ON WAGE PROBLEM AND INDUSTRIAL UNREST

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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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I

Naval H. Tata*

It is difficult for anyone to dispute that our industrial wage structure is in a chaotic state. It is becoming even more so day by day. A number of committees and commissions have gone into the question of wages, prices and incomes and have made their recommendations. Their reports have been routinely filed by the Government without taking any action or giving any explanation for their inaction. Searching for solutions in retrospect, there are even plentiful recommendations of the National Labour Commission. More recently, we had recommendations of the Bhoothalingam Committee, the Chakrabarty Committee, etc. Thus, there is no dearth of good advice, including our Government's own thinking on the subject in the form of 'Labour' chapters of various Five-Year Plans.

What then, is the reason for such inertia on the wage front? Is it lack of political will or a lurking fear of hurting certain vested interests in trade union ranks? Or is it due to a fear of admitting that we have gone too far in a mistaken and misguided approach in pursuit of social justice and perhaps too late in the day to

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* Mr. Tata is President of The Employers' Federation of India. This text is based on a talk in Bombay on 22nd August 1981.

rectify? The tripartite labour conference which at least used to provide a debate offering pros and cons on a variety of labour matters has not met for nearly ten years. At least it used to give both labour and management an excellent opportunity to let out steam.

Thus, ignoring by accident or intent several opportunities for revising *de novo* our wage policy, somehow the Government has preferred to go on the basis of an occasional patchwork on a basically defective wage structure, unwittingly creating pockets of inequity in the name of social justice.

In all fairness, one cannot put the blame solely at the door of the Government for all the imperfections of our wage structure. Our socialistic ideologies demand that Government pursue a path of establishing an egalitarian society and ensure full employment with social justice. Our Government has to work under the directive of an extremely vocal parliament elected on the basis of universal suffrage. Perhaps, we have gone wrong in endeavouring to find ideological solutions to purely economic problems. In doing so, we have not cared to assess *ab initio* the quantum of national wealth needed to satisfy the needs in terms of social justice of 660 million people. Obviously our GNP is hardly adequate to meet such a demand for the entire population. Consequently, the only vocal section of the workers in industrial sector and organised service banking and insurance sector through persistent agitation keep getting more and more, at the cost of non-vocal millions of unorganised non-industrial workers. Through this process, far from achieving social justice we are inflicting unintentionally

unpardonable injustice to the majority of our population. It is this basic fallacy which needs to be rectified, before we call our wage structure fair or unfair.

The occasional patchwork, on a basically defective wage structure, often takes the form of *ad hoc* actions by Government in instances like the impounding of dearness allowance and wages, the compulsory deposit of a percentage of their income by salaried employees, the reduction in LIC employees' rate of dearness allowance and bonus, new guidelines for managerial remuneration, etc. Actions such as these were intended to meet the exigencies of the moment to counter an unhealthy trend. Thus the basic flaw in the concept of our wage structure remains intact.

An important element in our wage structure is Bonus. Instead of adopting a more logical approach in the form of a productivity bonus or simpler approach in form of a festival bonus, Government preferred to introduce a profit-sharing bonus. Having decided to do so, one fails to understand, why under such a law, loss-making units were made legally liable to pay bonus. Apart from subjecting the legislation to a contradiction in terms with regard to its objective, the Bonus Commission even failed to define the term "Bonus" nor explained its concept and connotation. Hence, what was intended to be a peace offering to workers, has turned out to be the biggest single factor for generating indusrial discord. What was more intriguing was the fact that the very legislation which was intended to lay down the guidelines for computing the quantum of bonus, included a clause which showed how to opt out of the

bonus law. Fortunately, the Prime Minister, Mrs. Indira Gandhi, had the courage to eliminate Section 34(iii) despite furious opposition from the trade union ranks. Even when the legislation was refined and rectified, some of the State Governments found it expedient to violate the legislation by pressurising employers through threats that Government would not be responsible for law and order, unless they paid a quantum of bonus, in excess of the guidelines laid down by the legislation.

