

Tea Association of India

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REPLIES TO THE QUESTIONNAIRE OF NATIONAL COMMISSION ON LABOUR

Name and address of the respondent: Tea Association of India, 'India Exchange' India Exchange Place, Calcutta-1.

The name of the Central Organisation of employers to which affiliated: (i) All-India Organisation of Industrial Employers, (ii) Federation of Indian Chambers of Commerce & Industry, (iii) Indian Chamber of Commerce, and (iv) Consultative Committee of Plantation Associations.

Nature of activity: Association of tea producers.

Coverage: There are 149 tea gardens in the membership of the Association covering 42929.84 hectares. The Association has four Branch Offices in Siliguri, Jorhat, Silchar and Tezpur.

When established: January, 1956.

RECRUITMENT AND INDUCTION

Recruitment

Q.1.(a) In tea plantations the recruitment of unskilled workers are generally effected through the existing employees. As the permanent workers usually reside on the estate they are in a position to introduce their unemployed relatives whenever vacancies occur. Besides, workers are also recruited through the Special Employment Exchanges which have been set up by the Government of Assam in this connection. The employment of clerical, supervisory staff and technicians is done through advertisements, employment exchanges and introduction by existing employers.

(b) The present recruitment arrangements have been found to be on the whole satisfactory. The immobility of the tea estate labour, however, sometimes pose a difficult problem. The main reason for this immobility is that the unemployed dependants of the existing workers prefer to live on the estate with their relations and cultivate the land which are usually allotted to the permanent workers.

Q.2. In North-East India tea is a seasonal industry, the usual season being the period from April to November and the rush period is from July to October. It is during this rush period that temporary workers are required to be employed in tea estates. But at such times such workers are not readily available from among the relatives of permanent workers. In view of their pre-occupation with the cultivation of paddy in the khet-land, they are reluctant to come and to work for estates. The problem of temporary workers cannot be solved by employing all these people throughout the year because in that case they will have hardly any work during the period from November to April. Besides, such a practice will add to the cost of production and will lead to further deterioration in labour productivity.

Q.3. The lack of mobility of the garden workers sometimes pose a difficult problem. It is felt that the withdrawal of the privilege to cultivate the khet-land may solve the problem to a great extent.

Q.4. Unlike other industries, the migratory character of the labour has not been reflected in a very serious way on the work of tea plantations.

Q.5. The existing statutory provisions in regard to the employment of women do not appear to affect adversely the recruitment of women labour in tea industry. The present conditions for the employment of women in the industry are quite in consistent with the international conventions and therefore modifications do not appear to be readily necessary.

Q.6. The employment of temporary and casual labour is inparative for the tea industry because of its very nature i.e. seasonal character. As the employment of casual labour does not appear to be a disadvantage there is no need for decasualisation of such labour.

Q.7. The "physically handicapped" persons may be absorbed in light work for which they may be found to be suitable. But the matter should be left to the discretion of the management. There should be no statutory provision for reserving a proportion of the vacancies to physically handicapped persons.

Q.8. So far as the employers are concerned there is no discrimination in the matter of recruitment on grounds of caste, community, religion, language etc. in the tea industry. Such discrimination is certainly not justified except in exceptional cases.

Induction:

Q.9. There is no need for 'on the job' training as the work on tea estates usually calls for unskilled labour. The adolescents and young persons who are generally introduced by existing employees, readily pick up the work which is mainly agricultural in nature.

Q.10. The work on tea estates being of agricultural character there is no need for training facilities outside the place of work. The skills can be improved only by actual work. The special staff such as Assistant Medical Officers are, however, given facilities of special leave and study leave to participate in refresher courses.

Q.11(a) The national promotion policy should take into account all the relevant factors including merit, trade test and seniority. The seniority of course, should be a factor, but not the major consideration. It should be taken into account only where the candidates are of equal merits.

(b) The recruitment to positions at higher levels should be made from among the existing employees where they are found suitable.

II. CONDITIONS OF WORK

Working Conditions:

Q.12(a) The conditions of work in the tea estates are governed by the Plantation Labour Act, 1951 and the Rules framed thereunder from time to time by different State Governments. The Factories Act, 1948 governs the conditions of work in the tea factories situated in tea estates. It is felt that the plantation of labour laws should be governed by a Central Act for the purpose of uniformity and the State Governments should not have any rule making power except in cases where it is absolutely necessary. In view of the existing rule making power

of different State Governments, different standards have been specified in different States leading to considerable confusion. Besides, the wages of plantation workers ^{have} now been fixed by the Wage Board, the industry should be withdrawn from the schedule to the Minimum Wages Act, 1948. It is true that from time to time there have been complaints of inadequate implementation of the provisions of the Plantation Labour Act relating to welfare and other facilities. It is, however, not appreciated that these provisions generally follow the pattern specified in the Factories legislation and are not suitable to the peculiar conditions of plantations. Besides, the industry provides fringe benefits to the employees which are not provided by any other industry. Therefore, the welfare facilities and other measures of the existing Plantation Labour Act should be properly redrafted to suit the special conditions of plantations.

Q.12(b) The working conditions in tea plantations are generally satisfactory. The steps needed to ensure proper working conditions are rationalisation, introduction of new machineries, amalgamation of uneconomic estates and relating the wages of the workers to their productivity.

Q.13. In the tea estates in North East India as also in the South, there has been no substantial variation in the number of holidays. Usually 7 to 8 holidays are allowed to the tea garden workers. The number of holidays should remain uniform for all the tea estates though the dates may vary according to local customs and festivals. However, in no circumstances the number of holidays should be increased as it is already higher than in most of the industrially advanced countries. Besides, the practice of the State Governments to declare paid holidays at short notices should be abandoned.

Q.14. Not applicable.

Q.15. The Plantation Labour Act though makes provision for employment of child (between 12 and 15 years), children are not extensively employed in tea gardens and they do not constitute more than 3% to 4% of the total working force. The provisions of the Plantations Labour Act and Rules made thereunder are quite satisfactory so far as the employment of child labour is concerned.

Q.16. In tea industry, contract labour is not employed on unskilled routine plantation work. Such labour is however employed only on special work i.e. construction of buildings, roads, drains etc.

Q.17. The implementation of statutory benefits/provisions could well be supervised by Works Committees or Joint Management Councils. Whenever there is any difficulty in complying with any such obligation, the matter could be discussed between the representatives of employers and employees. Such Committees may also take up other matters such as leave with wages, canteens, welfare measures, working hours etc.

Safety and health:

Q.18. The industry being primarily agricultural in character very few accidents occur in tea estates.

Q.19 to 25. In view of the answer furnished against question number 18, replies to these questions are not felt necessary.

III. TRADE UNIONS AND EMPLOYERS' ORGANISATIONS

Federation of Employers' and Workers' organisations:

Q.26. The following factors have influenced the development and organisational pattern of employers' organisations since Independence:-

- (a) Impact of labour legislations;
- (b) Growth of political trade unionism;
- (c) Shortage of essential supplies, such as coal, cement, fertilisers etc.;
- (d) Price inflation; and
- (e) The persistent demands of the workers for higher wages in complete disregard to Industry's capacity to pay.

Q.27. The legislative provisions have brought forward, to some extent the compelling need to unite and organise.

Q.28. The basic change in the modus operandi of employers' organisations has been their readiness to take part in bipartite and tripartite discussions and to recognise the trade unions. The unions on the other

hand, have concentrated their work only on agitational approach and frequent resort to violence, intimidation, coercion and assault.

Q.29. There has been some changes in the attitudes of trade unions and employers organisations towards each other. Both sides have now realised the need to co-exist as partners of production. The Government, however, still adopt a protective role so far as the demands of the workers are concerned. The Employers' organisations have almost been compelled to negotiate with the representatives of unions which they do not recognise. While employers' organisations have continued to support the Government to secure implementation of tripartite decisions, they have not received any reciprocal support from the Government when decisions which are unpalatable to workers have come to be in force.

