

## **Summary Record of Discussion of the 41<sup>st</sup> Session of Indian Labour Conference held in New Delhi on 27-28 April, 2007**

The 41<sup>st</sup> Session of the Indian Labour Conference was held on 27 – 28<sup>th</sup> April, 2007 at New Delhi under the Chairmanship of Shri Oscar Fernandes, Hon'ble Minister of State for Labour & Employment (Independent Charge). The agenda for the conference included the following items: -

- 1) Strengthening of Labour Laws and its Effective Implementation to Prevent Violations;
- 2) Payment of Bonus Act, 1965;
- 3) Contract Labour (R&A) Act, 1970; and
- 4) Measures to improve Employability of the Youth

The Conference was inaugurated by Dr. Manmohan Singh, Hon'ble Prime Minister of India on 27<sup>th</sup> April, 2007 at Vigyan Bhavan, New Delhi

### **Inaugural Session**

Welcoming the delegates and dignitaries, Smt. Sudha Pillai, Union Secretary, Labour & Employment, expressed sincere thanks to the Hon'ble Prime Minister and the Hon'ble Minister of State for Labour & Employment (IC), for sparing their valuable time to grace the occasion. She described it a unique occasion when our Hon'ble Prime Minister will present Shram Awards to some of our finest workers in the presence of the august gathering of senior representatives of Workers and Employers Organisations. She informed the august gathering that the Prime Minister's Shram Awards were instituted in the year 1985 with the objective of recognizing the outstanding contributions made by workmen in organizations in public sector who have distinguished record of performance, devotion to duty of a high order, specific contribution in the field of productivity, proven innovative abilities, presence of mind and exceptional courage and also to the workmen who have made supreme sacrifice of laying down their lives in the conscientious discharge of their duties. The awards have been extended to the workmen of private sector also from the year 2004 by increasing the number of awards from 17 to 33. She described the conference as another step forward in our efforts to strengthen the bond among the social partners. She emphasized upon the need to create a right balance of 'flexibility', 'stability' and 'security' in employment relation in view of changing scenario in the global production system and competition in global market. While flexibility is required by the employers to adjust to the changing market conditions, the workers need to be provided with basic security and stability in employer-employee relationship. She spelled out various efforts being made by this Ministry in this direction. A scheme for upgradation of ITIs into Centres of Excellence has been taken up by the Ministry to upgrade the skills of school drop-outs and the existing workers especially in the informal sector. A proposal for enactment of legislation and formulation of Social Security Scheme for the unorganized workers is currently under consideration of the Government. She informed that a proposal to enhance the eligibility for bonus to workmen from

Rs.3500/- to Rs.7500/- and the calculation ceiling from Rs.2500/- per month to Rs.3500/- per month is under consideration of the Government. The extensive process of consultation with State Governments concerned, Department of Expenditure, Private Sector, Central Trade Union Organisations as well as Employers Organisations has been completed and the proposal has been concretized. She stated that in the present scenario of globalisation, both the employers and employees have a greater responsibility towards each other in order to contribute effectively to the noble task of development and growth of the nation. She expressed the hope that the present session of the Indian Labour Conference would prove to be a milestone in addressing some of the basic concerns of industry and workers.

2. Shri Girish Awasthi, President, Bharatiya Mazdoor Sangh and Vice- Chairman, Workers' Group for the ILC, welcomed the Hon'ble Prime Minister and the Hon'ble Minister of State for Labour and Employment. He raised concerns ranging from price rise and inflation to introduction of Social Security Bill and protection of rights of contract workers. He assured that trade unions were with the government as far as rapid industrialization in the country was concerned. He emphasized that Special Economic Zones should not be exempted from the applicability of labour laws and that the income tax limit for the salaried class should be adequately enhanced. He proposed formation of a workers' bank and the raising of the eligibility limit under the Payment of Bonus Act. He also proposed introduction of the *Right to Work* bill in Parliament and increase of honorarium paid to Anganwadi workers.

3. Shri J.P. Chaudhary, Council of Indian Employers and Vice- Chairman, Employers Group for the ILC, said that in view of the national-level shortage of trained manpower, provision of appropriate and effective training infrastructure as well as the creation of the right types of job opportunities were the need of the hour. He felt that there should be a mechanism of developing a National Minimum Wage and a uniform countrywide system of labour law enforcement. He advocated a harmonious conflict resolution policy for a better future.

