers as to who is the original joker who proposed this clause and what made these jokers incorporate it in the proposals circulated by them? We would also like to know whom are they taking directives from? Ramanujam committee, group of labour ministers or small industries lobby?

2. The next area of changes and introduction of new regulations is that of negotiating or bargaining councils and trade union democracy. The proposal is for setting up negotiating councils by way of secret ballots or check offs or verifications and duration of these. First of all, all units with workforce size over 50 are prescribed N.Cs. A union with large majority (such as over 60 or 65%) will become sole bargaining agents. In absence of a sole bargaining agent a union with over 50% but less than 60 or 65% will be principal bargaining agent and can nominate the chairman from workmen's side while other minority unions with minimum membership of 20% will get proportionate representation; if no union can has sufficient majority then all unions will get proportionate representation with the question of nomination of the chair person left hanging. The N.C.s which will be constituted through general ballot or check off or verification will be valid for three years.

One fails to understand why such complicated mechanisms for the constitution of N.C.s are being formulated when our democratic system follows the rule of simple majority. When the regulations for formation of N.C.s are read with another clause, namely that they will consist of equal number of management and workmen's representatives, and if within the N.C.s decisions are to be taken on the basis of simple majority, then one can surmise that a majority union can be subverted with the help of minority unions. This appears to be a ploy to handover control to managements in the name of trade union democracy. What should be proposed from the trade union side, if these regulations for N.C.s are to be accepted, is the procedure of decision making within the N.C.s. The management representatives will speak on behalf of the management and workmen's representatives will speak on behalf of workmen. The latter will decide among themselves on the basis of simple majority along with a stipulation to seek the mandate of the general body of workmen and that the general body of workmen should be empowered to accept or reject proposal(s) put up by the N.C.s.

While one accepts the proposition to prescribe certain norms for accommodation between unions so as to allow regular negotiations and settlements, it is necessary to differentiate between management and workmen's representatives and that each party may decide for itself and a settlement is valid if both parties agree on the basis of consensus among themselves. As per concerns of majority decision among workmen's representations, a better democratic procedure will be to allow for referendum by the whole general body of workers. If N.C.s are looked at as abstract bodies

taking decision democratically within themselves, then this will necessarily undermine the true democracy among workers and also the interests of the workers. After all democracy is all about providing opportunities to various sections of the society to voice their own needs and assert their views.

Lastly, it is difficult to understand, or rather, it is very easily understood, why the set of proposals circulated as "views of senior officials" do not recommend any specific provision for the constitution of the N.C.s. In these proposals this question has been left to the unions and managements. This is like forcing the industrial relations to go in circles to decide which union should be considered a majority union or how to constitute a N.C. which will talk on behalf of the workmen to decide on the procedure to be adopted for the constitution of the N.C. The only way out of this vicious circle is the managements way - in the sense that they will regain the prerogative to decide which is the majority union and how is a N.C. to be constituted which will ratify their proposal for the procedure of constitution of N.C.s. No doubt this will give rise to endless disputes over the procedure of agreement over the procedure to be adopted for the constitution of N.C.s. Therefore, the position of those wise men who have formulated the set of "final proposals" that the labour departments and the IRCs cannot be burdened with the task of conducting secret ballots in the numerous factories and establishments is not tenable since their proposed way will give rise to innumerable disputes which will end either with arbitrary awards or will lead to secret ballots or verifications or check offs, what the managements and coniving officials can get away with. Unless ofcourse the intention is to delay settlements from taking place so that the need to obtain immediate relief will force the workers to accept terms contorary to their interests.

### 3. Strikes & Lockouts :-

The debate over strikes and lockouts has become very complicated. As per the existing Janata Party act, 14 days notice is necessary for strikes and lockouts in public utility services and were banned in essential services. Nobody appears to be challenging these provisions. The final proposals/view of top officials infact recommend 21 days notice period for notified Public Utility Services and 14 days for other Public Utility Services. The latter would mean that a large range of industries will be covered by notice period provisions.

Further, the group of labour ministers have recommended in the pre Indian Labour Conference circulated matter that 1 month notice period should be made compulsory for all industries. As against that, the officials have been more moderate in not recommending any notice period for industries other than notified or non notified public utility services.

### 4. Lay Off, Retrenchment & Closures :-

The proposed changes in the above 3 are structural rather than

regulative. First of all, lay off is being proposed to be made free without any requirement for prior permission. The proposals suggest "structural deterrents" by way of increasing compensation amount to 75% of basic + D.A (existing 50%) and payable upto 90 days (existing 45 days).