Q.30. The traditional role of the trade unions/employers' organisations should have to be changed with the changing pattern of the society and the national objective before it. In fact the employers' organisations have accepted this idea and have channelised their activities in a manner which is not in conflict with the overall objective of the national economic planning. Keeping this in view it should be said that no radical changes are necessary in the nature and scope of the trade unions/employers' organisations as also in their organisational pattern or their attitudes. The employers' associations should continue to play their independent role to secure the national objectives by encouraging their members to achieve the targets of production as laid down in the successive Five Year Plans. The trade unions on the other hand should educate their members to devote their services to their employers, to work diligently and to increase their wages by increasing productivity. In fact, there should be a realisation for the both the sides that they are partners in productive activity, their objectives being the fulfilment of plan targets.

Q.31. The employers' organisations have helped in the evolution of better society by encouraging their members to improve the quality of their products, to increase production and thereby to increase the national wealth and the standard of living of the people.

Q.32. The views of the employers' organisations are placed before the Government through representations and bipartite and tripartite conferences and discussions. The system though is working more or less satisfactorily leaves room for much improvement. Seldom are the employers' views given the consideration they deserve and there is a tendency for the representatives of unions and Government to join together in urging the acceptance of schemes which may not be practicable so far as employers are concerned for more than one reasons.

Q.33. It is true that bipartite conciliations are one of the effective means of reducing the arrears of conflicts between the employers and employees. With this idea in view the employers' organisations have from time to time engaged in bipartite discussions and have solved many important problems. It should however be noted that the rivalry amongst the different unions often pose a serious threat to the success of bipartite discussions. It is therefore necessary that to make such discussions a complete success the principle of one union in one industry should be accepted.

Q.34. The existing arrangement for communication between Central Organisations of employers and workers and their constituents are (i) through correspondences, (ii) personal interview, (iii) conferences and (iv) house magazines. The improvement of these arrangements depends on the financial position of the concerned organisations and naturally vary from industry to industry.

Q.35. The central organisation of employers and refuse to affiliate employing units at the plant level whenever there is any conflict with the aims and objectives of the organisations.

Q.36. Obligations undertaken by the employers' organisations at the National level are generally implemented by their constituents.

No sanctions for non-compliance have found necessary as in such individual cases non-compliance is usually due to practical difficulties. Effective sanctions are unlikely to improve the situation unless both employers' and employees' organisations willingly accept obligations and sincerely persuade their constituents to honour them.

Q.37. Difficulties may arise in reconciling the actions of the unions/ employers at the plant level with national policies evolved jointly by trade unions and employers organisations. Such difficulties may be resolved through discussions between the Central Organization and the concerned unit.

Q.38. The responsibility of the All India organisations of employers and workers towards the issues raised in the question can hardly be over-emphasised. Being the parent body they should be equipped with competent staff to provide guidance and assistance to the constituents in all these specialised fields.

Trade unions - Constitution and Finance-

Q.39 to 48. Not applicable.

Trade Union - Leadership and Multiplicity.

Q.49. The impact of political parties on the pattern of trade union development in India can hardly be overlooked. Most of the political parties have set up their own trade union wing with a view to controlling the workers and to bringing them under the influence of the respective parties. This has resulted in multiplicity of trade unions, inter-union rivalries and political unionism.

Q.50. The expression 'outsider' means persons who are not employed in the industry but are connected in the trade union activities of the concerned industry. It also refers to the persons who become office bearers of trade unions through their social status such as members of Parliament or Assembly. The influence of these outsiders on the trade union movement in our country is a mixed one.

It is true that in some cases they have given good leadership and have helped the growth of trade unionism amongst the workers. But in majority of the cases these people have tried to exploit the unions for their personal and political gains thus ignoring the real interest of the workers.

Q.51. The internal leadership of the trade union could be built up and strengthened by restricting the entry of outsiders through a change of the Trade Union Act and by building up leadership from within through the workers education programme. The withdrawal of outsiders will enable the workers to get rid of the spirit of dependence which is so long hindering the development of internal leadership.

Q.52. The Trade Union Act, 1926 definitely encourages the multiplicity of unions by giving right to seven or more men to form a union. The law should therefore be immediately amended to raise this number to a reasonable height and also to prevent the unrecognized unions to raise industrial disputes.

Q.53. The inter-union Code of Conduct as evolved in the 16th Tripartite Conference in 1958 has virtually failed to serve its purpose. The Government should take some effective measures to regulate the inter-union Code of Conduct and to discourage inter-union rivalry.

Q.54. The advantages of registration of trade union under the Trade Union Act is that such unions are required to comply with some statutory obligations, whereas, the unrecognized unions are free from such liability. The powers of Registrar of trade unions should be enlarged so as to provide that wherever he considers the existence of other unions with reasonable majority, he shall have the right to refuse registration of other unions in that undertaking.

Q.55. There has been some basic changes in the attitude of the employers towards trade unions. Formerly, employers were reluctant to deal with the unions mainly because these unions were dominated by political leaders and outsiders who did not look after the real interest of the workers on the industry. The employers have now

realised that a good trade union is an assets for the industry and is indispensable for successful development of collective bargaining. The employers, however, feel that the principle of one union in one industry should be accepted and the trade unions which represent the majority of the workmen should only have the right to raise disputes.

Q.56 & 57. The Code of Discipline has prescribed the formula for recognition of trade unions. But the formula is a very vague one. It is felt that the question of recognition should be dealt by secret ballot. The present practice of physical verification of membership involves avoidable procedural and clerical work and encourages suspicious attitude between the employers and unions and between two unions.

Q.58. It is desirable to give effect to the provisions of the Indian Trade Unions(Amendment) Act, 1947 in the matter of recognition of union because of its straight forward and clear cut approach. The recognition of union can be made compulsory provided that some obligations should simulteneously be enforced on the recognised unions. There is no gain in granting recognition to a union which is not aware of its responsibilities.

Q.59. In the plantation industry there is already a tradition of settling wages and the terms and conditions of employment on an industry-wise basis through mutual negotiation. For this purpose the unions have been recognised on regional basis. At the estate level, the units belonging to the recognised union are usually called for negotiation. This system is working quite satisfactorily in Assam. In West Bengal, however, owing to rivalry and multiplicity of unions it has not been possible to deal with only one union and as such all the unions are generally called for negotiation. Obviously that has its limitations, and at times there is a deadlock on some issues which one union found acceptable while other resists.

Q.60. The trade union representing the majority of the workmen should be recognised and may be named as the sole bargaining agent in an industril unit. But there should be a time limit in each case so that other unions may also get this benefit by virtue of their capturing the majority of the workmen during a particular period.

- Q.61. The method of election by secret ballot should be adopted for determining the representative character of the trade union. The election may be conducted by the Government authorities with the cooperation of the concerned employers and the unions.
- Q.62. The minority unions should be offered all reasonable opportunities to develop their organisations so that at the expiry of a specified period they may put forward their claim to be considered as the sole bargaining agent by proving their hold on majority of the workmen.
- Q.63. The category-wise unions should function in consultation with other categories so far as general policy matters are concerned. The employers should also give opportunity to these unions to put forward their views in matters affecting the particular category. It is felt that the existence of a coordinating body of different category-wise unions will make it easy for the employers to deal with them.
- Q.64. Trade union activity as a rule should not be carried out at the shop floor. However, for holding meetings and conferences the canteens and club houses of the management may be allowed to be used with prior permission and only after the normal working hours. The employers do now grant reasonable opportunities to the trade union leaders specially the protected workmen to look after trade union work even during working hours. In no case, however, the work of the undertaking should be allowed to suffer and the leaders must compensate the loss of time by extra work or arranging substitutes.
- Q.65. The attitude of Government as model employer towards trade union has been rather dubious. It has been seen that so far as the private sector is concerned the Government have come forward to uphold some questionable claim of the workers but at the same time in case of a similar dispute in the public sector, the Government have condemned such action on the part of the workers. In other words the Government have always taken up two standards in their attitude towards the trade unions. This should be discontinued. The Government should condemn unhealthy trade union activity in private sector in the same spirit in which it condemns the same when it relates to its own undertakings.