4. Shri Oscar Fernandes, Minister of State for Labour and Employment (IC) welcomed Dr. Manmohan Singh, Hon'ble Prime Minister, who inaugurated, and subsequently chaired, the Inaugural Session of the 41<sup>st</sup> Session of the ILC. Shri Fernandes also welcomed Shri Santosh Mohan Dev Hon'ble Minister of State (Independent Charge) for Heavy Industries & Public Enterprises, the representatives of Employers, Central Trade Unions, Labour Ministers and Officers from the State governments, representatives of various Ministries of Central Government, awardees of the Prime Minister's Shram Award and other invitees. He also congratulated all the winners of the prestigious Shram awards and expressed his appreciation for their invaluable contribution in the process of the nation building.

4.1 In his welcome speech, the Hon'ble Labour Minister stressed the fact that the achievement of the common objective of prosperity of the nation necessitated that the employers and employees work together in tandem. He further expressed that the award winners of the Prime Minister's Shram Awards are fine examples of the cordial relations between the employees and employers. He also applauded the

positive role of management and employers for the outstanding achievements of their workers and appealed to the leaders from the employers' fraternity to give more and more space to the workers to innovate working methods and increase productivity.

4.2 Shri Fernandes recalled the history of the Indian Labour Conference and noted that deliberations and discussions during various sessions of ILC had successfully addressed a number of vital concerns relating to labour in different sectors of the economy. During his welcome speech, the Hon'ble Minister also highlighted the impact of these recommendations on policy formulation and enactment of various labour legislations such as recommendations for setting up machinery to investigate the question of wages and earnings, employment, housing and social conditions of workers (5<sup>th</sup> Session of ILC Session, 1943); setting up of Central Board of Workers' Education (15<sup>th</sup> ILC Session, 1957); abolition and regulation of contract labour (19<sup>th</sup> ILC Session, 1961); Central legislation for payment of gratuity (25<sup>th</sup> ILC Session, 1968); proposal for a comprehensive legislation on child labour (28<sup>th</sup> ILC Session, 1985) and the bearing these recommendations had in the form of enactments like Contract Labour (Regulation and Abolition) Act, 1970, Payment of Gratuity Act, 1972, and Child Labour (Prohibition and Regulation) Act, 1986 etc.

4.3 Speaking about the agenda items for 41<sup>st</sup> Session of ILC, he said that there were a number of Central and State labour legislations concerning different aspects of labour such as industrial relations, wages, working hours, social security, labour welfare, employment & training etc. Though enacted by the Central Government, these laws are enforced either by (a) the Central Government or (b) the Central as well as the State Governments, or (c) the State Governments alone. Review/updation of labour laws is a continuous process in order to bring them in tune with the merging need of the economy. He outlined that our ultimate goal is to minimize violations of Labour Laws, the thrust of the agenda item is to have changes required in the Acts and Rules, inspections and concomitant action and the need to strengthen the labour enforcement machinery. He requested the august body to consider deliberating and suggesting broad parameters taking into account the requirements of the individual Acts to help the Government in taking further necessary action in the matter. He informed the House that on recognizing the need for protecting the interest of contract labour, the Contract Labour (Regulation and Abolition) Act, 1970 was brought on the Statute Book to regulate the employment of Contract Labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

4.4 About the agenda item relating to "Measures to improve Employability of the Youth" has expressed due firm that economic and social emancipation of a nation depends to a large extent on the way it harnesses its human resources. It is high time that we review and reassess our human resources policy in the light of the under-currents and complexities of the new and evolving economic order. He outlined the steps/measures being taken by the Ministry of Labour & Employment (DGE&T) for skill development of workmen, which includes development of our human resources, modernization of our vocational training institutions, revamping of our national

employment services, promoting Public-private partnership in HRD, facilities for retraining and re-skilling of the workforce, and financial support to enable the workers to avail these opportunities. He also informed the House about the India-EU seminar on "Skill Development, Training and Employment" and the MOU signed by us with them on Employment and Social Policy. He also touched upon the progress in upgradation of ITIs and work started on setting up of a "National Mission for Skills".

