Reality and Labour Relations Policy in India

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The theme of this article is that the long range problem for Indian labour relations policy is to reconcile important elements of that policy with reality.

Any developing nation today that has highminded leadership faces this kind of problem. For development in these nations requires social change on a scale that tends to exceed the capacity of even the most efficient of democratic administrations and highmindedness accepts these high and urgent modernizing goals but is reluctant to employ strong methods or to impose hardships on the people in reaching them for fear of being undemocratic or losing support.

India’s problem is particularly intense because her welfare and democratic ideals are very high, her commitment to them is strong and the democratic machinery of her government is well developed.

I believe it can be demonstrated that India’s policies and methods fall short of the realistic needs in several fields of social action, most critically, perhaps, in agriculture, population control and higher education. However, this article is confined to labour relations.

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IT was inevitable that India should have highminded labour relations policies, given the long British occupation, the educational system which it established, and the western liberal socio-economic goals acquired by the leaders of the Indian National Congress during the independence struggle. The creation of a labour movement as a major arm of that struggle was part of the Congress programme. Various consequences of these origins are still evident today. For one, the technique and attitude of civil disobedience which were approved and widely employed against British authority remain attractive to workers and their leaders for use against employers. A second result was that Congress leaders grew accustomed to thinking of industrial workers as exploited underdogs and of Congress as the friend and patron of workers and unionism. Congress thereby became deeply committed to an extensive governmental programme in their behalf. This has given the Indian Government a role as promoter of unionism and labour relations that is very different from that of governments whose countries went through the industrial revolution in the nineteenth century.

A third result was that Congress thinking about labour relations became intimately bound up with its larger ideological values. These were the values of an intellectual elite which had received little levenging from the business world or the government bureaucracy and had meagre acquaintance with the social sciences or the empirical approach to remaking society. Its labour relations ideas were tinged both with the romantic idealism of socialism and with the Gandhian unwillingness to come to grips with the realities of industrial life. One characteristic result is the view that the maximum spread of unionism in Indian society is desirable as an end in itself, that unionism will in fact spread if given the opportunity and that the kind of unionism which results will make up a meaningful labour movement. Another view is that union-management relations in India can and should be on a basically different qualitative footing than it is in western capitalist economies.

In keeping with these origins, India’s basic goal for labour relations has remained unchanged from the beginning and is essentially the same in the draft outline of the Third Five Year Plan as it was in the first two Plans. The goal may be summarized as the development of a strong, well organized, responsible trade union movement and a genuine system of collective bargaining between unions and employers requiring a minimum of Government intervention. This goal is still far from being met. Attaining it will require major social change in the form of building a complex system of institutions and private, bipartisan decision-making processes into Indian society. Two broad questions arise for Indian labour relations policy: How realistic is the goal? Will current methods be effective in achieving the necessary social change? The realities which I believe must be grappled with in seeking answers to these questions are the applicable knowledge and principles that have been developed by the social sciences.

Applicability of Western Labour Relations Knowledge

The knowledge which the social sciences have accumulated about labour relations are based on western experience. How applicable is it to India? A common Indian objection to a westerners analysis of domestic problems is that it reflects incomplete understanding of special Indian conditions or that it is inapplicable to a socialist order of society or to Indian principles of social justice. The fact is that India’s trade union and bargaining goal is strictly western in origin. Moreover, each succeeding Five Year Plan has added to the list of western derived institutional arrangements and procedures which are to promote this goal. The Third Plan Draft advocates use of works committees, grievance procedure, voluntary arbitration and worker participation in management among other things. These are not Indian devices; they are attributes of developed western labour relations systems. The question, then, is this: Supposing that Indian unionism and labour relations can develop along the same basic lines as its western models, will that development be subject to essentially the same social forces?

India has no trouble accepting western social science knowledge and experience when it comes to the operation of her economic system. It is agreed that an excess of purchasing power over available goods may produce inflation in India as well as in the West. If India wants to achieve a certain rate of economic growth it is accepted that this will require certain rates of saving and investment. And the social and economic impediments to
making rapid changes in, these rates are well understood. So in planning to raise living standards under the Five Year Plans, policy-makers are quite realistic. No matter how desirable and urgent a more rapid rise they know it is not practical to try even to double per capita real income before 1976. They know that the hard social and economic realities which stand in the way cannot be removed by invoking unique qualities in Indian culture, or socialist real income before 1976. They capitalize practical to try even to double the Five Year Plans, policy-makers are quite realistic.

For this discussion, the question is whether man's knowledge about unionism and labour relations gained through the social sciences and from practical experience has anything like the depth and reliability of our knowledge about economic systems.