If such is the fate of "Bonus Legislation", one wonders how "minimum wage legislation" which is intended to protect the most vulnerable section of our working classes can ever be enforced by State Governments.

The lesson one can learn from such lapses is that, in future, before embarking upon labour legislation good care should be taken of consulting, through tripartite forums, all parties concerned, howsoever conflicting the views expressed. It would at least give the Government pros and cons of the legislation. After taking into consideration the views expressed, the final decision should be at the sole discretion of the Government. It should, however, be on the basis of national interest and not on a narrow sectarian outlook, or to appease a body of agitators. Since "Labour" is a concurrent subject, no State should initiate a legislation, without placing it before a tripartite forum for initial reactions. Unless such a healthy convention is maintained, a hasty legislation initiated by a State on an ideological ground, arising out of their regional problem, can have dangerous repercussions on the rest of the country.

It is regrettable that in the industrial relations field we have entered a phase where a responsible form of trade unionism seems gradually to be at a discount. As a result, those who terrorise the workers and management seem to flourish by making a mockery of the philosophy of collective bargaining. Trade union leaders in this category have no respect for negotiations with management, nor the patience to follow constitutional and legal procedures for peaceful settlement of disputes. Their stock argument is that workers are the have-nots and should have more wages regardless of the capacity of the industry to meet the demand. The workers are told that the employer is a capitalist exploiter who should submit to their preemptory and outrageous demands. No arguments are advanced to justify the need for increased wages, nor are they prepared to understand the impact of their demands on the consumer, if at all the employer is able to pass it on to the consumer, through increased prices of their product. In any case, such arguments are countered by rising cost of living index, disregarding the fact, that acceptance of their demands would add further fuel to fire of inflation.

Even before the demands are presented, the leader orders a go-slow and the workers are asked to throw out a rival union and flock to his banner; and the game of intimidation and violence against workers of the rival union and management staff is in full swing. The management, in an endeavour to protect its loyal workmen and its plant and machinery, is compelled to suspend operations. The public opinion, following the Government's lead, looks upon a strike as a direct action of the

workers in pursuit of human right. By inference, lock-out is frowned upon both by Government and public as a crime against the working classes. Following this philosophy, normally, the Government machinery works overtime, to advise the employers to reopen the unit, regardless of the workers' share of the blame in creating such a situation. Faced with pressures from all sides and sympathy from no quarters, many employers come to terms with the harsh reality and reluctantly submit to a one-sided "agreement" with the union. This is a typical scenario of an episode which cumulatively leads to progressive distortion of the wage structure to which State Governments are silent spectators. There could be exceptions to this normal picture where the culprit could be the employer. However, the public opinion and Government sympathy is too great, to permit such exceptions to be frequent enough, to assume dimensions to pronounce employers equally guilty.

Another glaring feature of the wage system is the erosion of occupational differentials as a result of the dearness allowance component becoming too large. The workers are, therefore, not motivated to acquire skills or secure promotion. In fact there is widespread discontent amongst the supervisory and management staff owing to the narrowing of differentials. Those who undertake greater responsibility and have decision-making functions should in fairness have compensation commensurate with their capability and performance. Under the present system, the salaries of this group have substantially declined compared to some years before, on

account of inflation and the policy of curbing managerial remuneration.

The wage problem should be considered comprehensively and a policy evolved which should offer guidelines to labour, management and wage-fixing authorities. Such guidelines should aim at removing present disparities, and encourage linking of wages to production or performance, establish proper differentials, inter-occupational and inter-industry. Such a policy would help in collective bargaining and avoid Government's intervention through adjudication or *ad hoc* measures and give greater satisfaction to parties, while taking care of national interest.