As for retrenchment and closures, the proposed provisions are simple: The requirement for permission is being proposed to be made applicable at work force size 300 and above. The compensation proposed is at the rate of one months' average pay for every completed year of service.

That the applicability of clause on permission for retrenchment and closures should be raised to 300 was expected and we should feel lucky that it is not being proposed to be made 500 or 1000 workers; however, this should not be interpreted to mean that we recommend accepting this; we only have grave doubts about the ability of the labour movement to oppose it given the degree of fragmentation. However, it is really the lay off provision which need more serious thought. If no permission is necessary for lay off for factories of any size, it implies that retrenchment/closure policy is being brought through back doors.

Raising the retrenchment/closure applicability to 300 workers needs to be opposed; however, it is still given in black and white and one may accept it or reject it. Whereas, the deregulation of lay off is an added weapon in the hands of management which will lead to non-provision of work, reduction in wage payments and most of all an attack on workman by keeping them idle and thus spreading panic among them.

As for legal implications of the new proposed lay off provision, the question that needs to be answered is what happens after the completion of the 90 days period during which workmen are provided lay off compensation? Do they stand retrenched or reemployed? The blanket permission for lay off as proposed by the senior officials will cause conflict between the stipulations for retrenchment and closures, namely that permission is necessary for and above work forces of 300.

We want note to be taken of the fact that the proposed lay off provisions are in sharp contradiction to what was proposed by the Ramanujam Committee. It had proposed lay off permission for work forces of 50 and above; as for retrenchment and closures the existing rules of permission being necessary for work force sizes of 100 and above were to continue. What the senior officials are proposing is in fact a complete exit policy in the name of lay offs rather than retrenchment and closures.

##### 5. Dispute Mechanism and Labour judiciary:-

This has been a topic of prolonged debate over the last 2 decades. The concensus seems to be on establishing IRC's of sorts which will have judicial and non-judicial members and will have the status of a high court. The Ramanujam Committee itself has



proposed a structure whereby each bench will consist of one judicial presiding officer and one member each from management side and trade union side. As per the charter, the IRCs will replace in toto the industrial tribunals and will also become appellate authority above the labour courts. Also that the IRC's will be burdened with the task of trade union registrations, etc. The labour court was proposed to go one step down as per the earlier proposed bills, whereas, in the Ramanujam committee report as well as the officials proposals labour courts are part of IRCs with original jurisdiction over units having work force strengths less than or equal to 250.

It should be interesting to note that the group of labour ministers have rejected the proposal of establishing IRCs. However, the final proposal is a typical bureaucratic exercise. It has been proposed to keep labour courts and industrial tribunals as they are and also establish IRC's which will function like appellate authorities above L.Cs & I.Ts

The Ramanujam Committee proposal itself basically provides for a single tiered judicial structure that too diluted with the inclusion of 2 non judicial members for all collective bargaining, above which the only recourse will be to the Supreme Court.

The 1977 & 1988 proposals were even worse since they proposed a 2 member bench system, one judicial and the other an expert in the field of industry and labour. This structure was clearly meant for introducing a anti-labour bias in the labour judiciary.

If in case a bench system which includes representatives of management and labour under the presidency of a judicial member is to be introduced, the way Ramanujam Committee has proposed, that should be done at the level of I.T.s where actually technical and intricate issues are bound to come up; whereas, the IRC's should be purely judicial appellate bodies equivalent to the High Courts but below the level of constitutional benches. This is so that there is an appellate body above the IRCs at the state level itself which may look into the legal and constitutional validity of awards passed by the IRCs.

#### REMARKS ON THE VIEWS EXPRESSED BY VARIOUS BODIES

So far the bodies which have been involved the deliberations over the new industrial relations bill are all the central trade unions, the labour ministers and senior officers. The opinions themselves as expressed by the various parties involved are quite typical of whom or what they represent.

To start from the worst suggestions from the point of view of the trade union movement as such, they are those of the senior officials. Though they have tried to give white wash of "compromise" between the differing opinions, they in reality represent the whole new economic regime. For example, they propose a compromise between views which oppose and propose the IRCs by keeping the L.C.s and I.T.s intact but also providing IRCs as appellate au-

thority above them. But on the other hand whereas the Ramanujam Committee itself has indirectly opposed the "exit policy", this group of senior officials are trying to get it in by way of lay off provisions. As for the question of workmen's representation what they propose is an upper hand for the management in setting procedures on one hand and promoting the existing recognised unions on the other hand.