I believe that our knowledge about the forces that govern the collective behaviour of industrial wage-earners, the relations between unions and employers, and the growth of the attendant institutions in society is very considerable and can be applied, with due caution, in India. Let me cite a concrete example. A basic proposition which flows from study of labour relations in the West is that the potential use of coercive strength in the form of the work stoppage together with the degree of tension which this imparts to the relationship is an inherent and imperative ingredient of free collective bargaining in the private sector. However, a favourite theme of Indian labour policy spokesmen is that industrial conflict and the "trial by strength" are out of place in India — that they are outmoded features of laissez-faire capitalism. Now I freely grant that India has every right to choose whether it attaches more value to prevention of conflict and trials of strength than it does to effective collective bargaining and to formulate its policies accordingly. But I contend that our social science knowledge tells us that India cannot choose to have both.

The example of India's plan to raise living standards showed that social and economic realities bear on Government policies for basic social change in two ways. They set limits on the speed with which India can hope to move toward her objectives. Second, they dictate the course which must be followed in order to effect the necessary changes. I believe that Indian labour relations policies are in some nonfit with reality in both respects. According to all we know from history and the social sciences, India is far from reaching the levels of industrialization, urbanism, personal income, literacy, education and stability of democratic processes which will bring forth and sustain the type of unionism and collective bargaining system to which she aspires. In my opinion, India's attempt to speed the development of these institutions at an unrealistic rate by a sort of hot-house cultivation has made more difficult her problem of adopting policies more realistically suited to the slower, sounder achievement of her ultimate goal. In the remainder of this article I discuss a number of the specific issues in this policy dilemma.

DETERMINANTS OF TRADE UNION MOVEMENT

A strong, well-organized, responsible trade union movement, which is one part of India's goal, cannot be made either by Government or by a set of political leaders or social reformers no matter how good their intentions. Such a movement grows in response to worker needs in a particular social and economic environment and acquires the attributes of organization and responsibility over time by experience and the force of circumstances. Analysis of experience with labour movements in the West indicates that the following are among the determinants.

1. There must be a sufficient level of union consciousness and acceptance among workers. Government policy can do little to engender this consciousness. Growth of a certain level of self-awareness and understanding of how their society operates plus the impact of particular industrial employment conditions over time do it. But Government needs to be aware that an all-encompassing Government welfare programme, the prescription of many working conditions by standing orders, the compulsory establishment of works committees, the creation of an image of Government as the champion of the workers to whom they may turn for every need — all this may help create ma-baap attitudes among workers rather than encourage the growth of union consciousness. Unionism is essentially a, self-help, protest movement. s. There must be a sufficient supply of aggressive leadership from the ranks of the workers and a setting in which they can operate. This leadership and setting are sadly lacking in India. Government and employers bemoan the lack of such leadership but little is done to remove some of the main obstacles to its development. These include the fact that English remains the language of India industrial labour relations system is such that leaders must have the education and capacity to handle technical matters of law, official correspondence and difficult conciliation and adjudication proceedings, and that there are no legal protections of union leaders against employer reprisal.

3. Employer opposition and interference can be a serious obstacle to union growth. This is true in India. Under such conditions legal protections are very helpful. Yet Indian policy is opposed to these legal protections. Instead, standards of proper behaviour are set forth as a matter for voluntary agreement in the Code of Discipline. The history of labour movements shows that in their early stages for very natural reasons, employers do not voluntarily accept unions. It is not reasonable to expect Indian employers to be different.

4. The environment needs to be one in which unions have positive incentives to grow in size, strength and organization; which keeps union rivalries under some orderly control; which enables unions to acquire a genuine and significant set of functions; and which forces unions to suffer the consequences of weakness or irresponsibility. Under current policies the Indian environment is deficient in some degree in all these qualities. The following examples may be given. Unions are extended full rights to engage in labour relations, conciliation and adjudication without achieving any minimum level of representativeness. No effective method for controlling or settling union rivalries has been established. Experience with the problem in the West shows that the forces underlying union rivalries are so strong that the voluntary standards on the matter included in the Code of Conduct and the Code of Discipline will not prove effective. The lack of collective bargaining, employers not being compelled to bargain; the existence of the adjudication alternative; and the fact that quite a range of employment terms are already fixed by legislation and standing orders mean that unions do not have much function to strive for. The adjudication system serves to protect and maintain weak unions. For a variety of reasons, unions and union leaders are able to get by too often with infractions of law and of orderly rules of behaviour. The rules and practice governing the disciplining of employees tend to make reasonable disciplinary practice difficult.
How DOES COLLECTIVE BARGAINING DEVELOP?

A system of genuine collective bargaining, which is the other part of India’s goal, is an advanced form of institutional development in a free society. It cannot be superimposed as a synthetic arrangement by Government. It must grow out of the give-and-take interchange and contention between trade unions and industrial employers and by the gradual accretion through this process of practice, procedure, rules and good faith. However, certain environmental conditions and circumstances will facilitate such growth as others will impede it. Our accumulated knowledge of this process shows the following to be among the more important facilitating conditions.