5. In his inaugural address, Dr. Manmohan Singh, Honourable Prime Minister expressed his happiness in inaugurating the 41<sup>st</sup> Session of the Indian Labour Conference. He was happy to present Shram Awards to the workers in recognition of their exemplary commitment and dedication to work. Our award winners today are ordinary people who have accomplished extraordinary achievements. He indicated that he attached great importance to the deliberations of this Conference. He also hoped that this Conference would create an excellent climate, congenial to develop good industrial relations in the country. He stressed that his government was fully committed to working with labour and business in order to create a new era of inclusive development. He urged upon all the social partners to strengthen the hands of the government to speed up the process of industrial development. He expected that the three arms of the tripartite edifice of the industrial economy, namely, Employers, Employees and State must work together for the nation to move forward. Hon'ble Prime Minister added that our labour policy derives its origin, inspiration and strength from the leaders of our freedom struggle and from the ideas of socially conscious citizens. Our labour policy also reflects the wisdom of the Constituent Assembly, our Constitution, Conventions and Recommendations adopted by International Labour Conferences as well as decisions taken in various sessions of the Indian labour Conference. He stressed the need to promote a new environment in which both the government and the private sectors are encouraged to invest. He further added that we have to be receptive to technological changes and to the imperatives of modernization that remain competitive in an integrated global economy. Dr. Singh also observed that our industrial policy must be sensitive to both the need to absorb new technologies and competitiveness as well as the need to create new employment opportunities and protect the interest of the working people.

5.1 Hon'ble Prime Minister pointed out that one of the major challenges before us was how to increase the skilled workforce from 5 per cent at present to about 50 percent, which is the norm in the developed countries. He emphasized that in order to make our working people employable, we must create adequate infrastructure for training and skill certification, which must keep pace with the technical demands of modern industry. Hon'ble Prime Minister expressed hope that this Conference would *inter alia* deliberate on the issue of enhancing knowledge and skills of our labour force. He commended the technicians, technocrats and engineers whose toil and hard work had put India in the front row of industrialized nations. The Hon'ble Prime Minister concluded with the hope that all social partners of the industry could work together with an accommodating attitude and address the challenges being faced by the nation.

5.2. After his speech, Hon'ble Prime Minister distributed the Prime Minister's Shram Awards for the year 2004 and took leave from the members present in the Conference.

### **Brief Interventions/General Discussion**

6. On the resumption of the Conference's deliberations, Dr. Sanjeeva Reddy, President, Indian National Trade Union Congress, emphasized that, in the current scenario, there was an urgent need to change our attitude towards industrial relations and labour law enforcement. He said that, currently, labour laws were being implemented only in big industries, which are quite limited in number. He felt that there was already sufficient number of labour laws and there was a need for rationalization of these laws and simplification of the procedures. He further added that profit-making industries should have no ceiling for payment of bonus. He expressed that a large number of industries were unfairly engaging almost half of the workers as contract workers for the purpose of increasing productivity. He expressed that contract workers should to be allowed only on the non-production side possibly to the extent of 5 to 10 per cent. In case retrenchment of contract workers was unavoidable, these workers should be paid retrenchment compensation equivalent to 95 days of wages and also 15 days of wages as gratuity for every completed year of service. He also suggested that a technical university be set up for the industrial workers. With regard to Payment of Bonus Act, 1965, he suggested that the ceiling should be raised from Rs.3500 to Rs. 10,000 for the purpose of coverage under the Act and from Rs. 2500 to Rs.7500 for the purpose of calculation of bonus.

7. Shri Vineet Virmani, President H.R.D. Committee of ASSOCHAM expressed the need for a constructive approach for finding solutions to the problems relating to industry and workmen in the spirit of tripartism. He pointed out that despite being one of the vast growing economies, India faced unemployment and poverty. He said that 35 percent Indians still live below the poverty line and that 95 percent of the Indian workforce were in the informal sector. To make matters worse, only 5 percent of the Indian workforce could be considered as skilled and it was largely this section of the workforce that derived maximum benefits. The huge gap between existing skills and needed skills could be bridged by establishing more, and improved, training institutes. In this endeavour, the private sector could play a more substantial role.

8. Shri G. Vinod, Labour Minister, Government of Andhra Pradesh expressed the need for a positive approach for strengthening of labour laws and its effective enforcement. He appealed to both the workers' and the employers' representatives to pay their attention to the 93% workers in the unorganized sector. He laid emphasis on effective implementation of the Minimum Wages Act. He further stressed that proper care must be taken of the unorganized sector and it should be ensured that they get their due share of attention in every respect.

