

INDUSTRIAL RELATIONS

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"Free Enterprise was born with man and shall survive as long as man survives."

—A. D. Shroff
1899-1965
Founder-President
Forum of Free Enterprise

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By
Naval H. Tata*

Besides working classes, every section of the public in the country has a stake in the Industrial Relations Bill. Labour Law Reform, in the last analysis, is a human right issue. It is so, because the subject deals directly with protecting and promoting not only the human rights of the worker alone, but also seeks to defend every citizen of the country against possible violations of law and order resulting from industrial discord. The enactment of such a legislation, and its effective implementation could prevent dislocation of trade and industry which are often brought to a grinding halt through direct action on the part of trade unions. Needless to mention that in the process of collective bargaining, some of our trade unions have not hesitated to stop, from time to time, the pulse of the country through enforcing total strike in such vital service sectors as Railways, Airlines, Dockyards and Banks. It is a poor consolation for the public to be told by the trade union leaders that such actions are justified in pursuit of social justice. In fact, it is nothing short of perpetrating a great social injustice on millions of innocent citizens, who are in no way involved in several industrial disputes, culminating in country-wide stoppages. Happenings in Ahmedabad clearly demonstrates the wrath of the public against Bank staff who had paralysed commercial transactions for days through their direct action.

It is not fair on the part of the trade unions to make out that the Bill has a distinct anti-labour bias. It is a sheer

* Mr. Tata, eminent industrialist, is President of the Employers' Federation of India. This text is an extract from the inaugural talk delivered by him on 29th January 1979 at an ASSOCHAM Workshop on the Industrial Relations Bill.

distortion of facts. Albeit the Bill has amongst its manifold objectives rectification, from past experience, of not only acts of trade union tyranny against the general public but also of plugging all possible loop-holes which could permit employers to exploit labour through unfair labour practices. Hence to make out that the worker is likely to be the sole "victim" of the new legislation is to recreate the story of the man who after murdering his parents pleaded for mercy as an orphan.

In this context, I was considerably impressed by a statement of Mr. Jyoti Basu, the Chief Minister of West Bengal, a few weeks ago. He advised employers "To explore all possible ways to avoid strike" and added that "it is not, that all the demands of the workers will have to be conceded. We can certainly sit together to settle the issues". How right he is and how much I respect his statement. But the question is whether such an approach is possible under present conditions. Employers have, for years, taken pride in declaring, at all appropriate forums, that they believe in the philosophy of collective bargaining in a truly bipartite approach. But surely, Mr. Basu knows that under our Labour Laws, we do not have a foolproof system of identifying the "Bargaining Agent". Due to this lacuna, we have the misfortune of suffering from a multiplicity of trade unions.

This is precisely what the new Bill seeks to rectify. In trying to remedy such a situation, the Government, through the provisions of the new Bill, is compelled to trespass in an area of vested interests of certain trade unions. Hence, the continued rhetoric and resentment of the trade union leaders against the Bill. That apart, State Governments, through unsolicited intervention, do not permit a dialogue between labour and management on bipartite basis. Worse still, State Governments very often, through pre-emptive decisions, dictate their own terms for settlement even before the two parties have an opportunity to discuss their differences.

A new legislation, of necessity, must break new ground. The new Bill, apart from affirming rights already guaranteed

to workers must protect the rights of the people against wilful and deliberate violations of freedom of association committed either by workers or employers, through improved procedures and strengthened remedies. Can anyone quarrel with Government fulfilling its obligations to the nation? It is a great pity, that against a downpour of vituperative criticism by trade unions, there has not been even a drizzle of employers' protest against several provisions of the Bill which directly affects the employers' prerogative. It is never possible for employers to match the vocal clamour created by the workers on the points that affect them. Nevertheless, such subdued manner of employers' protest should not create an impression that the Government is having a pot shot at trade unions whilst furnishing a protective armour to the employers through this legislation.