IV. INDUSTRIAL RELATIONS.Introductory.

Q.66. The criteria in determining the effectiveness of Government's industrial policy should be (i) cordial industrial relations (ii) higher productivity (iii) fair wages to workers and (iv) reasonable return to industry. It is true that since independence different legislative measures have been taken for prevention and settlement of industrial disputes. But all these measures have their limitations and nothing has yet been done to relate wages to the productivity of labour and the capacity of the industry to pay. No efforts have also been made to make the workers realise the responsible position they are required to play in the interest of national economy. As a result the workers more and more taken resort to the statutory machineries for settling their unreasonable demands. These machineries also generally take a short-time view of the matter and usually grant benefits to the workers in the name of social justice. There is, however, little realisation of the fact that the concept of social justice must conform with the overall economy of the country and the capacity of the industry to pay.

Q.67. The pattern of industrial conflict is slowly changing but still the basic emphasis seems to lay on the question of wages. However the question of fringe benefits is also engaging attention of the workers. Beside economic factor, political considerations are also increasingly shaping up the pattern of industrial conflict. This is certainly not a healthy development. Unreasonable demands by the workers, pressure tactics, coercive methods and violence should not be allowed to spoil the field of industrial relation.

Q.68. Some of the important factors which have helped the improvement of industrial relations in the plant level are (i) implementation of agreements and awards (ii) setting up of Works Committees, Grievance machinery and Joint Management Councils (iii) development of the channel of communication through personal contact, notices, house magazine (iv) research programmes and (v) human approach towards personnel problems.

Q.69. The main causes of industrial unrest are rising price level,

political unionism, multiplicity and rivalry of unions. The effect of these factors can be minimised in future by evolving a proper procedure for observance of inter-union code of conduct, recognition of the majority union as the sole bargaining agent, stabilisation of price level and rationalisation of wage structure.

Q.70. Inter-union rivalry results in the creation of bad fellow-feeling, makes the unions unreasonable and tend them to raise disputes on flimsiest grounds to match their rival union and to gain popularity. The basic considerations of workers' welfare and promotion of their economic interest are relegated to the background. The sanctity of employer-employee relation is spoiled by personal and political considerations.

Q. 71. For prevention of industrial disputes, direct negotiation and collective bargaining between the employers and employees should be encouraged. The Government action should be kept to the minimum and the statutory provisions should be invoked only in really deserving cases. The calibre of the conciliation officers providing mediation service should be free from ministerial or other political influences. They should be trained to judge the issues from objective points of view.

Q.72. The fact-finding enquiries can play a positive role in locating the real causes of industrial disputes and presenting remedial measures. It is however unfortunate that the machinery of Court of Enquiry under the Industrial Disputes Act, 1947 has hardly been used in recent years.

Q.73. Trade unions function on the majority of the tea estates under the membership of the Association. The existence of the unions affects industrial relations in various ways. Good industrial relations generally depend upon responsible leadership of the union and its approach and attitude to the various industrial and economic problems. It also depends upon the initiative taken by the management in establishing contact with the unions. The management generally prefers to deal with the strong and representative union which is appreciative of the overall objectives of the organisation.

Q. 74. The factors like (a) recognition of union (b) satisfactory arrangement for dealing with individual and collective grievances and

(c) strong bipartite consultative arrangements have in fact contributed towards the promotion of industrial harmony in varying degrees. The most important result is that these have developed greater sense of responsibility amongst the trade unions.

Q.75. Working within their respective spheres of activity, all the four agencies, namely, (a) central organisations of employers and workers (b) local management (c) local union and (d) Government should adopt a pragmatic and constructive approach in maintaining and promoting harmonious employer-employee relationship.

Q.76. The labour/personnel officers can play a major role in preventing disputes and maintaining harmonious employer-employee relationship by (a) helping the employer to adopt a progressive personnel policy and (b) making the workers more appreciative of employers' problems and difficulties. They may serve a very important link between the workers and the management and by establishing close contact between the parties they may foster a spirit of mutual trust and goodwill. However, how far the labour/personnel officers may succeed in fulfilling this role depends largely on the status they are allowed to hold in the management line. Where they get managerial status and are allowed to work without undue interference from the top, they may play an effective role in winning trust and confidence of both employers and employees. Where, however, the personnel functions are not allowed to develop these officers will play only a minor role to suit the statutory requirements. It should however be noted that very much depends on the personal qualities of these officers and their tact and approach towards different problems.

Q.77. The arrangements for proper communication between the workers and management will naturally vary from industry depending upon their size and structure. However, periodic bipartite discussions at the plant level will be helpful in all cases. The circulation of house magazines and other forms of notices and pamphlets from time to time, may develop harmonious employer-employee relationship. Besides, joint consultation through Works Committees or Joint Management Councils, Conferences, Seminars are also important steps towards development

of proper communication.

Q.78. It is the line management, (managers, assistant managers etc.) who deal with the employees, Sometimes authorities are also delegated to the supervisory staff namely, clerks, sirdars etc. By virtue of the nature of the tea estates, the members of the managerial staff have a very close contact with the workers employed therein.

Q.79. The standing orders are drafted by the management on the basis of the model standing orders under the Industrial Employment (Standing Orders) Act, 1946 and finalised after considering the workers views as submitted to the Certifying Officers under the Act.

Q.80. The model standing orders framed under the Rules of the Industrial Employment (Standing Orders) Act, 1946 serve as a guide for formulation of standing orders. The industrial establishments under the Act are required to formerly define the conditions of the employment under them.

Q.81. The disciplinary rules are laid down in the Standing Orders and follow generally the pattern prescribed in the Model Standing Orders under the Industrial Employment (Standing Orders) Act, 1946. The procedures prescribed therein are on the whole satisfactory and do not call for an immediate change.

Q.82. The model grievance procedure evolved under the Code of Discipline have not served its purpose because inspite of the existence of such procedure workers very often precipitate strike and other unlawful and subversive activities without utilising the machinery laid down therein for redress of grievances. Effective statutory provisions will not be helpful because the grievance procedure can only work successfully whdre there is no compulsion and the employers and employees observe it faithfully.

Q.83. Employers generally are opposed to compulsory arbitration and would prefer disputes to be settled by bipartite negotiations with the unions. Where such settlement cannot be reached the disputes may be referred to voluntary arbitration provided the arbitrator is acceptable to both the parties.

However, such arbitration should not be resorted to for settlement of individual disputes and matters involving principle, high financial stakes, wage-scale and conditions of service where the interest of fellow-employers may be involved in the decision. Moreover, voluntary arbitration would not be acceptable in case where workmen have been found guilty of gross misconduct.

Q.84. There are some existing facilities for training for the management and trade union personnel in industrial relations.

The different management institutes, universities, productivity councils have evolved suitable programme in the field. Besides, the Central Board for Workers' Education is running useful courses for development of healthy trade unionism. However, such facilities are still not many compared to the present need and therefore Government should take urgent steps to intensify and expand these programmes.

Collective Bargaining:

Q.85. The system of collective bargaining has not made much headway in our country due to several limiting factors like multiplicity and rivalry of unions, the difficulties of recognition of trade union, political affiliations, outside leadership, Governmental interference. The compulsory adjudication prescribed under the Industrial Disputes Act, 1947 and other protective labour laws have also stood in the way of its successful growth. As experience has shown the trade union representative always adopt a policy of extracting some concessions from the employers through the process of bargaining and then look forward to

the statutory adjudication machinery for securing further benefits and concessions.

Q.86. The representative character of the bargaining agent should be decided by secret ballot. In other words, the unions having support^{of} the majority of the workers and this support being verified by secret ballot, will only be conferred the right to become the bargaining agent.

Q.87. The system of collective bargaining will prosper only when unions are sufficiently strong. As regards adjudication, the system cannot provide for an arrangement satisfactory to both the parties because of the spirit of compulsion inherent in the system.

Q.88. Collective bargaining should be made the most important machinery for safeguarding industrial peace. Adjudication, however, may be allowed to continue till the trade unions in our country become sufficiently strong and healthy. But after that, there should be gradual withdrawal of the process of adjudication and more and more recourse should be taken to the system of collective bargaining.

Q.89. It is neither desirable nor possible to distinguish from the charter of demands, the disputes which could be settled by collective bargaining and which could be left to adjudication.