9. Dr. M. K. Pandhe, President, CITU, voiced his deep concern over the declining participation in the Conference during the recent years. He observed that since 1985 no major decisions had been taken in the ILC. He felt that there was a need to restore the sanctity of the ILC. He pointed out that although there were around 35

tripartite committees, but some of these committees had not met for years. He further expressed that there was not even a single trade union representative in the Unorganized Sector Workers' Commission (NCEUS); similarly, there was only one trade union representative out of 40 members to discuss labour policy issues in the 11<sup>th</sup> Five Year Plan. He also expressed his concern over the soaring price rise. He opined that there was a total collapse of labour laws in the country. Dr. Pandhe criticized the policy of the present Government of doing away with the Inspector Raj. He posed the question, how one can ensure compliance of labour laws without inspection. He observed that even some of the fundamental labour laws like Minimum Wages Act were not being properly implemented. He also raised the issue of excessively long working hours by the employees in the IT sector. He also observed that some of the important bills promised under the Common Minimum Programme (CMP) had still not been finalized and, further, suggestions made by Trade Unions had not been incorporated in these bills. He felt disappointed that ILC Conferences were no longer being attended either by senior Cabinet or State Union Ministers or by senior bureaucrats of Ministries. This greatly restricted the outreach and impact of this Conference.

10. Shri Prithibi Majhi, Labour Minister of Assam stressed that amendments in some of the labour laws were necessary in the present situation. He also laid emphasis on the fact that the working class should be adequately remunerated in accordance with their skill and contribution to development growth and prosperity. He felt that issues relating to proper health care and employment related issues of the workers should be properly addressed. He then invited the attention of the Conference towards his demand for making amendments in the Assam Plantation Act, 1951 which relates to more than 10 lakhs workers working in the plantation sector. He said that in spite of repeated efforts on the part of Government of Assam, the proposal to amend this Act had not been considered by Parliament. During his address, the Hon'ble Minister also shared some of the recent initiatives taken up by the Government of Assam for generation of employment to almost 1,67,000 unemployed youth and for giving medical facilities to the workers. Expressing his concern over the unorganised sector workers, the Minister observed that unorganised sector workers should be given priority and any measures initiated to protect their interest should have a time-bound policy. With regard to Contract Labour Law, he said that there should be an amendment in the Act providing for automatic absorption of contract workers.

11. Shri Thampan Thomas, President, Hind Mazdoor Sabha, expressed his concern over the issue of substantial reduction of employment and wages of the workers in recent years in spite of substantial increase in industrial production. He emphasized that the Constitutional commitment under Articles 38 and 39 provides for full employment and removal of disparities in income. He observed that frequent violations were taking place in labour laws and one of the reasons for such violations was that the enforcement bodies have very limited powers to investigate into violation of labour laws. He also stressed on the need of setting up a Commission, even a tripartite body, to study violation of labour laws on the pattern of Commission for Working and Non-Working Journalists.

12. Shri Salimuddin, Director Personnel, Coal India Limited, focused his address primarily on the issue of strengthening of labour laws and its effective implementation. In this regard, he observed that what was needed was simplification of labour laws rather than strengthening of labour laws as we already have sufficient number of labour laws. He then pointed out that the objectives of labour laws is the protection of the workers and not the punishment of the employers. He observed that it was more important to transform the mindset of both employers and employees to obey the labour laws rather than providing for stringent penalties. He also observed that the issue of disposal of large number of cases pending in various labour courts and tribunals was quite important and required positive recommendation. He also emphasized that an amendment should be made in the law so that the workers can directly approach the labour court. With regard to the Payment of Bonus Act, he expressed that there should be no maximum ceiling of wages for the purpose of payment of bonus.

13. Shri Sushil Kumar Modi, Deputy Chief Minister, Government of Bihar, said that there was a need to amend the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 in order to duly protect the interest of migrant workers. He also said that there was a need to amend the Minimum Wages Act, 1948 so that its applicability did not remain confined only to employments falling under the Schedules. Expressing his views on the Hoda Committee Report, he observed that joint inspection mechanism was a better proposition as compared to self-certification. On the issues pertaining to Contract Labour, he observed that (a) the present limit of minimum 20 contract workers for the purpose of applicability of the Contract Labour (Regulation & Abolition Act), Act, 1970 should be removed so that all the contract workers could avail the various benefits provided under this law; (b) the responsibility of the enforcement of Contract Labour (Regulation & Abolition Act), Act, 1970 even in case of those establishments which currently fall under the jurisdiction of the central government, should be given to the state government in view of the inadequacy of Central enforcement officers; (c) out workers should also be covered under the Contract Labour (Regulation & Abolition Act), Act, 1970. He further suggested that the cases of labour law violations should be dealt with by the labour courts and not by the criminal courts.

