

The scheme of the book has been explained in the bottom-most paragraph of page xiii of the Preface. The last two chapters are by no means a summary of the rest of the book; "each section of the survey (contained in the last two chapters) must be read with the corresponding portion, if any, in the earlier chapters." I suggest this method of reading the book for a fuller appreciation of the contents of the book.

Before I deal with the points raised in the Commission's note I should like to say that in writing the book I was concerned more with the principles underlying the regulation of labour-management relations than with the many practical details that would have to be worked out to translate the principles into practice. The formulation of the precise details of a legislation or the drawing up of an elaborate definition - whether it be of "outsider", or of "unfair labour practice", or of any such expression - is a matter for settlement after discussion in tripartite conferences, and it would be sheer waste of time for an author writing a book on matters of policy to attempt to carry out this elaborate function. Even where I have given such details, they are to be treated as the basis for adequate tripartite consultation.

I shall now try to give my views briefly on some of the points raised in the Commission's note. The numberings below correspond to those given in the Commission's note.

#### A. Trade Unions.

##### I. Problem of outsiders.

##### (i) Fear of victimization.

This section (pages 511 - 518) should be read with the corresponding section in the earlier part of the book (pages 186 -191)

It is not correct to say that according to me "such fears" (of victimization) "do not seem to be real". Please see the second paragraph on page 189 beginning with "The justification claimed etc." I have later on said that the fears are very real. In the second paragraph on page 190 I have said: "It is quite possible that if the outsiders withdrew, the trade union movement might receive a set-back for some time in the beginning. Trade union leaders who are actual workers may even be victimized for a time and workers may be coerced into either joining a company union or not joining any trade union at all." I have gone on to say: "If after 40 years of outsider control these dangers persist, what guarantee is there that they will not be present another 40 years hence? If that

(hardship) is inevitable let the workers go through, and be done with, the suffering so that they may thereafter gain strength and determination. That has been the fate of trade unions all over the world. There has been no trade unionism without tears anywhere at any time. In some cases they may be able to secure relief through adjudication of disputes relating to victimization, but their own added strength should eventually turn out to be their real safeguard."

Among the measures suggested in the book to prevent victimization and to ensure reasonable protection are:

- i) An unfair practices law - see Legal Protection to Unions - page 524;
- ii) A regular tribunal, court or board to hear complaints of commission of unfair labour practices;
- iii) Adequate reliefs in the event of victimization including reinstatement of dismissed workmen;
- iv) Enlargement of the scope of minimum wage fixation so as to give sufficient protection to workers in the early stages of their experimentation with collective bargaining.

So I recognize the fear, but I want to make the workers stand on their own legs after due preparation, and I am prepared to support them during the 'wobbly' stage in an adequate manner.

(ii) I regret to say that you have read the sentence in the way in which I had hoped (when I detected it at a late stage in proof-reading) you and others would not read it. But I do admit the slight ambiguity. The words "to which the union relates" should apply only to "any other kind of establishment", meaning establishments other than purely industrial undertakings. In other words I wanted to say that anybody who had actually worked in any industrial undertaking or in any other type of establishments covered by the Industrial Disputes Act, that is, anybody who had worked as a "worker" would not be treated as an outsider.

This is clearer in the statement at page 191, namely. "The consequences of the ban should be such that no person who has not actually worked in an industry or other defined employment for at least five years should be permitted to be appointed to the executive of a union".

I do not, therefore, mean that a textile worker who organized workers in an engineering establishment will be considered an outsider. All that I want is a "worker" and not a mere meddler. This follows from my objections to outsiders mentioned at page 188 (bottom-most paragraph) which bring out the 'flavour' of my objection in the following terms:

"If still outsiders, most of them belonging to the middle classes, come to the movement claiming to serve it in an honorary capacity - outsiders who, being teachers, law-years, and the like, cannot ordinarily be expected to have any great urge to share in the miseries of the working classes - there must be some reason for it."

(iii) No; I don't. The very context in which I have made the statement shows my intention. When a union member pays an adequate membership fee, I have said "he will also expect a reasonable return." Then I have said that the work of the union leader will go up considerably. So the demands made on the leader by the union membership will necessitate his not burdening himself with too many offices. After recommending that there should be consolidation of the trade union movement and that national unions should be formed which would be able to command substantial funds, I have said at page 520 that "Each national union must have a strong central office controlled by whole-time paid office-bearers, officers and experts." When the time comes for keeping paid office-bearers, unions will be able to decide their own terms. Meanwhile I do not contemplate any legislative restriction in this respect. It would not be proper to impose any such restriction, so long as office bearers are not adequately paid, and when they are so paid, the union will decide and not the State.