Q.90. In a planned economy collective bargaining must be linked to the greater to the community at large. In other words that interest of the society will be the prime consideration and bargaining should not be free when such interest comes in the question.

Joint Consultation:

Q.91. It has been the general experience that trade unions have shown an apathy towards joint consultative bodies. Some unions see in these bodies a threat to their existence and their status as the bargaining agent. It is therefore obvious that unless there is a healthy trade union movement devoid of outside and political interference, the trade unions will not be in a position to provide any effective form of democracy within the enterprise through collective bargaining and joint consultation.

Q. 92. Generally speaking Works Committees have not made the desired progress and are not functioning satisfactorily wherever they have been set up. The main reason is the multiplicity of trade unions.

Q.93. Yes. The functions of Works Committees vis-a-vis trade unions have/similar action are being taken by other State Governments. This should help to obviate any clash between the unions and the Works Committees.

Q.94. Only workers with some minimum level of education and a specified period of experience should be allowed to become members of the Works Committees. The election of the Works Committee should not be allowed to be spoiled by inter-union rivalry. The decisions of the Works Committee should have to be given more or less binding effect so that the workers might feel satisfied about its existence and utility.

Q.95. A few joint management councils have been set up in the industry on an experimental basis. They have, however, proved extremely disappointing because the workers are not interested in these councils. In fact some of the councils have ceased to function. It is suggested that the Scheme should be dropped and instead Works Committees should be encouraged.

Q.96. Profit sharing and co-partnership schemes do not exist in Indian industries. The system of paying annual profit bonus to workers irrespective of profit or loss of the undertaking is against the very concept of profit sharing. But unfortunately this has been made a statutory obligation under the Payment of Bonus Act, 1965. The question of setting up co-partnership was also considered at a tripartite conference two years ago but nothing has been done. It is felt that instead of multiplying the number and forms of such Committees, some real efforts should be made to improve the employer-employee relationship.

* now been defined under the West Bengal Industrial Disputes

Q.97. The Scheme of Workers Participation in Management as implemented through Joint Management Councils has already proved a failure. The actual state of industrial relations as obtaining in our country does not permit the introduction of such Scheme. What is obtaining in some major industries in India today is in fact not workers' participation but association in management. Such association may however, be encouraged as it leads to good industrial relations.

Conciliation:

Q.98. Conciliation machinery has helped to reduce industrial conflict but it has not given satisfaction to all concerned because of the time consuming practice involved in the conciliation procedure and the frequent inability of conciliation officers to adopt an unbiased approach towards the disputes. The machinery have not been able to command confidence of both the parties.

Q.99. There is no doubt that conciliation machinery has played an important role in maintaining industrial peace by trying to bring the parties to a common understanding. But at the same time as experience has shown, many disputes could not be settled in conciliation mostly due to the adamant and non-co-operative attitude of the trade unions. It is however agreed that many major disputes are not amenable to settlement through conciliation machinery.

Q.100. The present practice of conciliation officers acting as merely agents for forwarding disputes to higher authorities to be discontinued. They should exercise their powers to decide the case on the basis of merit and should adopt a neutral, unbiased and objective approach. The present system under which all the Labour Officer and Inspectors act as conciliation officers in addition to their other numerous duties, is mainly responsible for the delay in dealing with, and non-handling of cases. The increase in the number of conciliation officers with corresponding improvement of their qualification and experience, would help speedy disposal of cases. It would be desirable to give these officers an opportunity to acquaint

able to instil confidence in the parties. Once they are to act as arbitrators, they will certainly not be in a position to act as conciliation officer.

Adjudication:

Q.102. There is no doubt that the system of adjudication has played an important role in maintaining industrial peace. Till such time as the trade union movement in our country develop firm routes and joint consultation becomes effective, the system of adjudication will have to be retained as the country cannot afford to sustain loss of production arising from labour disputes and work stoppages. It is felt that the disputes which could not be settled through collective bargaining and mutual negotiations should be referred to adjudication or voluntary arbitration.

Q.103. Adjudication machinery should have the power to deal with industrial disputes relating to discharge and dismissal on the basis of the principles laid down by the Supreme Court in different cases. The Tribunal also should not act as a Court of Appeal and substitute its own judgment for that of the management if it is satisfied that in arriving at such a judgment the management has observed the principles of natural justice.

Q.104. The existing arrangements for reference of disputes of adjudication are far from satisfactory. There has been a tendency to refer disputes to adjudication without going into merits of the case. It has been seen from experience that conciliation officers prefer to leave the task of decision making to Government who in turn pass it to the Presiding Officer of Tribunals or Labour Courts. It is therefore felt that before a dispute is referred to adjudication, the party should have the opportunity of expressing their views before a senior officer of the Labour Department of the appropriate Government so that the reference of flimsy grounds can be avoided. The model principles for reference of dispute to adjudication as evolved at the Indian Labour Conference should be strictly followed.

Q.105. The authority for appointment of industrial tribunal should be vested in the appropriate High Courts and not in the Labour Department of Government. The appropriate High Courts may act in consultation with the judicial department.

Q.106. The existing procedures and practices involved in different stages of conciliation, adjudication etc. are much time consuming. For the purpose of expeditious settlement of disputes it is felt that the procedure adopted by the Tribunals should not be too legalistic so as to defeat the very purpose of adjudication. However, the number of industrial tribunals and labour courts should be increased whenever necessary for dealing with all references promptly.

Q.107. Since the disposal of appeal by the Supreme Court generally takes an unduly long time it is desirable to revive the Labour/
Appellate tribunal for the purpose of expeditious settlement of disputes.

Q.108. The cost of adjudication may perhaps be reduced by quick disposal of cases, by granting less adjournments and limiting the period within which an award must be given.

Q.109. The Implementation and Evaluation Machinery set up at the Centre and in different States should deal with cases of non-implementation of awards and agreements. But this must be done expeditiously and in case of differences of opinion between the parties regarding the interpretation of any provision of any settlement of award the matter may be referred to the Tribunal or Labour Court for interpretation under Section 36A of the Industrial Disputes Act, 1947 and the parties should be required to maintain status-quo till such time the decision of the Tribunal or Labour Court is available.

Code of Discipline:

Q.110. The Code of Discipline has no doubt served some purpose. But it has not achieved the high ideal visualised. The utility of the Code has gradually disappeared as breaches of the same have not been taken up seriously by Government and consequently not dealt with seriously by the implementation and evaluation machinery.

Q.111. The Code of Discipline being voluntary in nature none of its provisions should be given legal shape.

Voluntary arbitration:

Q.112. The system of voluntary arbitration has not made any appreciable progress under the Industrial Disputes Act, 1947. The Central Organisations of employers and workers can however promote voluntary arbitration by advising their constituents to accept these procedures in suitable cases. It will be desirable in incorporating a provision in collective agreements to the effect that in the event of any difference between the parties over the interpretation of any clause of the said agreement, the differences may be resolved through voluntary arbitration provided that an arbitrator is acceptable to both the parties.

Q.113. Industrial disputes relating to matters involving heavy financial stakes or substantial question of law, cases of dismissal on grounds of gross misconduct and cases of breaches of provisions of Code of Discipline or Industrial Truce Resolution are not considered proper for reference to voluntary arbitration.

Q.114. It is felt that there is no need of setting up Standing Arbitration Boards inasmuch as such a machinery will almost be similar to adjudication system. Moreover, the most important principle underlying the system of voluntary arbitration is that the arbitrator or arbitrators should be selected by the parties concerned in the dispute.

Q.115. Since arbitrators must be persons of unquestionable integrity with considerable experience it is difficult to state which professional group may provide the best arbitrators. It is felt that persons belonging to all the professional groups mentioned in the questionnaire may be found suitable provided they have adequate knowledge of labour laws, and industrial finance and principles of industrial relations.

Q.116. The expenses of arbitrators should be equally shared by the parties concerned.

Q.117. There is hardly any effective restriction on launching of the strikes under the existing statute so far as the non-public utility services are concerned. It is felt that at least three weeks' notice in writing of all strikers and lockouts both in public and non-public utility services, should be made mandatory.