14. Shri Gurudas Das Gupta, General Secretary of AITUC, drew the attention of the august body towards the non-payment of wages by the a certain Glass Works factory, for several months, and hardships being faced by the workers as a result of the same. He said that the issue of outsourcing and privatization was compelling the workers to go on strike. He expressed his dismay over the fact that though the economic reforms had led to increase in profit as a result of substantial increase in production, productivity and dividend but the wages and employment were gradually going down. He observed that workers were being adversely affected by economic reforms. There were instances where they were working 12 hours a day for very nominal wages and without any social security. He opined that there seemed to be a situation of total lawlessness. Labour laws were not properly enforced and workers were not getting minimum wages in many sectors such as agriculture, beedi making, construction, small scale industries etc. He observed that

in spite of all these hardships, problems and challenges being faced by workers, whenever and wherever the issues pertaining to them were raised by the trade unions, they were maligned as being against foreign investment. He opined that situation was getting worse day by day in the country for the workers. He strongly felt that the ILC has now turned into a symbolic ritual. This apart, most of the other tripartite bodies had also become practically defunct.

15. Shri Vishram Jamder, National President, Laghu Uyg Bharavi pleaded that strengthening of laws should be by simplification of laws. Currently, there are more than 40 central laws and more than 90 State laws in the area of labour. These laws should be reduced in number. He further expressed that there should be specific laws for the micro industries. For the purpose of strengthening of labour laws he suggested that stringent punishment leading to long term imprisonment for violation of laws would not serve any purpose. He suggested that punishments need not necessarily be stringent in the form of imprisonment; it should rather be commensurate with violation. He also stressed on the need of upgradation of ITIs for training of large number of workers.

16. Shri Krishna Chakravorty, UTUC (LS) expressed his concern over the problem of rising unemployment and poverty. He also voiced his deep concern over the downsizing of the employees in some of the important sectors like Railways, Banks etc. He also raised the issue of increasing contractualisation in the Coal Industry, which at present was already engaging almost 1/3 contract workers. He also expressed concern over large number of closure of industries in the recent past. He also expressed his serious concern over extension of facilities by SEZ only to a few industrial groups, which in his opinion was not fair. He urged that violation of labour laws must be stopped immediately with the growing demand for employment.

17. Shri Ashok Ghosh, UTUC representative, pointed out that labour problems were a social issue. He expressed concern over poverty and frequent violation of labour laws. He expressed that UTUC was not in favour of SEZs. He was of the view that Section 10 of the CL (R&A) Act, 1970 should not be diluted.

18. Shri Amit Kumar Sharma, All India Manufacturers' Organization and Employers' representative, said that employers must have the right to change its workforce and also the freedom to retrench in case of need. He further observed that workmen should agree to interchangeability of job responsibility. He emphasized that bonus should not be considered as deferred wage and that only those trade unions should be registered under the Trade Unions Act, which have 50% of membership.

19. Shri Virendra Singh, Labour Minister of Haryana said that for strengthening and implementation of labour laws there was a need for simplification of labour laws. He suggested that there was a need for a social dialogue. He suggested that labour issue should not be in the Concurrent List and that minimum wage should be fixed at national level. He further suggested that one of the effective ways of implementing labour laws was by withdrawing various kinds of concessions.



20. Shri Mangat Ram Sharma, Labour Minister of Jammu & Kashmir, said that though there was a large number of labour laws, the machinery for implementation was negligible and needed to be increased in proportion to number of workers as well as establishments. He observed that a large number of laws were not being implemented. Particularly, implementation of the Provident Fund Act was in the interest of the labour. He felt that this fund should be deposited in appropriate banks

21. Shri P.K. Gurudasan, Labour Minister, Government of Kerala drew the attention of the ILC to the problem of unemployment in the States. He stressed that the misuse of exemption under Contract Labour Act should be discouraged and that Section 10 (2) of Contract Labour Act should be strictly implemented. He further suggested that example of Kerala may be followed in enacting the law for agricultural workers.

22. Shri Jaya Narayan Mishra, Minister, Orissa said that, for the purpose of strengthening labour laws, joint supervision or concurrent supervision for enforcement of labour laws should be launched. A special drive was required to stop the employment of children below 14 years of age in the field of child labour eradication. He urged that the dichotomy between Central and State labour laws should be avoided.