(iv) I have met this under (iii). I am not contemplating any legislative restriction on the number of unions of which a leader may be office-bearer. At the same time one of my main recommendations in the book is that most of the small unions must go and that there should be gradual but steady consolidation of the small ones into national unions. Please see pages 520 and 521 and also the earlier treatment of the same subject at pages 174-186, particularly page 185.

## II Multiplicity of Unions

(i) If the outsider gets out or is pushed out, the influence of the political leader will be greatly weakened and, as the inside leadership becomes effective, will gradually fade away. Please see page 191 where I have said:

"A union which does not fulfil this requirement should not be registered and will be liable to have its existing registration cancelled. No employer will be required to negotiate with a union which violates the ban or to discuss any matter whatsoever with an outsider. Similarly no outsider will be invited to any tripartite conference convened by Government or to any bipartite consultations called by the employer. If these restrictions are observed for some years, the outsider will withdraw himself not only from the foreground but from the background."

There is no other way of eliminating the influence of political parties, for we cannot make it an offence for a political party to take interest in trade unions. Moreover there are certain spheres in which such interest would be wholly proper. Please also read the paragraph beginning with "It is idle to pretend or suggest that it would be easy to break the link between the trade union movement and the political movement etc."

There are plenty of remedies against inter-union rivalries, but unfortunately hardly any-thing against intra-union rivalries, that is, rivalries inside a single union. This is a matter for internal discipline for which the membership must remain responsible. If political influence wanes with the disappearance of the outsider, the chances of peace internally would be brighter.

(ii) If a law is enacted for the recognition of the bargaining agent and for the ignoring of all other unions, the mere formation of small unions will be of no avail. Small unions thrive only because there is always somebody to take notice of their nuisance value. The attitude of the governmental machinery towards such unions has been a positive force. Sometimes employers too have encouraged them for reasons of their own. If the bargaining agent is going to be allowed to function properly and is perhaps going to be built up further through union shop or check-off, the small union will die off. So I do not believe that it would be necessary or proper to deny registration rights to any union, however small. By all means let the Industrial Disputes Act ignore the small union as having no locus standi under the recognition law.

### III. Recognition of Representative Unions.

(i) The terms "the representative union", "the recognized union", and "the bargaining agent" have been used inter-changeably in the book. They mean one and the same thing, namely the union considered representative of all workers in the bargaining unit. Naturally this union gets all the right to get grievances processed. As to how vast "collective bargaining" is, please see the section entitled 'Collective Bargaining - Principles and Practice' at pages 456 to 483. In particular please see 'Bargaining Strengthened' (page 462) and 'Penetration into Managerial Functions' (page 481). When legislation is undertaken the term 'collective bargaining' will have to be defined closely somewhat on the lines of the Taft-Hartley Act, where it is said that "to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment etc." A collective agreement can be extremely comprehensive, including provisions for union security, check-off etc. In other words the bargaining agent gets all the rights that can ever be enjoyed by any union to the exclusion of the claims of all other unions.

*[rights of collective bargaining with the employer or employees, including the*

(ii) There is not the slightest harm in this. Why should an unrecognized union have any prospects of dislodging and discrediting a sound recognized union ? Some of the national unions in England and America are over a hundred years old and have not yet been dislodged by any other union. If the union leaders prove unsatisfactory, it is for the union members to throw them out at the periodical elections and to elect others. Subject to this, the whole idea of union security including union shop is that a union in power should be made stronger and not weaker. So long as a large body of members are behind a particular union, there is no point in assisting another union to dislodge it. On the other hand if a large body of members of the union are dissatisfied with the policies of the union, they can switchover to any other union when the time for the challenging of the recognized union comes. This should be the right of dissatisfied members and not the privilege of job-hunting leaders.

#### IV. Formation of National Unions.

There are two problems involved in the attainment of unified national unions, namely, getting the central organization or organizations (I.N.T.U.C., A.I.T.U.C, ect) to function only as coordinating bodies and not as large central unions and getting one national union in an industry instead of four. About the first problem, that is, to get the central organizations off their collective bargaining role, please see pages 182-184. I have said that "both the central organization and the affiliating units cannot dominate the scene at the same time." (page 184). A recommendation has been made that the central organizations "must realize and accept the position that in the interests of the development of strong national unions, they must agree to a limitation and redefinition of their own responsibilities and spheres of action." (page 521).

Even if they do not willingly surrender their power, the functioning of a board or tribunal for certifying bargaining agents will ignore the central organizations and certify only national, regional or local unions serving the bargaining unit.