There are basically three main issues involved in altering the T.U. and I.D. acts: 1) the exit policy, 2) multiple unions situation and work-place democracy, and 3) disputes settlement mechanisms which take into account the growing industrial complexities.

Within the above framework, we can surmise that senior officials take a position of providing (1), opportunism of favouring Status Quo over the (2), and rendering the whole question meaningless as for the (3).

As for the group of ministers, they have taken a far more rational stand; they want lay off to be only for reasons outside the control of the managements, retrenchment at a higher compensation rate of 45 days for every year of service, and closure permission to be made necessary over work force strengths of 50. The last may be as a structural deterrent to retrenchment provision. As for the question of multiple unions situation they are in agreement with the Ramanujam Committee as in the case of lay off, retrenchment and closures. As for the dispute settlement mechanism they have outright rejected the IRCs.

As for the different central T.U.s it seems that each has taken a position as per the perceived threat to themselves and proximity with the government. While all of them have more or less opposed the exit policy to lesser or greater extent there is much difference on the questions of representation of workmen and the IRCs. Except the left centres the others seem to prefer check off or verification methods; only the former have stood by secret ballots. Again while the former have opposed the IRCs the latter have voted in favour.

When we discuss the views of trade unions we need to look at the views expressed on two related matters, namely union registration and the jurisdiction of appropriate governments. On the first count all have accepted the stipulation of 10% membership so as to undermine new unions and unionists. They have also accepted that intra union disputes in the central unions should be referred to the union higher ups.

As for the question of jurisdiction there were three proposals: 1) all units for which central government is the A.A. will continue to be so, 2) the joint sector with centres equity 51% and above will come under central government and 3) multi state private sector will come under central jurisdiction.

All, including the group of labour ministers have rejected (3);

except CITU all have accepted (2) and all are unanimous on continuing (1). We bring up this matter because unionism in multi state companies is of extreme importance since all companies worth mentioning are essentially multi state companies which are very actively sabotaging coming together of workmen in different establishments. It is really a sorry state of affairs that for some short term benefits the central unions are opposing coming under a single authority of workmen in multi state companies. This would be particularly a setback to Bombay-Pune based unions who have been trying to form federations of workmen in all plants and also trying to rationalise the bargaining structure by spelling out common issues and individual issues. We think that some rethinking is necessary on this issue on part of the central trade unions. They ought to realise that multi plant/state functioning is a necessary strategy of managements to counter strong unions existing in main plants located in Bombay-Pune regions as well as Calcutta/West Bengal. It is indeed necessary to linkup collective bargaining so as to prevent repression of workmen in new plants located away from Bombay-Pune and Calcutta/West Bengal. It seems to us that the trade union practices of central trade union - we specifically refer to outside leadership - are not keeping pace with the changing industrial realities, that the concept of bargaining strength go much beyond popular democracy and more tend towards structural democracy in relation to the job structure and effort levels. We may also point out particularly to the left unions that they have painfully lost far too many units to the right wing or militant popular leaders due to the inability to grasp the meaning collective bargaining and work place democracy. It is time they enter into dialogues with new trends in trade union movement for an effective solidarity among working class tendencies. We would again like to point out that if left unions have been loosing out to unseemly contenders it is for a reason. Afterall Bombay-Pune-Calcutta are not exactly Dhanbad -the epitome of mafia unionism. Mafia is in but it can capitalise only due to genuine discord among workmen and unionists on real issues -related to job satisfaction and effort levels. No Shiv Sena in Bombay can go beyond the basic expectations of workmen, or else they will be thrown out.

We also urge the left unions to make a fresh appraisal of labour movement histories in Europe - the growth of shop-stewards and factory council movements in England and Italy respectively. At the time of the collapse of the eastern block the real question is not whether Stalin's was left/necessary deviation or not, the real question is how we have failed to understand the complex dynamic of industrial and working class processes, the process of learning of the working class, the evolution of expectations and militancy, so on and so forth. Lastly comes the question of solidarity per se: without taking along the non-central trade unions how can anybody ever expect to counter the growing aggression of managements and the Government.

#### ON VOLUNTARY RETIREMENT AND RETRENCHMENT

Today all the left unions are saying "NO" to VRS and retrenchment

and also that retrenchment cannot be due to rationalisation and modernisation, etc. The question is whether they can ever enforce such a categorical stand. The sociological reality is that most of the large industries who proclaim problems of over employment are pretty much old and so is much of their workforce with average ages being above 40-45 years. For a large section of the older work-force, particularly those who have managed family finances well, this is a golden opportunity to get out of the rutt - particularly since they find themselves on the wrong foot where even the corner "pannwala" may smirk at them for being "unproductive". How is anybody ever going to stop them from accepting VRS; does the left retain such ideological control over their union members?