What is truly shocking to the knowledgeable section of public opinion is the fact that when during the twenty months of emergency so many of the workers' basic rights were abridged, not a whisper was heard by way of protests from the trade unions. Yet, the self-same trade union leaders after total restoration of all those rights by the grace and generosity of the Janata Government do not hesitate to denounce the Janata Government as anti-labour, in its approach. Should Janata Government stand condemned, simply because the new Bill seeks to impose a few restraints on the outsiders in the trade Union hierarchy, partially affecting their traditional vested interests?

All reasonably minded people of the country must realise that any evolutionary progress, intended for the good of the nation at large, should be judged from its overall benefit to the nation, and not merely from a narrow sectarian interest. I only hope that the Government will not be cowed down and surrender its inherent right and its obligation to the society. It is the fundamental duty of the Government to ensure that industrial discord under no circumstances is allowed to degenerate into a law and order issue. It is, therefore, necessary to provide in the new Bill preventive measures to minimise, if not eliminate, the contingency of trade unions holding the nation to ransom through industrial disputes.

It is worth having a hard look at the effect of the new Bill on the wage cost in the light of several age-old misconceptions prevalent on this subject. Pro-labour lobbies have for years created an impression that (a) our labour is paid sweated wages, (b) that there are vertical disparities between lower paid categories and higher salaries, (c) that increase in labour cost has a negligible impact on prices, profits or inflation, and (d) that labour costs constitute an insignificant element of the total turnover. That such reasoning is fallacious can be proved by a casual glance at the average wage structure of the organised labour. The following figures illustrate the point I am making.

The wage cost per day of an unskilled worker in a metropolitan centre like Bombay or Calcutta amounts to Rs. 25.65 aggregating to Rs. 7,000/- per year of 253 working days after deducting 112 days representing annual, sick and casual leave, festival holidays and Sundays. A white-collar member of the staff enjoying 30 days of annual leave in addition to festival holidays and working five days of the week costs as much as Rs. 100/- per day. This is only the tip of the iceberg, since there is an invisible element in terms of "absentee cover" to provide for 44 days of annual, sick and casual leave involving 15% of additional workforce, which in a factory complement of 1,000 workers would need additional 150 workers at the cost of Rs. 7,000/- per annum, costing Rs. 10.5 lakhs a year. These extra reserves against absenteeism will need a further labour force of 22 men by way of absentee cover, not to mention malingering through abuse of sick leave under ESIC and overstay of annual leave. No wonder such privileges confined to organised labour in industries through processes of legislation and tribunal awards have created capricious distortions where an unskilled labourer in industry gets as much, or a higher wage than a principal of a high school or a fully qualified doctor serving in a city hospital. It is not surprising to find that under such wage distortions, class I officers of LIC have requested a downgrading of their status in order to earn more in a lower category. Yet, in a constant clamour against vertical disparity our trade union leaders ignore horizontal disparities

pin-pointed by the Bhoothalingam Committee. No wonder, the Report was unjustifiably condemned by them. With such disparities, it is but natural that numerous corporate Balance Sheets display mounting number of unionised employees qualifying under Section 217 (2A) of the Companies Act. 1956.

There is no doubt that the new Industrial Relations Bill will seek to affirm the rights already guaranteed. It is natural, therefore, that through improved procedures, Government will not only protect but further embellish the wage structure. More so, on grounds of social justice on the plea that labour being a weaker party is normally exploited by the profit-oriented employers. Whilst it would be unfair to question the good intentions of the Government, it is obvious that continuous escalation of wage payments unrelated to productivity would definitely prove counter-productive. It is indeed a cruel choice; but under such circumstances, there is no alternative for the worker but to choose between more jobs or more wages, as there would be progressive shrinking of job opportunities. If the present trend continues, through further incremental benefits or inflationary rises to neutralise the cost of living, the well-paid organised industrial workers will prosper further whilst the under-paid unorganised non-industrial workers in rural areas will become relatively poorer. It would be a clear case of distributive injustice when our Government is dedicated to an equitable distribution of the national income.