23. Shri P.K Mukhopadhyay of NFITU said that, as compared to the decades of 1951- 60 and of 1961-70, the population growth rate was much higher than in the decade of 1991-2001. He pointed out though the workforce was also increasing; most of the workforce was not in a position to earn their bread.

24. Shri R.K Bhardwaj representing Laghu Udyog Bharti suggested that more employment could be generated if investors were given freedom to adjust their labour force. He said that there should be separate law for the micro & small-scale industrial units of the country. Stringent punishment for non-enforcement of labour laws was not required as this would not do any good either to the worker or the employer as it led to corruption and closure of the units.

25. Shri Tikshan Sud, Labour Minister, Government of Punjab said that his government was committed to providing positive environment for development of industry in Punjab. He opined that labour laws should be simplified to protect the interest of the workers. He shared that Punjab has the distinction of settling a very large number of cases through Lok Adalats and distributing compensation in cash. He further stated that Awards of the Courts were sent directly to the concerned parties. He suggested that this system should be encouraged in other parts of the country also.

26. Shri Fazlur Rehman, Labour Minister, Government of Tripura said that it was a fact that the employers needed workers for production and that the workers needed employers. Stringent labour laws may not ensure cordial relations between employers and workers: as a matter of fact, the workers would ultimately be at the receiving end.

27. Shri Mrinal Banerjee, Labour Minister, Government of West Bengal said that unscrupulous employers, and violation of labour laws by them, was on the increase. Most of the existing laws did not have provisions for any stringent punishment for violation of labour laws. He further said that he was not opposed to simplification of laws but to the violation of laws. In other words, the laws would have to be implemented stringently. He stressed that the regulation aspect under Contract Labour (R&A) Act, 1970 needed to be more strictly implemented and the procedure for recovery of dues under various labour laws needs to be simplified.

28. The proceedings of the first day of the Conference ended with the announcement of four Committees to deliberate on the agenda items in detail on the second day of the Conference.

29. The Conference deliberated upon the agenda items in the following four Conference Committees:-

- (i) Conference Committee on “Strengthening of Labour Laws and its effective implementation to prevent violations”;
- (ii) Conference Committee on “Payment of Bonus Act, 1965”;
- (iii) Conference Committee on “Contract Labour (R&A) Act, 1970”; and
- (iv) Conference Committee on “Measures to improve employability of the Youth”.

30. The deliberations in the above noted four Conference Committees continued on 28<sup>th</sup> April, 2007 at ICAR Complex, New Delhi. The summary record of discussions and conclusions adopted by the respective Conference Committees are attached as Annexure I to IV. The inaugural address by the Hon’ble Prime Minister and the speech of the Hon’ble Minister of State for Labour & Employment are attached at Annexure V & VI respectively. The list of participants is at Annexure VII.

I. **SUMMARY RECORD OF DISCUSSIONS BY THE CONFERENCE COMMITTEE ON “STRENGTHENING OF LABOUR LAWS AND ITS EFFECTIVE IMPLEMENTATION TO PREVENT VIOLATIONS.**

The deliberations of this conference committed were held under the Chairmanship of Shri P.K. Gurdasan, Hon’ble Labour Minister of Kerala, Dr. Ashok Sahu, Economic Advisor and Smt. Gurjot Kaur, Joint Secretary, were the member secretaries of this conference committee.

2. The Chairman of the Conference Committee Shri Gurdasan in his opening remarks opined that large-scale violations of the Labour Laws are taking place in the country. He specifically named ESI Act, 1948, EPF Act, 1952, Payment of Gratuity Act, 1972, Payment of Wages Act, 1936 and Provisions related to Employment of Women. Which are frequently being violated. He also observed that due to very limited protection for unorganised sector workers most violations are taking place in this sector. He welcomed all Members of the Conference Committee and requested Members Secretaries to initiate proceedings.

3. Shri Hasubhai Dave, BMS said that globalization had impacted both the workers and the employers. Considering that consensus was difficult, the objectives of labour laws could be achieved only through compromise and consultations. Besides, proper implementation of labour laws could not be ensured even if the laws were made more stringent because of the lacunae in the implementation machinery. He also mentioned that Labour Courts did not have direct recovery power, although the National Commission on Labour had recommended giving them such powers. He did not support the ‘hire and fire’ policy, the system of self-certification to obviate ‘inspector raj’ or any compromise with the Factories Act, 1948. He also suggested that a comprehensive Act be made, as at present definitions of employer, establishments etc. were different under different Acts.