Retrenchment and VRS are really just surface phenomenon. At the root of it is the real issue of redundancy. The real question is how much is the actual redundancy? Let us see how many factors contribute to redundancy. Redundancy is just one side of the coin, the other side being manpower requirement for sufficient capacity utilisation so as to keep the company healthy within the recessionary economy. On what basis do we assess man power requirement? Three factors contribute to this:

1) Prevalent Practice: How does an industrial tribunal decide whether a particular workforce is on go slow? On the basis of prevalent practice! If the production is drastically less than usual, and for no apparent management caused reasons then there is a go slow. Therefore, from the labour point of view, if they are giving usual production then atleast they cannot be blamed of inefficiency.

2) Productivity Deals: If for market or economic reasons the prevalent productivity is not sufficient for the industrial health then the question is whether the existing work-force can give enhanced productivity so as to protect the company and jobs. Often it is found that in the organised sector actual working hours in the factories are much below 8 hours inspite of workers giving prevalent productivity. This is mainly because over a period of time workers gain sufficient familiarity with the production process, which infact is the source-experience of control over it, whereby they can give prevalent production in less time. In such situations many unions in Bomabay-Pune regions have signed good productivity deals without overburdening themselves and gaining good wage schemes in the bargain. Whereas many left unions refused to sign productivity deals which resulted in those workers finally landing up with worst productivity terms and the custer of the union - and often replacement with Shiv Sena or Dr.Samant unions - either before or after the signing of the productivity deals. It indeed requires a thorough understanding of the particular production process to be able to sign a good productivity deal; and often ignorance is covered up with "NO".

Therefore, it should be first seen if the same work-force can give higher production without overburdenning themselves and may also gain better wage conditions in the bargain. If this is still

not sufficient for the company to be healthy then there exists a real threat of redundancy, rationalisation and modernisation.

3) Rationalisation: The next step should be to see if a combination of rationalisation and expansion of production base may reemploy work-force rendered redundant. If the latter is not done then that will cause retrenchment. The company should have justifiable reasons for not being able to buy new equipment sufficient for redeployment.

4) Industrial planning: Unions should participate in industrial planning so as to ensure that expansion takes place in a manner which prevents redundancy and sickness. In Bombay-Pune region there do exist plants/companies where recruitment is still on due to vigilant unionism.

If retrenchment is inevitable, unions should demand participation in industrial restructuring so as to ensure gradual reemployment and obtain assurances from managements to that effect as part of the overall terms of settlement.

The whole question of VRS is quite secondary to the real question of redundancy. Managements may introduce them and workers might accept them inspite of union position. The union should be able to enforce necessary manning levels including by way of reemployment; in which case managements will still benefit from the reduction in the wage package due to the difference in wage levels of older retrenched workforce and newly employed younger workforce.

Saying "NO" to retrenchment unconditionally may turn out to be suicidal as it was for the left unions during the phase of productivity deals. What is necessary is to establish the principles of assessing manpower requirement of a particular production process and also in the bargain gain some say in industrial planning. A unqualified "NO" will lead to a political victory for managements resulting into massive workloads below subsistence wages.

The question of productivity becomes further complicated due to the introduction of new machines and process technology. What is the role of a worker in a modernised plant? What should be the method of evaluating new jobs? How should we fix workloads in such production processes? Which factors should be taken in to account for work studies in new units/processes and what weightages should be assigned for job classification? These are the real issues of bargaining at present and in the near future. Chemical plants are to be tackled on slightly different basis. For them the question of work cycles and concentration levels is far far more critical. Errors will cause accidents and deaths as in the case of Bhopal Carbide plant where manning levels were decreased drastically between 1978 and the time of accident.

Collective bargaining in the modern industry has become a very rigorous and continuous process which can only be done by work-

er-leaders. All the various issues we have mentioned above related to productivity and wage schemes have already emerged as real issues of bargaining and a totally different conflict is going on in the corporate sector than the "struggle" over exit policy and retrenchment. But this conflict has not received any political recognition as such. Infact much of such trade union movement is being criticised of economism. Which therefore is real economism, where workers keep companies afloat, managements on their toes and also gain good terms of employment, or where political unions refuse a certain type of industrial rationality and democracy and in the end cause much sufferings among workers?