Incidentally, Dr. V. M. Dandekar's statement regarding the demands of the bankmen culminating in the recent strike was impressive. He felt that in the name of Karl Marx and social justice, the employees were ignoring completely the fact that their wage demands would all be met at the cost of the consumer in an industry which was nationalised precisely on the plea that it would serve the national interest. This judgment, coming as it does from the head of a truly independent and non-partisan Institute, cannot be brushed aside as biased or motivated statement, inspired by the creed of employers.

Several sincere efforts to lay down national guidelines for wage settlements have not borne fruit. Admittedly, the enormity and complexity of the subject partly explains our inability to grapple with the problem. The XVI Labour Conference, the National Labour Commission, the Chakravarti Committee and lately the Bhoothalingam Committee were indeed sincere efforts towards solving the problem. I cannot, however, help feeling that apart from the complexity of the problem, there has been a lack of will on the part of the Government to lay down these guidelines due to a somewhat political twist given to a purely economic problem. It cannot be denied that the powerful labour lobby has largely thwarted Government effort in this direction, since any change, unless it is upward, in the matter of wage curve, is resented by the trade unions. It is equally true that, as a result of violent protests from workers, if we submit to maintaining the status quo which is a cumulative product of years of capricious awards and aggressive bargaining of the past, we would not be making any worthwhile progress towards rationalisation of our wage structure. The recent attempt of our Government to rectify the basis of computation of D.A. of the Bank employees has met with total resistance in the form of a country-wide strike and go-slow, paralyzing our entire banking system. Yet, one cannot but appreciate Government's attempt to rectify a mistake. Perpetuations of such mistakes may have serious repercussions. It is surprising that the same Government had the moral courage to change overnight the existing basis of managerial remuneration. It was even prepared to issue an ordinance on the subject if not through an executive decree. However, it is quite a different story when it comes to wages in the organised industrial sector or service sector. On such occasions, there is apparent reluctance to act. With such fear psychosis holding the hand of the Government, even when they are convinced that they are right in their approach, there is no hope for national guidelines for a rational wage settlement. Is it too much to expect that so long as we are wedded to the philosophy of collective bargaining and continue to settle wage problems through tribunal awards, our Government should at least adopt some norms of ceilings

or insistence on future increments being related to productivity. Such a step would undoubtedly prevent us from perpetuating a capricious growth of wage structure totally unrelated to skills, regions, hazards and productivity. Moreover, so long as the tribunal judges remain products of political patronage of State Government and are not appointed by the Judicial Wing, the quality of awards are bound to reflect the bias of the State Governments towards particularly favoured trade unions. Unfortunately, Government's attitude on the "bonus" issue, does not create confidence.

In pursuit of industrial harmony, a pre-requisite for our country's economic development, both the trade union and employers' organisations have an important role to play in the sphere of industrial relations. The Government has a vital stake in the subject since any industrial discord can easily degenerate into law and order problem, if violence, which has no place in collective bargaining is resorted to by either side.

The Government can, of course, play the role of a conciliator if both sides so desire. On the other hand, the Government is obliged to intervene in the national interest, if the trial of strength through collective bargaining is too prolonged, wasteful and against the interest of the community. However, a premature intervention in favour of a particular union or at the behest of an influential employer can easily aggravate the situation. Thus, the Government is in a delicate position and can make or mar the chances of settlement. In a sense, industrial peace is, therefore, a by-product of a goodwill and understanding between the labour and management and a meaningful mediation when needed by Government.

In the context of harmonious industrial relations, it is interesting to note that the whole issue of union power is now at the centre of political debate in the U.K. Whereas in 1974, Mr. Heath was nervous to face up to it, there is now a growing consensus between Mr. Callaghan and Mrs. Thatcher that the reduction of union bargaining power is at the heart of any Government's anti-inflation policy.