1. A basic imperative is the existence of strong trade unions which seek to make collective bargaining one of their main functions. Hence, all the points made in the preceding section are pertinent here as well. The importance of strong unions is demonstrated by the general ineffectiveness of works committees as decision-making agencies. Where there is no effective union in an establishment, setting up a works committee does not create the basis for a workable relationship. Where there is such a union, either it is suspicions of the works committee as a rival agency or the committee is superfluous because collective bargaining takes its place.

2. There should be minimum rules of democratic and orderly procedure between unions and employers. These would mean that a union could not bargain for workers whom it did not have the right to represent, and that two or more unions could not bargain with an employer at the same time on behalf of the same group of workers. Yet present Indian law not only permits but, in effect, encourages both of these practices. The result is induced growth of paper unions, aggravation of inter-union rivalries, ineffective relations and confusion, all of which definitely hinder the growth of stable relationships. Official policy opposes enacting legal rules to inject order into this confusion. It seeks to do so only by persuasion through the Code of Discipline and the Code of Conduct. There is abundant evidence that the vested interests of minority unions and rivalries between unions are stronger forces than the formal acceptance of these Codes by representatives of the parties.

3. Unions and employers should be under some necessity and pressure to develop bargaining relationships. Reaching decisions by the bargaining process is arduous and freemoney frustrating and emotionally strenuous. Given their respective roles in society there are numerous inherent grounds for disagreement between the parties. The issues with which they must deal are often difficult and complicated. A low income society which must concentrate achieving economic growth does not provide a congenial climate for bargaining. The early stage of bargaining is particularly distasteful for employers because it means a substantial surrender of unilateral authority. For all these reasons, the parties, and particularly employers, will choose an alternative to making decisions through bargaining if it is available. One common alternative is employer refusal to bargain. Employers will ordinarily make this choice where unions are weak and no other compulsion exists. Indian policy is opposed to introducing legal compulsion. Instead, the Code of Discipline seeks to persuade employers to recognize and bargain with unions as a voluntary obligation. This has the same chance of general success that any method of persuasion has of getting people to act contrary to their own strong self-interest and inclination. And the mild kind of sanctions which Government now seeks to apply through its implementation programme does not promise to change this situation significantly.

A second alternative is that decisions get made by legislation and governmental machinery. Government has provided this alternative on a wide scale. Western experience shows that where trade unions are weak and where the practice of collective bargaining has not gained acceptance or taken root to any significant extent, the parties find Government adjudication to be the alternative path of least resistance.

There are no substitutes for the basic social process of evolution and growth through practice and experience. Workable bargaining relationships, good faith attitudes and behaviour, institutionalized routines, and the whole supporting structure of precedents, custom, understanding, rights and obligations, rules, procedures and techniques of communication, pressure and accommodation which make up a collective bargaining system develop only from within and only over time as unions and employers find no alternative but to learn to live together in this new system. Government labour relations policy in general has not allowed for this basic social science precept.

But several elements of that policy which have received particular attention during the Second Plan period and are re-emphasized in the Draft Third Five Year Plan reveal the clash between policy and reality with unusual clarity.

CODE OF DISCIPLINE

Government advocates the general use of voluntary arbitration in Indian labour relations and employer and union representatives have presumably agreed by accepting the Code of Discipline. But the social reality is that voluntary arbitration is an outgrowth of collective bargaining; it does not precede it. The parties must find it a mutually agreeable means of solving problems they encounter in bargaining. The preconditions of any widespread use of voluntary arbitration normally include a sufficient degree of mutual confidence between the parties; decision by agreement of most important issues between them to serve as a foundation to support arbitration where it may be necessary; agreement on the subjects which may be submitted to arbitration and on the rules which will govern the process and the existence of a group of private individuals in society who have the confidence of the parties and demonstrated competence to serve as arbitrators.

Government also urges widespread adoption of grievance procedure in Indian industry and through the Indian Labour Conference has developed a model set of procedures. Grievance procedure is simply the name given to the method by which day-to-day disputes or complaints in the work place between workers and management are negotiated. In other words, it is but one part of a larger collective bargaining relationship.

Government also urges the inclusion of worker-supervisor relations in industry both to tell us that a grievance procedure remains target ineffective in a plant unless an active union exists to make it work and unless it is defined and given a specific role within a larger bargaining framework.