#### RELATIVE MERITS OF DIFFERENT SETS OF PROPOSALS

Totally three different sets of proposals have come up so far - The Ramanujam Committee, which was a product of tripartite discussions, the group of labour ministers who reflected on the Ramanujam Committee report and finally the senior officials proposals which are supposed to be the final set. Comparatively speaking the first appears to be the fairest from the point of view of labour, where exit policy as such is not being granted; the second is not much of a deviation from the first except that they propose removing the clause of permission for retrenchment; the worst set of proposals are the third circulated by senior officials. These last have been drafted without any regard towards the Ramanujam Committee or the proposals circulated by the group of labour ministers. This raises a fundamental question - whom are they taking their orders from?

## RECOMMENDATIONS OF THE RAMANUJAM COMMITTEE

### # TU MEMBERSHIP

Rs. 1/- per annum be charged in case of rural workers

Rs. 12/- per annum be levied per member for other industries

Rs. 3/- annually for workers covered under Minimum Wages Act and other unorganised sectors.

### # ELECTION

Election be held once in three years

### # INTRA UNION DISPUTES

All intra-union disputes should be referred to NTUC

Non-intra-union disputes be adjudicated by Labour Courts

### # REGISTRATION OF TRADE UNIONS

Compulsory registration of Trade unions in organised sector

National Federations and National Centres be exempted from compulsory registration

### # DISPOSAL OF REGISTRATION PAPERS

Has to be disposed within 45 days

Beyond this period reasons should be recorded by the Registering Authority

### # RECOGNITION OF UNIONS

No union will be recognised which is caste based. which has a link with a particular occupation, community or race. In short the unions will be recognised only if its membership is open to all.

### # NEGOTIATING COUNCILS

Negotiating Councils in units employing 50 or more workers

NO UNION - A team of 5 elected members to represent labour side.

ONE UNION - To nominate all the representatives

MULTIPLE UNIT - 50% or more shall be recognised as sole negotiating agent

Less than 50% - two or more to represent at the NC

In case of Composite NC largest holder of Membership will be recognised as Principal negotiating Agent

Company level NC in case of Multi-units

Unit-wise NC with no statutory status

## STRIKES AND LOCKOUTS

21 days mandatory notice for notified PU industries

Essential services be exempted from strikes and lockouts

In non-essential services, strikes/lockouts should be preceded by 14 days notice

Strikes illegal during pendency of proceedings before NC

Conciliator, Labour Court, IRC or Arbitrators.

## LAY OFF

Lay off compensation applicable to units employing 20 or more workers

Lay off beyond the control of the management, 50% compensation be paid

Full wages be paid for lay off within the control of the management.

Casual/badli workers also be included in the compensation list, provided a minimum of one year is complete.

If contractor fails to pay the compensation, the principal employer shall bear the cost of paying compensation

NC should consent for lay-off, if it does not approve, the matter should be disposed of as an industrial dispute

## RETRENCHMENT

No retrenchment on account of automation, computerisation, rationalisation, provided retraining and redeployment is accepted by the worker on reasonable terms

Surplus labour-force be adjusted in other plants under the same management

The retrenched employees be given preference in case new recruitments.

In case retrenchment becomes inevitable such surplus labour



be identified and compensation be paid at an enhanced rate of one months' average pay for every completed year of service.

The above be applicable for units employing 250 or more employees and with a turnover of more than 5 crs. The units which do not come under this clause shall pay the existing rate of compensation at the rate of 15 days of average pay for every completed year of service.

#### # CLOSURES

Section 25-0 (PROCEDURE FOR CLOSING DOWN AN UNDERTAKING) be replaced

Employers intending to close fully or partially should obtain the permission from Negotiating Council before effecting the closure.

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#### SENIOR OFFICERS COMMENTS ON THE RECOMMENDATIONS OF RAMANUJAM COMMITTEE

#### # MEMBERSHIP

As it is not possible to identify rural workers, a uniform membership fee be charged at the rate of 50 paise per month.

No change be effected in the provision of Political fund.

#### # REGISTRATION OF UNIONS

Restricting registration to Organised sector alone is impracticable.

No justification for Federations and National Centres being exempted from compulsory registration.

#### # ELECTION

Amendment be effected clearly stipulating the period of election amongst provisions.

#### # BAN ON REGISTRATION

Castes and creed being sensitive issues statutory prohibition may create problems.

So no amendment to the law is required.