These developments coming as they do from a country which was the mother of trade union movement is extremely significant by way of a nation's reactions on the entire concept of trade unionism.

I truly believe that in India, the voice of the trade unions is far louder and can carry far greater influence than that of the employer who may have a longer purse. Of course, prominent and powerful trade union leaders are by no means less affluent. Acting in a sense of responsibility, trade unions can contribute richly to India's economy, just as much as an industrialist can contribute to economic self-sufficiency of the country through industrial development. By way of a striking example of such sense of responsibility, I can quote the case of Swiss workers who, in a referendum, decided not to cut the work week from forty-four to forty hours and decided not to grant Swiss workers a say in the management of Swiss industries.

Perhaps this may be an exceptional approach but there are plenty of occasions for our trade union leaders to display such gestures, on a more modest scale. For example, when there are natural disasters or when through shortage of power, water or transport breakdown our industrial units close down, our workers by taking privilege leave *on bloc* can contribute richly to national economy through saving in terms of unproductive wages at no cost to the worker. Unfortunately, appeals to them on such occasions in the past did not meet with any response from trade unions. ~~Since~~ ~~the~~ ~~employers~~ ~~also~~ ~~can~~ ~~demonstrate~~ ~~their~~ ~~sense~~ ~~of~~ ~~responsibility~~ ~~through~~ ~~fulfillment~~ ~~of~~ ~~several~~ ~~social~~ ~~obligations~~ ~~including~~ ~~adoption~~ ~~of~~ ~~villages~~. ~~It~~ ~~could~~ ~~have~~ ~~been~~ ~~rural~~ ~~development~~ ~~and~~ ~~contribute~~ ~~richly~~ ~~to~~ ~~the~~ ~~economic~~ ~~emancipation~~ ~~of~~ ~~millions~~ ~~below~~ ~~the~~ ~~poverty~~ ~~line~~.

II DEMOCRACY AND LABOUR MOVEMENT

By
P. C. Mehta*

When India became independent, the declared aim was to build up the nation under democratic self-rule so that poverty was eradicated without individual liberty being compromised. The nation's objective then and now are : (a) rapid and planned economic development of the country with social justice and (b) establishment of a socialistic pattern of society.

Democracy means self-rule. It means individual liberty with self-imposed restraints or social control so that liberty of all is preserved and not of a few. Democracy is a middle position. At one extreme is the totalitarian rule and at the other end is anarchy. Citizens have to steer clear of both extremes and maintain the middle position to protect individual liberty and achieve the national objectives. A democratic society is governed by law. Government is not there to govern men, but to administer according to law. To ensure that Government itself does not become abusive, rule of law requires separation of legislative, judicial and executive functions.

Industrial relations is concerned with two basic questions (i) under what conditions shall work be done, and (ii) *how* shall its proceeds be divided ? Its scope inter *alia* includes

* Mr. Mehta is a senior Personnel executive, He was a member of the 30-member Ravindra Varma Committee on comprehensive Industrial Relations Law by the Janata Govt. This text is based on a talk given by him in Bombay on 16th April 1979 under the auspices of the Forum.

collective relations between the employer and labour, which includes formation of trade unions, collective bargaining and direct action or strike. The constitution of democratic countries including the constitution of India gives to its citizens right of organisation as a fundamental right. It is under this right that trade unions are formed. The right of collective bargaining and the right of collectively withdrawing labour power, i.e. strike, are inroads upon contractual obligations as well as some provisions of criminal law. They are, therefore, given as special rights under other statutes because of historical reasons. The rationale behind giving these extraordinary rights was to protect the weaker sections of society. Armed with these rights, the labour movement in Britain was able to break-up feudalism during the industrial revolution and usher in democracy and individual liberty. Now that the old challenges are no more, we find the phenomena of trade union movement in democratic countries drifting towards itself dominating other sections of society and thereby defeating democracy itself.