Besides, penalty should be imposed on the parties concerned who fail to give the required notice or declare lockout or strikes in violation of the law. Strikes and lockouts declared without first exhausting the existing conciliation machinery, shall also be made illegal. In special circumstances of abnormal situation involving problems of law and order, a lockout should, however, be permissible even without notice and without taking recourse to conciliation proceedings.

Q.118. Trade Union rules do not generally provide for a proper procedure to be gone through before giving a call for strike. Even where such rules exist they are hardly, if ever, followed.

Q.119. In majority of cases, strikes are resorted to without notice, but lockout is generally declared only either consequent upon a strike or for reasons relating to safety and security of plant and machinery.

Q.120. Workers have seldom got wages for strike period because strikes have mostly been unjustified even if not illegal. There has, however, been a general tendency on the part of the workers to demand strike-pay irrespective of the justification or otherwise of such a strike.

Q.121. Victimization for going on strikes are not resorted to these days by the employers.

Q.122. There are many instances of workers going on strike not only without the sanction of the union but also without its knowledge. However, once such action begins the unions generally support it.

Q.123. During a strike the trade unions and managements keep in touch with each other only in an informal manner and all attempts to facilitate a settlement are made through the Government Labour Department. Since the Government machinery has an important role in maintaining industrial peace and bringing about settlement as expeditiously as possible, it is suggested that it should be the duty of the conciliation officers to keep constant touch with the parties concerned even if they fail to approach the Government.

The same procedure should also be adopted by the Government in cases of illegal strikes and penal provisions of the Act should be invoked as a deterrent measure for the future.

General

Q.124. The tripartite Committee like the Indian Labour Conference, Standing Labour Committee and various Industrial Committees have played an important role in regulating industrial relations. But it has been the general experience that while pressure is being exerted by Government on the employers for faithful discharge of their obligations in respect of decisions/conclusions/recommendations adopted at these meetings, workers and the trade unions are often found flouting the same with impunity. Besides, experience at meetings of the Industrial Committee on Plantations shows that official conclusions are generally drawn up on the basis of the views expressed by the Chairman and sufficient attention is not paid to the employers' views and objections.

Q.125,126 and 127. No comments.

Q.128. There should not be any differentiation in principle between public/co-operative sectors and the private sector for purpose of labour-management relations.

Q.129. No comment.

V. WAGES.

Introductory.

Q.130. In the Tea Industry, wages have been fixed by a Wage Board and the availability of unskilled labour has not affected the level of wages.

Q. 131 & 132. No comments.

Q.133. The existing level of wages in the Tea Industry has been reached through the recommendations of the different Minimum Wages Committees set up from time to time and the recommendations of the Wage Board for Tea Plantations Industry.

Minimum Wage :

Q.134. The concept of minimum wage as set forth in the report of the Committee on Fair Wages does not require any change.

Q.135. The norms recommended by the Indian Labour Conference as regards size of the workers' family are not applicable to the tea industry where the employment is on a family basis. A norm of 1.5 adult consumption units including the worker has always been adopted by all minimum wage fixation bodies in the tea industry. In respect of the staff, however, the norm of 3 consumption units is generally followed as the family members of these employees do not work.

Q. 136. No comment.

Q.137. The recommendations made by the Fair Wages Committee about minimum wage may require certain modifications if they were to apply to non-industrial workers.

Q.138 & 139. No comments.

Q. 140. The definition of minimum, fair and living wages given by the Fair Wages Committee seem to be satisfactory and does not require any change.

Dearness Allowance:

Q. 141 & 142. The wage itself should be fixed for a reasonable length of time, say 5 years. Changes in the price level should to some extent be compensated for by a sliding scale of dearness allowance adjustable once a year only.

Q.143. The All-India Index is preferred. Changes should be on an annual basis, as more frequent adjustments merely reflect seasonal variation and tend to inflate the cost of living spiral. Compensation should never completely neutralise the rise in the cost of living and should be limited to a maximum number of points each year, as well as a maximum points for the period in which the basic wage is to be remained unchanged e.g. five years.

Q. 144 & 145. Dearness allowance is meant to neutralise the rise in the cost of living as far as practicable. The capacity of the industry to pay must therefore be taken into account. Besides, in no case 100% neutralisation should be allowed for a rise in prices mainly because

the industrial workers should also share the burden and make sacrifice like other parts of the community. Besides, complete neutralisation will tend to accelerate the inflationary spiral.

Q.146 In North East India workers employed in the Tea Industry receive their cereal ration at fixed concessional prices. As the cost of foodgrains forms a major portion of the costs on which the price index is fixed, an allowance must be made for the concessional food-stuffs received by the workers in the tea industry.

Fringe Benefits:

Q. 147. Apart from benefits provided under the Plantations Labour Act, 1951 and other legislations, workers in tea industry receive the following fringe benefits : concessional food-grains; firewood; land for cultivation; free medical facilities; free education; free housing; protective clothing, free entertainment, grazing land for cattle etc. It is felt that it would be improper to lay down any fixed definition of the term " fringe benefit" which will always vary from country to country and from industry to industry. These benefits definitely affect the production cost as the workers receive the same irrespective of their individual contributions towards production. It may be noted here that in no other industry there has been so many fringe benefits.

Q. 148. It is felt that fringe benefits should be reduced to the minimum if not absolutely eliminated and replaced by giving cash equivalent and increased money wages. The basic reason for this suggestion is that it has been found that the true value of these benefits is not appreciated by the workers who accept it as a matter of course.

Wage Differentials.

Q.149. In the tea industry the wages have been fixed by the Wage Board. The differentials previously existing have generally been maintained but these are not based on the factors mentioned by the Committee on Fair Wages. Most of the work on the tea estate is of an unskilled nature.

Q.150. The existing systems of dearness allowance have been mainly responsible for upsetting wage differentials. Substantial increases

in dearness allowance as a result of variations in the cost of living indices play such an important part in the question of wage fixation that the significance of wage differentials in terms of percentage is ignored. An important step for rationalising present arrangements would be to fix a ceiling on increase in dearness allowance beyond a certain point.

Methods of wage fixation

Q.151. The Tea Industry would favour the fixation of wages by a Wage Board provided that the Industry is not compelled to accept a majority decision and that only unanimous decisions of the Board would prevail.

Q.152. No comment.

Q.153. The expectation has only partly been fulfilled.

Q.154(a). The working of the Wage Boards may be improved by improving the caliber of the Chairman, providing adequate and capable staff to the Secretariat, associating independent economists and professors and making provision for evaluation of their work from time to time.

(b) It is felt that the recommendations of the Wage Boards should not have legal sanction for such a step would defeat the very object of introducing the system of Wage Board.

Wage Policy:

Q. 155 to 157. No comments.

Q.158. There is no doubt that there should be sectoral balance in wage structure between public and private sectors. In a recent judgment in the case of Hindustan Antibiotic Ltd. the Supreme Court has held that there cannot be any differentiation in the matter of wage structure between public and private sectors. The balance can be achieved by uniform application of labour laws, tribunal awards and wage boards decisions to both public and private sector undertakings.

Mode of Wage Payment:

Q. 159. In the Tea Industry it has been customary to issue foodgrains to the workers and their family at concessional rates. It is felt that this practice should be abolished and that workers should be required to purchase foodgrains in the market. The estates will however compensate the workers by providing them cash equivalent at the concessional rate. The payment of wages in kind should be discouraged and the practice

should not be extended to other units.

Q.160. In the tea industry wages have been fixed by the Wage Board on a time-scale. The wage is intended to be related to a normal day's work of 7/8 hours. Tea estates, however, fix piece-rates for plucking in such a manner that the normally diligent worker can earn the fair wage fixed by the Wage Board well within the normal day's work.

Q.161. The Association favours the suggestion that the total wage packet should consist of three components, namely, the basic wage, the other depending on the price changes and the third which takes into account the productivity changes.

General:

Q.162. In general the Minimum Wages Act 1948, has worked fairly well so far as the Tea Industry is concerned. The working of the Minimum Wages Committees depend very largely on the fairness and ability of the Chairman. In Assam and West Bengal the Minimum Wages Committees have served some important purpose so far as the Tea Industry is concerned. But the effort of the State Government to increase minimum wages by Government Notification without consulting the employers, as was done in the tea gardens in West Bengal, 1959 should be discouraged.