II

C. V. Pavaskar*

The labour scenario presents a picture of turbulence, and chaos. Labour unrest is on the increase and the gravity and magnitude of the problem is played down in the absence of reliable statistics. It seems that norms of good behaviour are being flouted by labour in the matter of industrial relations, and collective bargaining has degenerated into coercive bargaining of the worst type. The Industrial Disputes Act, 1947, which is a piece of legislation for settlement of disputes has failed to solve the problems.

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There is a widespread practice of indulging in go-slow by the workmen as a weapon to compel employers to come to terms. While strike is considered a legitimate weapon in the armoury of collective bargaining, the same status cannot be given to go-slow which has often been condemned as a pernicious act on the part of labour. In the face of massive go-slow, the employer becomes helpless and despite squealing and wailing before several authorities, he is ultimately made to succumb to the union pressures.

Industrial unrest is endemic in industrial societies organised for production and profit. A conflict between the workmen and employer is inevitable in their attempt to maximise their share of production/profit. One cannot completely wipe out industrial unrest except in wantless societies or societies run on zero profit basis; but, of late, the types of industrial disputes which have caused industrial unrest have defied logic and civilised norms of behaviour. While one can understand the desire of the workmen to alleviate their conditions of service, one fails to understand how it is reasonable either for the workmen or the union to re-agitate on matters and raise disputes in respect of matters which are non-industrial.

We are witnessing today the development of a phenomenon in the trade union movement whereby responsible and responsive unions are progressively being edged out by unions or groups of workers who believe in militant activities and have little respect for the established norms of healthy trade unionism. The

Gresham's law is fully in operation in the field of industrial relations.

There is also a tendency to demand bonus in excess of that which is permissible under the Payment of Bonus Act and since the workmen have no legal remedy, the action resorted by them is either a strike or go-slow or crippling indiscipline. Bonus has become a most prolific source of industrial discontent resulting in massive loss of production, apart from creating sheer ill-will between the employer and employees. There are many instances where managements have been compelled to grant bonus beyond that which is permissible under the law.

Another aspect which requires consideration is the growing indiscipline on the part of workmen which is manifested in go-slow, work-to-rule, defiance to authority, shouting of slogans on the work premises, demonstrations at the residences of the employers, intimidation, violence and physical assault on managerial and supervisory staff for the purpose of winning demands. Such an approach unfortunately betrays a character which is contrary to the spirit and philosophy behind the trade union movement which is expected to enjoy freedom of association with immunity from tortuous liability provided it does not transgress the bounds of law and order. Violence cannot be legitimate weapon of collective bargaining and display of violence is an obvious abuse of freedom of association which must be deprecated.

Another factor which has contributed to industrial unrest is weakness of the conciliation machinery. It

has not been very effective in warding off strikes and lock-outs. This is mainly due to the obdurate attitude adopted by the strong trade unions. It seems that some trade unions do not believe in conciliation and adjudication machinery and would like to settle the matter through coercive processes rather than resorting to the machinery provided under the law for the purpose. It is only when unions are weak that they seek assistance of the machinery provided under the law. At times in their anxiety and enthusiasm to settle the dispute somehow, *ad hoc* proposals are made by conciliation officers which create complications.

Another aspect which had contributed to industrial unrest is the growth of outsized unions which is the present trend encompassing within its fold, many units from different industries and which has been an inhibiting factor in collective bargaining. The union power is concentrated in a few individuals and they have hardly the time to pay attention to the problems of the individual enterprises with the result it often becomes difficult to have a meaningful collective bargaining.

Another factor which contributes to industrial unrest is the appeasement policy followed by some managements. As a result, workmen in some concerns have succeeded in obtaining exorbitant increase in wages. A number of concerns in Bombay have given wage increase ranging from Rs. 300 to Rs. 500 per month, thus creating problems to the concerns in the neighbourhood. The demonstrative effect of such a high wage rise is infectious and creates problems in the neighbouring areas. This tendency needs to be curbed

and in this connection, employers' organisations could play a dominant role by laying down guidelines within which their constituents should settle the demands with the union. Without these guidelines, the wage structure would be chaotic and would create problems in future.