India is an agrarian country. At the grassroot level, there is the unorganised masses of landless agrarian population who live below the poverty line. There is population explosion which nullifies the economic growth. In this context, the comparatively limited number of industrial workers who have a job and, therefore, earn steady income, are the elite of the society and not its weaker section. Therefore, there is no justification in giving to them these extraordinary rights and protection. This small section has become a privileged section at the cost of the rest of the society. Even the trade union movement in this country is confined only to industrial workers and as such, does not start from the grassroot level. It is, therefore, alien to the rank and file of the population who meekly suffer from their iniquities. The movement is utilised by politicians and opportunists for their own ends. They have turned collective bargaining into coercive bargaining. In the name of direct action they not only indulge in illegal strikes but grossly criminal acts, violence, sabotage, go-slow, blackmail, disruption of industries and services, and actively advise and encourage subversive practices in such a manner that no

evidence can be collected against the guilty. They have brought about irresponsibility, indiscipline and inefficiency amongst the workers. A developing nation is not built on such foundations. The degeneration set in, in our society requires no further elaboration. Right of organisation could be used positively to further national objectives. This has to start at the grassroot level without extraordinary rights which lead to trial of strength. The present negative use of the right of organisation indulged in can only usher in anarchy.

In a democratic society, the Government does not govern men ; it administers according to law. The principal role of the Government is to provide security of life and home as well as other interests such as security from blackmail, arson, rape, etc. Since the Government has a primary duty of maintaining law and order, when the Government fails to do so, it is no longer an effective or democratic government.

We often hear that industrial relations is a matter of relationship and this cannot be maintained through legislation. It is submitted that in democratic societies, law and law alone is supreme. Therefore, its administration is of vital importance. One is not concerned when relationship is smooth ; but when relationship fails, it is law which must decide the issue. In this sense, law is the repository of social conscience. It is better that law intervenes in a dispute rather than the parties decide through trial of strength, which is nothing other than lynch law.

Industrial democracy means that issues are decided according to justice based on rules made beforehand and not at the whim and caprice of the superior. There is no concept of trial of strength in this. In the international field, we advocate ban on trial of strength and suggest the dispute being settled by international forums. For the same reasons, trial of strength or direct action has no place in the domestic field in a modern society. Disputes have to be decided by quick adjudication or third party arbitration if we wish to avoid a state of anarchy.

India is a developing nation and it can bring about social revolution only by economic growth. Socialism is not distribution of poverty but creation of abundant wealth which can be equitably distributed on socialistic principles and not through coercive tactics. This is the real meaning of social justice.

Constant vigilance is the price of liberty. Unless the public wakes up and checks the deteriorating trend through public opinion and participates in the nation-building programme of the country and makes their chosen representatives accountable to them, the nation will move to the one extreme of totalitarianism, or the other one of anarchy.

APPENDIX*

The Bonus Issue

New Delhi, June 13 (UNI).—The Deputy Prime Minister, Mr. Charan Singh, has voiced his strong opposition to the grant of bonus to railwaymen or other employees in departmental undertakings in the face of the current huge budgetary deficit and a variety of other considerations.

Mr. Singh, who addressed a communication to the Prime Minister, Mr. Morarji Desai, on the subject on May 30 said that payment of bonus to all Government employees, which would be the inevitable result of any such step in regard to railway employees, would involve an additional expenditure of about Rs. 600 crores annually.

The Deputy Prime Minister who has already given expression to his views in the Cabinet on June 2, is expected to reiterate them when the matter is taken up again at the highest level on June 29.

With a deficit budget of Rs. 1,345 crores for 1979-80, it would hardly be possible to think of this order of expenditure which would in no way be productive, the letter said.