Q.163. The Association does not consider the scheme for the payment of annual bonus embodied in the Payment of Bonus Act, 1965, satisfactorily because it requires companies to pay a minimum bonus even in the year of loss or marginal profit product. The Association feels that the previous system of payment of bonus in tea gardens under the different Bonus Agreements was more advantageous both for the workers and the employers.

Q.164. The bonus should be payable annually only when companies make a profit and the quantum of bonus should be linked with the amount of the profit subject to the maximum laid down in the Payment of Bonus Act, 1965.

VI. INCENTIVE SCHEMES AND PRODUCTIVITY

Q.165. The following step should be taken to introduce the system of payment by results in appropriate cases :- (work study

comprising method study and work measurement; (b) job evaluation (c) restudy and review of job contents at regular intervals; (d) willing cooperation and participation of trained staff and workers in operating the scheme smoothly and (e) an integrated approach to the problem of rising productivity.

Q.166(f). The principles is sound, and it is in fact largely followed by the Tea Industry; that is when workers are employed on piece-rate plucking, a minimum quantum of work has to be performed before the total earnings exceed the time rated daily wages.

Q 167 The Labour has an important role in raising productivity through active and willing participation in the incentive schemes and faithful discharge of his duties. The management on the other hand, should evaluate the organisation and structure, adopt enlightened labour policy and personal practices, rationalise the wage structure and implement various productivity techniques. The Government on its part should create productivity consciousness amongst labour and management provided positive assistance in carrying out work study and other scientific study and help maintaining industrial harmony and discipline.

Q.168 The formula evolved by the National Productivity Council for sharing the gains of productivity appears to be on the whole satisfactory.

Q 169 No. Although minimum wages in North East India have increased since 1951 by between 60% and 80%, there has been very little increase in productivity and tea estate workers still refuse to perform more than approximately four hours work a day during the cold weather months.

Q.170 & 171 No comments.

Q.172. The important factors which contribute to absenteeism in the Industry are the following :- (a) greater interest in other occupations such as the cultivation of paddy land; (b) too many fringe benefits which can be enjoyed without working regularly; (c) the family system of employment which

means that there is always some income for the family; (d) lack of a sense of responsibility and indolence; (e) unwillingness to do full day's work and absence of a real desire for a better standard of living; (f) too many holidays; and ^(g)drunkenness and gambling.

Q. 173. No comment.

Q. 174. "Go slow" and "work to rule" methods are adopted by the workers to bring pressure upon the management and are simply intended to paralyse normal production and smooth running of the establishment. These attitudes do not help in creating a healthy climate for improving productivity but are largely responsible for creating an atmosphere of lack of confidence, mistrust and suspension resulting in reduced output.

Q. 175. Productivity in Tea Industry can be increased only by the adoption of improved methods of cultivation and manufacture. This involves rationalisation of methods of work, equipment, material and labour. The recommendations of the 15th Session of the Indian Labour Conference do provide a useful frame work for this purpose.

Q. 176. Automation is a logical step in attaining a steady all-round improvement in performance in various fields of industry, agriculture, commerce, trade etc. However, automation should be introduced in a phased manner. Since automation generally implies some retrenchment of surplus hands, it is likely to have adverse effect on labour-management relations. It is necessary, therefore, to enlist the cooperation of the trade unions before introducing automation in any industry. A special machinery may also be set up to study all aspects of the problem and suggest suitable remedial measures.

Q. 177. The National Productivity Council, through its publications, seminars, courses, consultancy services, and study teams has no doubt helped in developing enthusiasm for application of productivity techniques and creating productivity consciousness amongst employers and workers. However, a more dynamic policy, should be followed and there should be closer contact with various industries, and professional bodies. More talented staff should be attached to improve the quality of the work of the Council.

VIII. SOCIAL SECURITY.

Q. 178. Introduction of social security measures in the shape of Provident Fund and State Insurance have not made any impact on the stability of employment or brought about much effect on industrial relations. These have of course, given the workers a sense of security and protection but has not been able to make the workers conscious to their corresponding obligations towards the industry.

Q. 179. In the Tea Industry workers are also provided with a) medical care for themselves and their families. Under the Plantations Labour Act, 1951, a dispensary and hospital have to be provided on each estate for the workers and their family; b) sickness allowance at 2/3rd of the average daily wage for 14 days in the year, with provision for accumulation of unavailed sick leave to cover general cases of chronic or prolonged sickness; (c) maternity benefits for 12 weeks at the average daily rate of wages; (d) provident fund benefits at the rate of 8% of the wages and (e) pensions. The Plantations Labour Act, 1951 and the Rules framed thereunder adequately cover all aspects of welfare amenities in range and content far superior to anything imposed on other industries and particularly in the agricultural sector.

Q. 180 & 181. No comments.

Q. 182, 183, 184, 185. Not applicable

Q. 186. The Assam Government has amended the Assam Plantation Workers Provident Fund Scheme to provide for a Pension Scheme. If it is considered desirable to expand the benefits of the Employees Provident Fund Scheme to provide for pensions, the provisions of the Assam Scheme may be examined, as no additional contributions are involved.

Q. 187. No comment

Q. 188. The administration of the employees Provident Fund Scheme should be simplified and recourse to penal action or certificate proceedings if at all should be taken as a last resort.

Q. 189. The Assam Government have introduced an Insurance Scheme through the Assam Plantation Workers' Provident Fund. There would be no objection to a similar scheme being adopted through the Employees Provident Fund Scheme.

Q. 190. Since a contributory provident fund scheme has been introduced for the workers, the question of giving any place to gratuity payments in an over-all social security programme does not arise.

Q. 191. The existing provisions relating to lay-off and retrenchment are quite liberal and no further improvements are called for.

Q. 192. Since the trade unions are already associated with the administration of social security benefits and are adequately represented on the different Corporations administering these benefits, there is no further need to hand over the administration of the social security benefits to the trade unions. In other industrially advanced countries, the administration of social security benefits is vested in Government or on autonomous bodies but not on the trade unions.

VIII. LABOUR LEGISLATION

Q. 193. Labour-management relations in planned economy will continue to be governed by legislation because the right to strike and lock-out can not be allowed to be exercised indiscriminately causing damage to production and disadvantage to national economy. Still, as a general policy collective bargaining should be encouraged.

Q. 194. No comment.

Q. 195. The existing labour legislation in India is heavily weighted in favour of labour and has gone a long way to protect the interest of the labour. Another important feature of the labour legislation which stands out prominently is the lopsided bias in favour of industrial labour against non-industrial labour which includes agricultural workers, traders and other self appointed persons.

Q. 196. The present constitutional arrangements under which "labour" is a concurrent subject are not satisfactory, inasmuch as the State Governments can enact their own labour laws without consulting the Centre. In fact some State Governments have already enacted legislation to govern industrial relations in the State sphere. The State Governments should not be permitted to pass any labour laws on subject covered by Central Acts or inconsistent with the principles and policies adopted at tripartite meetings.

Q. 187. The conventions and recommendations of the various International Labour Conferences and Industrial Committees of the I.L.O. have profoundly influenced the progress of labour legislation in India. Since a number of these conventions and recommendations have been ratified by the Government of India, the Constitution does not appear to have caused any hindrance in this direction.

Q. 198. No comment.

Q. 199. During the last two decades there has been a spate of labour legislation in India concerning industrial relations, social security measures, working conditions, terms and conditions of service, notification of vacancies, payment of bonus etc. Besides, labour laws have been so frequently amended that there was hardly any pause for consolidation or even proper implementation. It is, therefore, suggested that further legislative measures should not be undertaken and once a law has been passed frequent amendments thereto should be avoided.

Q. 200. No comment.

Q. 201. The emphasis in labour policy on voluntary approach in preference to legislation has been to some extent successful and this should be continued. But it should be ensured that the voluntary principles once accepted by the Central Organisations of workers and employers, should be faithfully followed by their affiliated units.