#### # TIME LIMIT FOR DISPOSAL OF REGISTRATION PAPERS

Registration to be dependent on ensuring compliance with legal formalities.

Section 8 of the Act be amended stipulating the time limit of 45 days.

No leave of appeal to the Labour Court as its function is to adjudicate on industrial disputes.

Decision of Registrar of TUs cannot be subject to an industrial dispute.

#### # INTRA-UNION DISPUTES

Resolution of the intra-union dispute be left to the unions themselves.

Labour courts adjudicating industrial disputes not to be involved in intra-union disputes.

Section 6 of the Act be amended so as to make certain provisions mentioning the manner in which intra-union disputes can be resolved.

#### # CIVIL COURTS JURISDICTION

Civil courts also be extended the jurisdiction on the working of the TUs

Certain exemptions provided to the TUs from some Civil suits to continue.

#### # NEGOTIATING COUNCIL

Running of secret ballot at unit/company/industry level all over the country is a big task with unnecessary expenditure, instead Management/Unions can either opt for

- Verification
- Check-off
- Secret ballot

Verification and Check-off be confined to unionised members  
Secret ballot be open to all the workers.

#### # STRIKES AND LOCKOUTS

If it is to be stipulated that there shall be a strike ballot amongst workers, such action should be supported by any stipulated percentage of them.

Fixed mandate for lockout action from a stipulated percentage is not feasible and impracticable.

It is not appropriate to assert that strike action could be supported by any stipulated percentage of workers

represented on the NC

The modalities of decision making for declaring strike or lockouts be left to the unions and employers.

21 days notice for strikes and lockouts in public utility service

14 days notice for industries other than essential services.

Inappropriate to direct the employers to obtain prior permission before effecting lockouts.

#### # LAY-OFFS

Inappropriate to rope in small units within the purview of Lay off provisions

Distinguishing between the lay-off within or beyond the purview of the management will give raise to interminable disputes.

Scrape the prior government permission clause for lay-off and instead stipulate higher rate of lay-off compensation to prevent abuse of lay-off.

Sec. 25-C (Right of workmen laid-off for compensation) be ammended to provide for lay-off compensation @ 75% of the basic wages and dearness Allowances and be payable upto ninety days. (earlier proviso provides for 45 days).

The question of compensation of the contract labour by the the principal employer be handled in the context of the Contract Labour (Regulation and Abolition) Act, 1970.

#### # RETRENCHMENT

The scrapping of the provision of prior permission of the government for the time being be stalled

Some provisions be made to curb the possible abuse of retrenchment right by some unscrupulous employers during the times of Industrial restructuring

Retrenchment compensation be made inapplicable to units which employ not less than 300 workmen.

compensation be paid at the rate of one months' average pay for every completed year of service.

The power of prior permission for retrenchment be given to independent authorities (other than appropriate Govt.)

#### # CLOSURES

The provision regarding closure be made more liberal to the

industry, making chapter V B applicable to units employing not less than 300 workmen.

Closure compensation be paid at an enhanced rate of one months' average pay for every completed year of service.

#### # GO SLOW

Go slow be treated as misconduct under the industrial Employment (Standing Orders) Act.

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### VIEWS OF THE TRADE UNIONS

#### # BAN ON REGISTRATION

The left unions do not want a ban on unions which are based on caste, creed or occupation.

#### # STRIKES AND LOCK OUTS

Employers should obtain permission from the appropriate government before effecting lock out

Employees are entitled for full wages and other benefits in case of illegal lock-outs.

AITUC, UTUC, UTUC (LS) are against strike ballot

BMS/HMS argue that strike ballot is not necessary where the unions represent more than 51% of the workers in the NC.

#### # NEGOTIATING COUNCIL

AITUC & HS TUCS UTUC CITU UTUC (LS) favour secret ballot for determining strength of unions to be recognised as sole negotiating Agent.

The CITU & UTUC (LS) feel that those unrepresented on the Negotiating Council should not be ignored, instead make them a party to agreements that may have reached in the NC meetings.

#### # RETRENCHMENT

Left unions have wanted approval by Negotiating Council/ Participative Forum for retrenchment

No reduction of rate of compensation in establishments with less than two hundred and fifty employees.

## # CLOSURES

The provision for seeking prior permission for closure from Government should be retained and also be made stringent.

## # INDUSTRIAL RELATIONS COMMISSION

The left unions do not favour of having IRCs, instead prefer the existing continuance of Conciliation and Adjudication mechanisms.