Another cause of industrial unrest is the delays involved in adjudication proceedings and further litigation if the award is not favourable. Compulsory adjudication in industrial relations system has become too cumbersome and time consuming, often resulting in ill-will between the management and the unions. Many a time, the matters are delayed because the parties appearing before the Tribunals seek adjournments. By appointing more judges and prescribing time limits, the delay may be avoided. Further, the tendency to reject demands on mere technical grounds or insufficient material should be given a short shrift as otherwise it would lead to unrest. In this connection, it may be useful to consider the suggestions of the Kantharia Committee regarding curtailing delays in adjudication. The Committee has recommended that pre-trial hearing should be made compulsory in each and every dispute, on the lines of the matrimonial litigations, and, it is only when a settlement fails during the pre-trial hearings that the regular trial should start. This method, if adopted, will eliminate requests for adjournment by the parties on the ground that the matters are likely to be settled. Another useful suggestion made by the Committee for curtailing delays is that when the parties to a dispute before a Conciliation Officer are not

likely to reach a settlement in Conciliation, the Conciliation Officer at the request of either party shall issue certificates to them to that effect. Thereupon, any of the parties may approach directly the Labour Court/ Industrial Tribunal and file a reference for adjudication under the Central Act within a period of 2 months. Except in case of a dispute relating to reinstatement, no reference can be made by a union unless it is a recognised union. This would facilitate the parties to file direct reference under the Industrial Disputes Act, 1947 and time taken by the Government in making a reference can be avoided.

Recognition of union is another source of industrial unrest and despite the machinery provided under the law in this respect, the battle for recognition is fought at the gates of the factories. It seems unseemly for the unions to fight for recognition outside the framework of the law and, in view of the fact that there is a law on the subject in Maharashtra, it is desirable that the contending unions should resort to the machinery provided under the law for recognition.

Recognition of a union must be co-terminus with the period of the settlement and once a union is recognised and a settlement is concluded, no other union should be permitted to enrol members from the said unit during the statutory period of recognition or the period of settlement, whichever is more.

The reasons contributing to industrial unrest are many and varied. Partly the sources of the conflicts are to be found in deficiencies in the structure of labour

movement and collective bargaining and partly in the compulsion of social and economic conditions. Poor working conditions, inhuman living conditions, lack of education, inter and intra-union rivalry, inflation, delay in settlement of disputes, etc., have contributed to the growing malaise of industrial unrest. The decisions of the Courts have also contributed to the generation of industrial unrest. To cite an example, after the decision of the Supreme Court in the Killick Nixon case, many employers gave notice to change for imposition of a ceiling on dearness allowance which has created industrial unrest. Further some of the decisions of the Courts that an employer has no right to deduct wages even in case of go-slow have fanned industrial unrest in that the workmen now know that go-slow can be resorted to without cut in wages. Excessive-job security because of Section 11A of the Industrial Disputes Act, 1947, and the decisions of the Courts has also contributed in no small measure to the widening at the spectrum of industrial unrest.

There is no capsule formula for containing industrial unrest, but those of the activities which tend to subvert the system of collective bagaining in good faith will have to be firmly dealt with. The tendency on the part of the Union to upset the existing settlements should be firmly dealt with and those of the unions which indulge in such activities must either be de-recognised or de-registered. The Government should use its powers under the Industrial Disputes Act for discouraging the tendency of raising demands during the currency of the settlement. It appears that it is

not the absence of power but rather the reluctance to exercise it which is the main cause of the malaise.

It is rather anomalous that whereas the employers are prosecuted and penalised for infractions of law such as Factories Act, Employees' Provident Fund Act and Employees' State Insurance Act, no such action is being taken against labour for blatant violations of the provisions of the industrial law, awards and settlements.