Q. 202. The most of the labour legislations so far enacted have been at least partially successful in the sense that it has been possible to enforce the provisions to a large extent. However, this does not mean that the particular enactments have always been correct in principle, or that they have always been able to achieve the ultimate aim with which they were passed. The Plantations Labour Act, 1951, for example, has given the tea estate workers welfare measures hitherto unknown to most industrial workers in this country. Unfortunately, it has also brought with it grounds for a vast number of industrial disputes. Its effect on the financial position of the estates has been very damaging. The permanent increase in the cost of production has decreased considerably the earning capacity of the capital invested. Voluntary arrangements and agreements have, however, often worked more satisfactorily than some of the legislative enactments.

Q.203 & 204. There can be no discrimination in matters of wage fixation or enforcement of labour legislation between public and private sector undertakings.

IX. RURAL AND UNORGANISED LABOUR

Q. 205 to 208. Not applicable.

Q. 209. It is agreed that contract labour should not be normally employed on work of a regular nature. But for specialised work on tea estates, such as house building, digging of drains etc. the employment of contract labour should be allowed to continue.

Q. 210 & 211. The administration and implementation of the Minimum Wages Act, 1948 in rural areas has not been effective due to ignorance on the part of the rural labour, lack of proper vigilance by Government inspectors and the peculiar nature of agricultural occupation. It is, therefore, essential that the Act should be rigidly enforced in respect of agricultural and unorganised labour so that there is some improvement in their standard of living. As regards the agency to be utilised for effective implementation of the Act, it is suggested that organisations associated with upliftment of the rural economy should be consulted for building up the necessary administrative set up for this purpose.

X. LABOUR RESEARCH AND INFORMATION

Q. 212 & 213. The various forms and returns prescribed for collection of labour statistic should be simplified and streamlined. It is felt that codification of different labour laws will help the process of simplification of forms and returns, ensure uniformity in concept, and will avoid unnecessary duplication. It is therefore suggested that if the collection of Statistic Act, 1953 is brought into force, the forms and returns required under various enactments should be done away with.

Q. 214. It is desirable that both the All-India as well as the regional consumer price indices should be continued because wages are generally determined on region-cum-industry basis and dearness allowance schemes are linked to cost of living index of a particular region where the industry is situated.

Q. 215 & 216. Statistical data on work-stoppages due to reasons other than industrial disputes and strikes of short duration by workers in different industries is not collected. Since ^{such} work-stoppages and strikes also affect production, it is suggested that statistical information is collected. "Go-slow" "Bandhs" and hartals also result in considerable loss of production and it is necessary that relevant data must be collected for statistical purposes.

Q. 217 & 218. Collection of statistics as required under the existing labour legislation is cumbersome and difficult. It is, therefore, felt that unless the forms and returns required under various labour enactments are simplified or amalgamated or done away with, as the case may be, no attempt should be made to enlarge the scope of labour statistics.

Q. 219 to 225. Although studies are being made in the field of labour and statistics collected, arrangements for research in the field of labour have not developed in this country adequately. It is felt that there is considerable scope for improvement in this regard and Universities which conduct Social and Labour Welfare Courses should be encouraged to develop research in the field of labour. It is suggested that for improving the quality of labour research, sufficient funds should be placed at the disposal of the Universities.

Q. 226. The existing arrangements for publicizing the research activities of different agencies are not adequate. A Central Agency should be established by the Government either under the Labour Bureau or separately to co-ordinate the research activities of the different organisations and to publicise them.

Q. 227. Employers' Organisations inform the public of their activities generally through the press and speeches delivered at the quarterly or annual meetings or other such conferences, etc. These methods have been found quite useful.

Q. 228. It is correct to say that while industrial conflict gets some publicity, industrial harmony does not. It is suggested that adequate arrangements should be made to publicise all long-term settlements arrived at between the employers and their employees, either by way of bi-partite settlements or tripartite agreements signed in the presence of Government Conciliation Officers.

Various other constructive activities carried on by employers and employees in consultation and in co-operation with each other should also be given wide publicity.

Q. 229 & 230. Generally, the public do not take much interest in labour matters unless any serious conflict between the labour and management is reported in the press. It is felt that in order to properly educate the public on labour problems and current background of labour disputes, the views of both sides of industry i.e. labour and management, should be publicised instead of intermittent reporting of incidents relating to such disputes. This would undoubtedly help in promoting the causes of good industrial relations.

TEA ASSOCIATION OF INDIA

Office-comments on different points which the National Commission on Labour may like to discuss at the time of recording evidence.

Tentative suggestions by office.

1. Are you in favour of simplification of labour legislation by enacting an All-India Labour Code ?

Yes.

Do you agree that 'Labour' should be put in the Union list?

Yes, 'Labour' should be omitted from the concurrent list of the constitution.

2. Are you in favour of a common pattern of Labour Judiciary ?

Yes.

(a) Whom would you like to be appointed to the Labour Courts? How? and by whom?

The authority for appointment of industrial tribunal should be vested in the appropriate High Courts and not in the Labour Department of Government. The appropriate High Courts may act in consultation with the judicial department.

(b) Would you like an appeal to be provided to the Higher Court or to the Supreme Court, or to both?

(b) Yes, there should be appeal to High Court both on points of law and fact and second appeal to Supreme Court on points of law only.

OR

OR

Would you like the Labour Appellate Tribunal to be revived.

Yes.

3. Are you in favour of Collective Bargaining in the case of organised labour?

Yes.

Would you like to combine collective bargaining with an agreement for compulsory arbitration? Do you think wages should be fixed by collective bargaining or by voluntary arbitration?

No. Disputes involving large financial stakes etc. like, wages, should be kept out of the purview of arbitration.

4. What do you think about the problem of casual labour and contract labour?

Works which are intermittent in nature should be carried on by casual labour. Operations like loading and unloading and those which are of temporary character involve employment of contract labour in the interest of efficiency.

5. Do you think there should be statutory provisions for recognition of Unions by the Employers?

Statutory recognition of single majority union is likely to promote the system of collective bargaining. It should then be ensured that unrecognised unions will not sponsor demands independently.

If so, what conditions should be prescribed?

(a) Should the representative character of the Union be determined by secret ballot? and, for how long?

Yes, by secret ballot- the representative union should prove every three years that it commands support of majority of workers.

- (b) Would you favour industry-wise unions or plant-wise unions to be recognised? Recognition of unions industry-wise is feasible only in large organized sectors of industry, otherwise plant-wise recognition may be preferred.
- (c) Should there be one recognised union for the same industry and for the same region? In the present context, this is not possible.
- (d) Should provision be made for recognition of craft unions, including organisations of officers and supervisory staff? No.
- (e) In case unions are recognised, what should be the rights of the minority unions? Minority unions will not have any bargaining capacity, but they will be free to organise and consolidate their ranks in order to gain majority status.
- (f) Do you think the provisions about the recognised unions prescribed by the Bombay Act are satisfactory? No.
- (g) Do the Works Committees perform any useful functions? If not, why? Generally Works Committees have not served their purpose as trade unions do not look upon them with good grace.
6. Do you agree that the presence of outsiders in the trade union movement should be discouraged or prohibited? The presence of outsiders should be discouraged.
- If yes, how would you define an 'outsider'? The expression 'outsider' means persons who are not employed in the industry but are connected in the trade union activities of the concerned industry. It also refers to the persons who become office bearers of trade unions through their social status such as members of Parliament or Assembly.
7. Do you think it possible and desirable to recommend that trade union movement should be built up as one movement, without any political influence? Yes. The first step is to eliminate outsiders from being office bearers of trade unions.
- Does partisan political influence lead to the multiplication of trade unions? and does it make it weaker in the result? The working class movement has become parasitic in character because of its dependance on political parties and vice-versa.