4. Shri G. Ramanand, AIMO, stated that existence of a large number of Labour Laws necessitated undertaking labour law reforms to weed out the old dysfunctional laws. Highlighting the lack of uniformity in definitions in different Acts, he emphasized upon the need for their unification and harmonization and for reducing unnecessary State intervention in industrial relations and other legislations. He also drew attention to procedural inefficiencies, which adversely affected Indian business.

5. Shri R.K. Purkayastha, Labour Secretary, Government of Sikkim, argued in favour of transferring “Labour” as a subject from the Concurrent List to the State List. He felt that the Central Government made legislations and placed the burden of

their implementation on the State Government. For effective implementation of labour laws, States should have necessary flexibility.

6. Shri K.K. Nair, INTUC, said that laws were made after due application of mind and, therefore, once enacted they should be implemented. The laws instead of being punishment oriented should aim at finding solutions to the problems of both workers and employers. For this he suggested sincere negotiations amongst all partners. It was for the inspectors to implement all the Acts and to see that both workers and employers were happy. He recommended empowering Labour Enforcement Machinery by giving them adequate infrastructure and facilities. He also felt that since there was a plethora of laws, their implementation in the large-scale sector should be concentrated upon, at the first instance.

7. Shri D.L. Sharma, CII, said that simplification of laws and reduction in their numbers would facilitate their implementation. He suggested specific legislations to address the needs of seasonal industries like Textiles. There should be flexibility for employment of women workers in all shifts and for allowing workers to work for longer hours during peak time. In view of the growing use of new technology and computerization, the requirement for filing a large number of returns/reports should be re-looked at. He also suggested adoption of uniform definitions of wages, worker etc. in various Acts. Keeping in view the need for quick response to the rapidly changing needs at the shop-floor level, he urged for amendment in Section 9A of the ID Act, 1947. He also requested for a re-look at the need for appointment of a Safety Officer and Medical officer.

8. Shri Ramesh Khanna, Labour Secretary, Government of Tamil Nadu, felt that simplification of laws was a part of strengthening them. This had already been done in Tamil Nadu in respect of the Factories Act. He, however, favoured more stringent penalties for violations and suggested increase in the number of Labour Courts. His other suggestions included - resolving the issue of different definitions under different Acts; introducing training for enforcement machinery; permitting self-certification in all cases except for hazardous industries; and encouraging e-filing of returns.

9. Shri Tapan Sen, CITU, urged the Government to ensure implementation of the laws of the land, as it is a matter of basic governance and the number of laws or some defects therein did not matter. Payment of minimum wages, regulation of working hours and compensation for more hours of work than stipulated, are basic requirements. Instead of talking about flexibility and doing away with inspector raj, law enforcement machinery should be strengthened. He said that "Labour" should remain in the Concurrent List. He also urged the Government to take action for changes in those Sections of the I.D. Act on which consensus had been reached in the 40<sup>th</sup> Session of the ILC. He also drew attention of the Government to the decision taken in the last ILC meeting that an Act for unorganized sector workers should be brought quickly. The rules relating to labour matters were not in conformity with main Special Economic Zones Act and should be dropped. He

supported consolidation of labour laws, system of joint inspection for monitoring of implementation of labour laws at different levels and making the provision for penalty and punishment for violation of labour laws more stringent but opposed the system of self-certification and granting exemption to any establishment from the purview of any labour law either on employment or income consideration.

10. Shri Vishram Jamdar, Laghu Udyog Bharti, said that strengthening of labour laws should imply corresponding strengthening of the implementation machinery. One of the reasons for the poor implementation of labour laws was that labour inspectors were over burdened, as they had to visit a large number of units of which a majority were small and micro units. If a separate law was made for SSI and micro units and ambiguities in laws on ESIC and minimum wages were removed, work pressure on the administrative machinery could be considerably reduced. He said that SSI units worked like a family and generally paid more than the minimum wages in order to retain their people. He drew attention to the ambiguities in the definition of 'workers' under various Acts and pointed out that services rendered by ESIC were not adequate.