Should four sets of different national unions develop in respect of the same bargaining unit, the functioning of the certification law will give exclusive bargaining rights to one and ignore the others.

The certification of the representative union by a majority vote of the electors voting at an election is the key to the development of powerful unified unions to the detriment of all others.

This has happened in other countries also. Eventually what will happen is that the national unions affiliated to one central organization will dominate certain industries while the national unions affiliated to another central organization will dominate some other industries. One or two central organization ~~can~~ also be expected to go out of existence and along with them their brand of national unions. In the same industry there will not be more than one recognised national union and all other national unions will die away by dwindling.

The jurisdiction of the local or branch will be defined by ~~the national union~~. A local union which acts contrary to the constitution ~~of the national union~~ or otherwise rebels will be superseded by the national union and reconstituted. Please see pages 174-180 of the book.

#### V. Rates of Subscription of Union Membership

This subject has been dealt with at considerable length at pages 168-173 of the book. There the ranges of dues currently collected in India, in U.S.A. and in U.K. have been analyzed. Even as early as 1955-56 there were unions in India collecting Re. 1 or Rs. 2 per head per year and there were others collecting as much as Rs. 5 or more per year. In America some unions collected \$24 per head per year, while others collected as much as \$60 per head per year or more. The corresponding percentages also varied. So a range is perfectly sound and inevitable. Since I have suggested 1 or 2 per cent of what workers earn, and not a flat sum, there cannot be any undue hardship.

I am not suggesting legislation. Let each union decide for itself. But let everybody encourage unions to collect increasingly higher rates so that they can have reasonable funds to spend. In Bombay in an average engineering concern unskilled workers are getting about Rs. 200-250 per month. In some cases where there are incentive systems of payment the total earnings are even more. Moreover in some of the companies at least the full 20 per cent bonus is paid, yielding some Rs. 300 or 400 per annum. These workers can easily pay Rs 2 or even Rs. 4 as membership fee in return for the large benefits they are getting through the union.

#### VI. Compulsory Membership - Check-Off

(i) I agree that these arrangements should evolve by collective bargaining and not by legislative compulsion. At page 533 I have said : "All such arrangements are meaningful only in a system which provides for the certification of a majority union as the bargaining agent." The idea here is that a strong representative union will bargain with the employer in respect of union security rights as it would in respect of other matters and secure what it can manage to get. Let us not think of legislation at every step. Most of my suggestions are for planned evolution aided only with the minimum of legislation.

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(ii) No. This is not a matter for compulsion or legislation. The only way to get this right is for a representative union to bargain effectively.

### B. Employers' Organizations

I shall not go into this subject at any great length here : I have not dealt with it in detail in the book though I have referred to subjects like workers' participation in management, joint consultation, tripartite consultation, and bipartite consultation. Please see pages 329-350 and 573-576 of the book.

Briefly, employers' organizations must, and can only, function as voluntary bodies not subject to rights, privileges and duties statutorily defined as in the case of trade unions of workers. I realize that under the existing law, employers' organizations can get themselves registered as "trade unions".

In foreign countries employers' organizations have come into existence by voluntary action in response to the situations created by trade union action. For instance, when a powerful national union started bargaining with a dozen or more employers in a locality or with many more in a region or in the nation, employers found in it, in their own interests to band themselves together in corresponding fashion in order to escape what is called "whip-saw" tactics of unions, that is, picking off one at a time. Employers discovered that union was strength.

In America the National Labour Relations Board can legally designate for union representation but for not employer representation. It is not possible to compel a number of employers to bargain jointly as they would belong to different establishments. Compelling the workers of one unit stands on a different footing.

While the right of association of workers must be "guaranteed" under specific laws, the right of association of employers can at best be only "recognized" for the limited purpose of giving legal effect to collective agreements. There could be no compulsion of Employers.

It is presumed that employers also would develop organization to match those of workers. This might take the form of a central organization of employers representative of all industries for purposes of coordination, action in respect of legislation, and similar purposes. Each industry would perhaps have national, regional, or local organizations depending on how collective bargaining develops. Out of these arrangements could easily evolve permanent bipartite consultative bodies at the national regional and local levels for fruitful consultation periodically outside the atmosphere of bargaining.

If collective bargaining becomes effective, employer' organizations will develop automatically to meet the needs of the situation. So while the Commission could usefully suggest certain patterns of organization for central tripartite consultation and for industry-wise - national, regional or local - bipartite consultation and collective bargaining, it might not be wholly necessary to make elaborate provision to "structure" employer organizations according to a rigid pattern.

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