8. (a) Does conciliation machinery help the settlement of disputes? (a) It helps settlement of disputes to a very limited extent. Conciliation machinery should function more expeditiously. Time-limit of 14 days for submitting report of conciliation officers should be enforced.
- (b) In case of failure of conciliation, would you like the employees and the employers to be given a right to refer the dispute to arbitration directly? (b) No, as many disputes involve large financial stakes which should not be within the ambit of arbitration.
- (c) In regard to non-implementation of awards and wage board decisions, would you agree that it should be made penal and a right should be given to the employees to file a complaint in a criminal court in respect of it? Should a similar right be given to the employers to file complaints against the employees for their failure to implement awards, decisions, settlements, etc. imposing obligations of them? (c) The Industrial Disputes Act provides adequate remedy against breach of awards. Only unanimous recommendations of Wage Boards should be voluntarily implemented.
9. Do you agree that in cases of wrongful discharge and dismissal, the normal rule should be award of compensation and not reinstatement? Compensation instead of reinstatement will be very desirable and many avoidable disputes will thereby be eliminated.
10. Do you favour common standing orders or rules of discipline? Yes, subject to deviation being made in respect of establishments which require stricter discipline for smooth functioning.
- Do you think it is feasible to prescribe complete and detailed procedure for holding domestic inquiries in accordance with the principles of natural justice? Would you like any standing orders to be framed about promotions? If yes, on what lines? Under the existing system, no domestic enquiry is valid unless the principles of natural justice have been adhered to meticulously. The system should be continued. A detailed procedure may also be laid down in the Study Orders.

11. Do you agree that a National Minimum Wage should be defined and prescribed.

(a) What is your view about the 'need-based minimum wage'? -Its feasibility?

(b) If you think it is not feasible today, can you suggest any method by which it may be introduced by phases?

12. What is your view about fixing wages by linking them with productivity?

(a) What do you think about the regional disparities in wages for the same kind of work?

(b) What is your view about wage differentials in the Industry at present?

(c) Considering that it is important to relate wages to productivity, how can one allow for shortage of raw materials, power, and other impediments which inhibit improvement in productivity?

13. Do you agree that all strikes without proper notice of 14 days should be declared illegal?

(a) Do you agree that the definition of 'strike' should include:

Work to rule, go-slow, pen-down, gherao, etc.

No.

Minimum wage is bound to differ from industry to industry and from one region to another.

(a) Not feasible.

(b) No. comment.

Wages should be linked to productivity of labour, Schemes ensuring payment by result may be introduced.

(a) Such disparity is normal in any system of wage fixation depending on productivity of labour and capacity to pay.

(b) This is due to differences in size and prosperity of concerns as also labour's capacity to produce.

(c) These are normal incidents of industrial operation and due concession should be made for these factors in evolving any wage-productivity scheme.

Yes.

'Gherao' is a criminal offence and should not therefore be construed as 'strike'.

(b) Do you agree that participation in an illegal strike - whether peaceful or not - should be considered a misconduct?

Yes.

14. What is your assessment of changes in the attitude of employers/workers towards governmental machinery in the Labour Department and vice versa?

No comment.

15. A point is very often made that labour administration should emphasise the correct- ing aspects and not so much the penal aspects of labour legislation. In view of the small number of cases taken to penal authorities, would it be right to infer that the educative aspect is in practice being adequately emphasised?

There should be increasing reliance on persuasion and dissemination of correct information. As both these are lacking labour administration has so far failed to emphasise the educative aspect of labour legislation.

16. Why is the Factory Inspectorate not sufficiently staffed?

Is it due to lack of finance or lack of technical personnel?

If it is the latter, would it be advisable to rationalise the technical requirements of the job consistent with efficiency of service?

Should some of the routine duties be left to non-technical persons who could be specially trained to take care of such routine?

No comment.

17. Is it feasible to permit trade union workers to see that the provisions relating to working considerations are adequately satisfied?

This is unnecessary in view of the large number of protective labour legislation.

18. It is said that the Fair Wage Committee did not have adequate statistics to rely upon when its recommendations were framed. There has been also a suggestion that the recommendations made by the Committee have been patterned after countries at a higher state of development. The whole basis of the Fair Wage Committee thus requires to be re-examined. Do you agree?

It is premature to revise the report of the Fair Wage Committee at this stage. The recommendations of the Committee have already set up a general pattern in fixing wages and should not be lightly disturbed.

19. Is it necessary to have dearness allowance as a separate component of 'wages'?

No. Roth may be merged and wages should vary according to productivity and not due to rise or fall in cost of living index numbers.

In the system of linking dearness allowance to consumer price index numbers on a point to point basis sound? If not, what changes would you suggest?

Dearness allowance was a war-time measure and has now outlived its necessity. The system should be discontinued as it imposes heavy burden on industries with no commensurate extra effort of workmen.

20. Has wage rise been responsible for rise in prices or has increase in prices led to wage rise?

It is a vicious circle: once the wages are linked to production of more goods, rise in prices will be automatically checked.

21. Minimum Wages Act has been designed to protect workers in unorganised sectors. There is, however, inadequate implementation of this Act even where there is concentration of these industries in one place. It would be more so when the area to be covered is wide in terms of location of such industries.

The Act already covers a wide range of workers in the unorganised sector and ensures payment of minimum wage. Government should rather "go-slow" with the further extension of the Act.

How do we ensure minimum wage for workers in the unorganised sector.

22. Lack of transport is reported to be one of the main reasons for inadequate implementation of most of the labour legislation, particularly with regard to small industries, mines, plantations and even large industries located in smaller towns. How could such difficulties be got over?

Legislation regulating conditions of work in mines and plantations has installed local authorities in the vicinity of mines and plantations and they are known to have an effective check on the implementation of labour laws.

23. The payment of Wages Act merely expects the inspectorate to check the registers and see whether payments are made according to the register. Very often the records themselves are not properly maintained, particularly in smaller units. In case where workers are paid according to the weight of articles produced, is there a guarantee that the weight itself is properly recorded?

The administrative machinery under the Payment of Wages Act may be improved. Instances of recording Short-weight are very rare and they do not pose such a problem as to be tackled by the Commission. There may however be cases of unintentional errors and omission. An effective check, if at all felt necessary, may be conducted by P.W. Inspector to ensure that weightment registers are being maintained properly.

What can be the remedy for workers in case of such default?

24. Do you agree with the view that providing of employment opportunities should have precedence over regulation of wages for rural labour?

Rural labour has been neglected so far. Ameliorative measures should be undertaken in their cases first.

25. There is very often a complaint that along with the volume of labour legislation, there is also an un-manageable volume of statistical information to be supplied to Government. It is also suggested that most of this information is not adequately utilised. What steps should be taken to systematize and collect the information and assist its collection/interpretation for the benefit of all users of such information?

Forms calling for information should be very much simplified. Statistical information should be collected by a Central agency. Numerous forms are repetitive in character. They should be coordinated and only relevant statistical information should be collected. Very often data supplied by Government are out-of-date and are not therefore of much use.

26. Are there adequate facilities for research institutions for drawing upon the information available with Government? What should be the arrangements for clearing coordinating requests for information made by such institutions?

No. Often the information available with Government is incomplete.

27. To what extent does public respond to the aspirations of workers especially in case of public utilities?

28. Have you any suggestions to make about the payments of bonus? Has the recent Act worked satisfactorily? If not, what changes should be made in it?

Although the Bonus Act has not been able to do away with bonus disputes due to the trade unions sponsoring demands far in excess of what the law provides, the bonus legislation is at least an improvement over the past Full Bench Formula. Changes in the Bonus Act are not immediately necessary.

29. It is said that the industrial relations, both in public and private sector, are unsatisfactory. Do you agree?

Yes.

If yes, what are the reasons for this position?

(i) Infiltration of politicians in the trade union field; (ii) Severe inter and intra-union rivalry; (iii) Lack of sense of belonging to the establishment; (iv) Lack of appreciation of industry's difficulty in times of adversity.

Would the training of management as well as employees help?

There exists some facilities for the training of management personnel but the country lacks institutions of training for the employees in general. Such training may be useful.

Is the present position due to the fact that adequate channels of communication are not present?

This may be one of the minor reasons for bad industrial relations.

Distorted information is spread among the employees by interested trade unions which embitters industrial relations.

Communication channels within the shop floor deserves streamlining.

30. What do you think about the claim that in regard to employment in unskilled categories of work in industry, both private and public, preference should be given to local people?

Wherever feasible local people are absorbed in unskilled categories of work. But there can be no hard and fast rule in this regard as all unskilled categories of work are not exactly of identical nature. Some works are of very arduous nature for which people may not be available locally.