At the meeting of the Union Cabinet two days after his letter to the Prime Minister, Mr. Singh said railwaymen got certain concessions which were not available to other Government employees, like free travel passes and concessional travel even after retirement. Railwaymen also got 70 paid holidays whereas employees in other industrial organisations in both public and private sectors got only about 40 or 45 holidays.

* This report from "The Financial Express", Bombay, of June 14, 1979, of a note from Mr. Charan Singh as the then Finance Minister is reproduced as it has provoked country-wide discussion.

The pension scheme for railmen introduced some time ago in lieu of the contributory provident fund scheme was supposed to cost 50 per cent more at the time of introduction. With the liberalisation of pensions and retirement benefits, it will cost at least 60 per cent more.

In the matter of housing also, railwaymen were better placed than other Government employees inasmuch as the percentage of satisfaction worked out to 38 in their case. This was much higher than the average for other Government employees.

Opposing the concept of bonus to any section of Government employees, the Finance Minister said the people were always at the receiving end in their dealings with the various departments. He observed that "before clamouring for any increase in their emoluments, public employees must first establish a reputation for service, courtesy and responsiveness to the common man which is sadly lacking today".

The Deputy Prime Minister said that in the industrial sector not only workers but also office-staff got bonus. If the demand of railwaymen was accepted, it would obviously mean that even employees in the general manager's offices in railways and even in the railway board would be entitled to bonus. If this principle was accepted, all Central Government employees and even armed forces will ask for it.

Eventually employees of State Governments and local bodies and quasi-Governmental bodies would demand it.

If bonus was given all round, it would result in an outgo of Rs. 600 crores annually at the current rates and will continue to grow year after year.

Apart from considerations of equity, bonus would eat heavily into the resources of the Centre and the States for the Five-year plans and would divert the resources from developmental programmes undertaken for the eradication of poverty.

A heavy deficit financing would only lead to a still heavier inflationary spiral like the one seen in 1970's. This would affect the entire population specially the poorer sections. While bonus benefits only a small section of society, it would harm a very large and under-privileged section of society.

Mr. Singh said extension of bonus to railwaymen and other groups of workers would not lead to any generation of income or employment outside this sector. In a poor country it should be the objective of the Government to create fresh avenues of employment. In this country, there was over-employment in Governments.

Also the productivity of the Government employees was low and the grant of bonus would not lead to its improvement in any way.

Mr. Singh said that what should have been a voluntary gift had been wrongly converted into a statutory right. Also, bonus benefit was being distributed unevenly and unequally, because those earning more get more bonus than those who earned less, even among the seven million employed force which itself accounts only for a small proportion of the country's population.

The Finance Minister pointed out that even in advanced countries, bonus was not a statutory right. The practice in India was thus not on all fours with that in other countries. In most countries bonus depended on collective bargaining rather than on statutory dispensation.

Mr. Singh said only a small percentage of the working population was employed in industry. Considering that 48 per cent of the population lived below the poverty line, diversion of income distribution to urban industrial workers would further help widen the existing disparities in rural and urban incomes.

He pointed out how even the Bhoothalingam committee on wages, incomes and prices did not recommend bonus to

railwaymen and employees of Government departmental undertakings.

The Finance Minister said the per capita income in India was the lowest in the world. Out of a total of 180 million working population (1971 census), only about 30 million were in the wage and salary sector. Of these 30 million, only seven million were eligible for bonus. Thus the benefit of bonus and profit sharing and the benefit of systematic grant of dearness allowance went to a very small percentage of the population.

The Finance Minister also contended that the productivity of Government employees in India was much lower than in other countries.

He said in Egypt, the Government employee put in 2632 to 2696 hours annually, in the U.K. 2156 to 2192, in the U.S. 1984 and the U.S.S.R. 2248. But in India, on an average a Government employee worked only for 1839 hours per year.

The views expressed in this booklet are not necessarily the views of the Forum of Free Enterprise.

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—Eugene Black

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