Despite these aberrations, we have really no substitute for collective bargaining which is considered as the *primus inter pares* for settlement of disputes.

III

B. N. Srikrishna*

By reason of its peculiar nature, the sphere of industrial relations is inherently conflict-generating. This is a conflict of two vital interests, namely, capital and labour, who unfortunately in practice, assume that their interests are mutually contradictory and adverse to each other. As a result, industrial relations become subject to the stresses and strains arising from the conflict.

Broadly speaking, industrial unrest may be defined as any activity which tends to increase the strain between capital and labour. It results in a total breakdown of co-operation between capital and labour. This

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may happen at the instance of labour and manifests itself as a strike, gherao, go-slow and such other coercive tactics, and at times may lead even to violence. It may also happen at the instance of capital, when it takes the form of victimization by way of shut-down of plants, lay-off, retrenchment, closure, lock-out and the like.

Industrial unrest can broadly be classified under two heads. First, industrial unrest which is purely within the framework of law and which is permitted and even encouraged by law, and secondly, activity which is outside the framework of law and which is looked askance at by law, though prohibited by legal prescriptions.

It is interesting that, in the field of industrial relations also, the law acts more or less like a referee in a boxing ring. So long as the participants are boxing within the framework of the ring-rules or are playing the game in conformity with the Queensberry Rules, the contest is perfectly legitimate and even applauded. But the moment somebody departs from the rules or plays foul, the State steps in as a referee and blows the whistle declaring the erring party to be at fault. Stretching the same analogy, the second type of industrial unrest may be described as industrial unrest where neither party cares to listen to the whistles blown by the referee, but flagrantly disobeys the Queensberry Rules, even by hitting below the belt. But the analogy must stop here, because, as in a game of boxing, the activity does not stop within the boxing ring. Its consequences are quite far-reaching in that they are likely

to disturb the social order as well and cause avoidable hurt to a number of innocent constituents of the society. It is precisely for this reason that all conflicts, tensions, stresses and strains in the industrial sphere are continuously monitored by the arms of the society, viz., the legislature, the executive and the judiciary, with a view to keep them well within the tolerance limits.

Any serious study of the causes of industrial unrest must necessarily start from the social plane, if only because industrial unrest is merely one other form of social unrest. Perhaps a particularly distinguishing feature of industrial unrest is that the workers — one of the constituents — are large in number and are far more organized than any other section of society.

The widespread industrial unrest so visibly noticed today is symptomatic of the disease of which today's society is a victim: A total fall in ethical or moral standards. There is an utter absence of any sense of discipline, dedication or duty, and there is also no commitment to any set of values other than one's own self-interest. In other words, industrial unrest is but one facet of the deep-rooted ills with which the society as a whole is being convulsed today.

Besides the total absence of commitment to any set of values, there is the continually raging fire of inflation destroying even those sections of society which have not been affected as yet. With the galloping rate of inflation, the real value of one's earnings has been falling by about a fifth every year, and labour naturally finds it difficult to sustain any standard of living consistent with human dignity, let alone human aspirations.

The country has made tremendous progress in the field of industrial relations. Our industrial adjudication machinery, which we hold up as paradigm, has been straining every nerve to insure the working class against the evil effects of a runaway inflation by continual granting of ever increasing quanta of wage benefits called by various names. For example, steeply increasing amounts of dearness allowance are paid to workmen. This is supposed to take good care of inflation. Notwithstanding all the fancy rates of dearness allowance paid to workers, the spectre of having to find the wherewithal for a modicum of decent life still haunts them even in Bombay. The *ad hocism* as demonstrated by the attempts made at placing more and more cash wages in the hands of workmen has merely served to feed the everexpanding spiral of inflation. There is now more and more money chasing less and less goods than ever before.