WORK PARTICIPATION

Finally, Government is attempting to promote worker participation in management as a means of improving labour-management relations. Taken at face value, the very concept of worker participation in management is in conflict with the kind of independent bargaining unionism which is India’s*

February 4, 1961
avowed goal. It would require the representatives of workers to perform simultaneously two incompatible roles — sharing responsibility for managerial decisions and leading the opposition to management. Experience with actual worker participation in management in Germany and Yugoslavia is that those who partake cease to be worker representatives in any true sense and are not part of any genuine bargaining system. Even in its much more limited and realistic form of joint consultation between union or workers and management on topics not central to enterprise management, which seems to be the policy for India, the idea is likely to have restricted applicability in India at this stage. Again, what we know of worker attitudes and competence and the character of the employment relationship tells us, and experience confirms, that if joint consultation is to be meaningful and to deal with problems of any significance it ordinarily occurs as an extension of an unusually close and effective collective bargaining situation. It does not precede and is not a means of creating such a relationship.

Unquestionably, some of the policies impart to the foregoing analysis — legal protection for union activity, compulsory recognition of and bargaining with representative unions but denial of bargaining rights to unrepresentative unions, settlement of inter-union disputes by secret elections, confining the use of adjudication to only a relatively few key disputes, and willingness, nay determination, to let and abide. The parties in most cases work out their own relations and most terms and conditions of employment as best they can — would be quite unpopular. In particular, they would cause the disappearance of a great many unions which have insignificant membership and cannot stand on their own feet and would make the superior bargaining strength of employers more apparent. This is why highmindedness has parted company with reality in the past. But the logic of this analysis and the hard facts of India's present conditions and future requirements tell us that the immediate objectives of highmindedness cannot be realized now anyway and that its longer run goal will be better served by the more realistic policies.

CONCLUDING OBSERVATIONS

The goal of Indian labour relations policies is the development of a strong, well-organized and responsible trade union movement and an effective collective bargaining system. Attainment of this goal, I have sought to show, will not only require time but is subject to certain fundamental rules of social change and institutional development whose basic outlines are quite well understood by the social science disciplines. Applying this knowledge, I have tried to show (1) that Indian labour relations policies are highminded in that they propose rapid movement toward laudable objectives requiring basic social change in Indian society by methods of moral persuasion and the induced introduction of some of the forms and mechanisms of modern unionism and collective bargaining; and (2) that a number of these policies serve to impede the more basic process of institutional development which the goal demands and, having induced a hot-house growth of weak and dependent unions and Government-managed labour relations, make infinitely more difficult the problem of introducing more realistic policies.

It is this situation that justifies, in my view, the conclusion that, given her long-standing labour relations goal India is confronted by the problem of reconciling her policies with the social realities irrevocably associated with that goal. I know of only two ways in which a conflict between a goal and the operative policies connected with it can be reconciled. One way is to change the goal. The other is to change the policies.

This analysis leads to one final observation. A society can only begin to solve basic conflicts between its goals and policies when there is sufficient awareness and concern about the existence of the conflicts among people who count. Since this conflict arises and is rooted in the thinking of the intellectual elite who are responsible for the policies, the main force for awareness must come from outside that group. In the field of labour policy, one expects a counter force to Government thinking to appear within the labour movement, among academic students of the subject and among employers. For reasons we cannot go into here no significant contributions to awareness can be expected for some time in India from the first two groups. If this is true, a particular responsibility rests on employers to give a lead in opening up these problems of labour relations policy for more realistic debate. There is much at stake in these policies for Indian employers. It has been my experience that many of them hold quite strong views in opposition to several of the policies, but it is my impression that these views are not publicly expressed with nearly the strength with which they are held.

Code of Discipline in Industry

The Code of Discipline symbolises the current policy of the Government to build up an industrial democracy on voluntary basis and to preserve industrial peace with the help and cooperation of employers and workers. It is a policy which is in line with the main recommendation of the Second Plan, viz, to avoid adding to the existing labour legislation, as far as possible, and to develop voluntarily a mutual sense of responsibility and an understanding between employers and workers. The Code covers almost the entire gamut of activities of the Labour Ministry at the Centre and its effective implementation is, therefore, of vital importance.

From June 1958 when the Code of Discipline came into force, till the end of December, 1959, 777 cases of breaches of the Code were reported. Of these, 226 did not require action as the complaints were either vague or related to units which have not yet accepted the Code; etc. 180 belonged to the State sphere and were referred to the State Governments concerned for appropriate action. Of the remaining 371 cases, 242 (i.e. 65 per cent) have been settled or the breaches brought home to the guilty parties for setting them right; the rest are under investigation.

The Code of Discipline which has now been in operation for a year and a half, met with an encouraging measure of success. By making both employers and workers conscious of their rights and responsibilities towards each other, it is creating a favourable climate for building an industrial democracy. Many employers' and workers' organisations have expressed their satisfaction with the working of the Code. State Governments too have variously reported that the Code has produced a sobering effect on the parties; that it has evoked a sense of responsibility among the employers and workers and generated a new attitude towards industrial disputes; that it has had a deterrent effect; that it has resulted in speeding up implementation of labour laws and, above all, it has provided a forum for dispassionate discussions of the difficulties of the parties.