Despite all the progress which we claim to have made in the sphere of industrial relations for over the past five decades or so, no serious attempt has been made to improve the educational or cultural standard of the average worker and to inculcate in him a greater awareness of the useful role which he plays or ought to play as a constituent member of the Society. Is it any wonder then that, where this awareness is so abysmally lacking, the worker is more concerned with the festering grievance of neglect and exploitation by his employer? This feeling has almost turned itself into a veritable complex. In this state of mind, the worker goes on pitching his demands higher and higher

and gets ready to down the tools at the drop of a hat. Some of his legitimate grievances at least arise on account of abject poverty, unimaginable squalour and utter ignorance that he is a victim of.

Once one has acknowledged that there is good cause for the simmering discontent that one always notices in the cauldron of industrial relations thus, how does one expect the society to deal with it? Instead of putting out the fire, the society has put a tight lid on the cauldron. This is just washing away the problem. The seething discontent builds up pressure inside the cauldron to alarming proportions and this pressure is only waiting to find an outlet, a means of escape.

Here comes the role to be played by the trade unions. Gone, alas, are the days when trade unionism was synonymous with dedication, social service and commitment to a cause. Today it is only a mercenary profession where no holds are barred. The self-styled leaders of trade unions are lured by the prospect of self-aggrandisement and money-making even if this means exploiting the already exploited and unfortunate labour. Instead of acting as safety valves, trade union leaders today are puncturing the pressure vessel itself with little or no thought for the consequences and are thus actually playing a destructive role. Have our present trade union leaders the courage or the moral conviction to advise, educate and impress upon the workmen that they are basically constituents of the society and that there are certain considerations beyond the self-interest of the employer and the employees? Some trade union leaders have become adepts at creating the

Frankenstein of industrial unrest which kills the employer, the employee and the society, as also the trade union leaders. Instead of playing the role of leaders, they seem content to be led. Hence the frequent eruptions of industrial unrest which more often than not passes for legitimate trade unionism or collective bargaining; in reality, it is nothing but organised goondaism or mafia tactics.

Violence and deliberate breach of law are, of course, not unknown phenomena. Every civilized society has to reckon with these problems, which is why we have a set of laws to arrest them. Instead of dealing with these problems as problems of law and order and dealing with them as such, the executive unfortunately chooses to handle such problems with velvet gloves. The executive insists on treating the breaches of law and frequent resort to violence in the industrial field as a special category by itself by investing it with a halo, which naturally encourage repeated recourse to it by labour. Violence on the industrial front is no different merely because labour happens to be better organized.

However, it is possible to indicate the directions in which the problem requires to be tackled. Why not have, for instance, a crash program to educate at least that section of society which happens to operate on the industrial field, if not all the sections of the society? By education is meant inculcating a sense of values and making the constituent understand his role in society. Undoubtedly this is a gigantic task. In this field, the State, the employers, social service organizations and trade unions can all co-operate fruitfully.

It is absolutely imperative that the corrosive influence of inflation which is slowly eating into the vitals of the moral fabric of our society must be stopped.

Much also can be done, whilst dealing with industrial unrest, by a sympathetic understanding of the elementary needs of the worker. It should be possible to create a statutory authority, with compulsory contributions from employers and workmen, for taking up, on a war-time basis, the problem of housing for workmen.

In order to ensure that trade unionism reverts to its legitimate sphere, namely one of organizing and educating the workers with regard to their rights and liabilities, it is essential that the elements which have polluted the pristine waters of trade unionism are forthwith identified and isolated, nay eliminated. Thanks to the exemption from income-tax and the non-applicability of the MRTP Act, trade unionsm has presently become almost a monopoly unchallenged by any process of law, so that it has given rise to so many evil consequences. For example, some kind of restrictions must be placed on the number of trade unions of which a person can be an office-bearer. If there can be a restriction on the number of company directorships, similar restriction can be imposed by law on office-bearership of trade unions also.

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"People must come to accept private enterprise not as a necessary evil, but as an affirmative good."

—Eugene Black

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