11. Shri Diwan Chand, Labour Secretary, Government of Goa said that strengthening of labour laws and their effective implementation were inter-linked. There was a need to remove ambiguities in definitions under various Acts, particularly in respect of 'wage' and 'workmen'. While he supported Hoda Committee's recommendations relating to joint inspection, which could be through statute or by recommendation, he did not agree with the recommendation of third party inspection. His suggestions included providing for the principle of 'equal wage for equal work' in the Contract Labour Act; continuation of contract labour even when contractor changed; absorption of contract labour subsequent to abolition of contract labour through tripartite agreement; accountability of inspectors while certifying rather than self certification; introducing training and rewards for inspectors; use of modern gadgets for monitoring labour law implementation (for e.g. SMART cards that had information on about 24 parameters as being used in the State of Goa); and adoption of relief oriented approach instead of procedure oriented approach in the matter of inspection.

12. Shri Thampan Thomas, HMS, endorsed the suggestions made by Labour Secretary, Goa. He said that variations in minimum wages encouraged migration of labour. He, therefore, favoured a national minimum wage applicable all over the country. As regards contract labour, he was of the view that apart from the equal wages for equal work, the contract labour should get something extra to compensate for lack of security of job. 'Labour' as a subject should continue to be in the Concurrent List. He agreed that the number of labour laws should be reduced and urged the Government to identify core Labour Laws which should be concentrated upon. He also favoured having common definitions and strengthening of enforcement machinery.

13. Shri Srinageswar, CIE, said that the existing labour laws already had penal provisions; hence, there was no need for further strengthening of labour laws. There was a need for their effective implementation and some time limit could also be laid

down for giving justice to the workers. He suggested categorization and codification of offences. He favoured self-certification and urged the Government to play a proactive role in educating the stakeholders so that there is an effective change of heart.

14. Shri Kashmir Chand, Labour Commissioner, Himachal Pradesh, agreed that the laws had to be implemented and for this he suggested that existing fines/penalties be enhanced and workers and employers be educated. He felt that CBWE had to upgrade its functioning.

15. Shri D.L. Sachdeva, AITUC, felt that ambiguity in definitions under various labour laws was not responsible for their violation. It was not the enforcement machinery but the Government administration, as in the case of Liberty Shoes, Honda etc., which was responsible for violations. He favoured joint inspection and monitoring but disagreed with third party inspection and self-certification. His suggestions included - amendment of Section 10 of the Contract Labour Act to provide for automatic absorption after abolition notification; making a provision in the Act itself for "equal wages for equal work" in respect of contract labour; continuing the workers even when the contractor changed and strengthening of Labour Laws.

16. Shri Michael Dias, CIE, said that most of the existing laws were judge-led laws. Since the outlook of the Courts themselves was changing, there was a need to rationalize and simplify labour laws. He advocated common definition of 'workers' in all Acts. He felt that there were two kinds of violations – procedural violations and substantial violations. While the latter required to be handled heavily, procedural lapses deserved a separate treatment. He supported the idea of self-certification. In case there is any shortcoming, the employers should be given adequate time for rectification. The Inspection Book provided in Statutes need to be given due sanctity so that future inspections do not revisit earlier observations recorded therein. If the Government believed in liberalization, privatization and globalization, it was essential to make laws more friendly rather than holding on to legislations, which were as old as 1923 or 1947.

17. Shri M.N. Siddiqui, Director (Factories), Government of UP, said that recommendations of Hoda Committee should not be looked at separately but be implemented as a package. He informed that the Government of UP had already issued orders in March for self-certification. Employers had to submit a compliance report every year. Verification of 20% of units would be done. The State Government would issue a green card implying no inspection for 5 years, in respect of compliant units.

18. Shri K. C. Chakraborti, UTUC (LS) said that justice had to be ensured for the working class. There was a need for attitudinal change of the implementation machinery. He, therefore, recommended changing the recruitment procedure of inspectors. Police should not interfere where rights of workers were concerned. He also suggested that while workers should be educated about their rights, the employers should be made aware of their obligations.

19. Shri Shriram Aggarwal, Laghu Udyog Bharti, was in favour of a broad minded approach. Appreciating the work being done by the CBWE in Haryana, he suggested that its scope be widened. This could be used as a good medium for educating both workers and employers. He said that in most cases in the Small Scale Sector, the workers were being paid minimum wages as they worked like a family. He, however, advocated that there should be simpler labour laws for SSIs and micro enterprises.

20. Shri S. Sailo, Commissioner & Secretary, Government of Tripura, said that while the State of Tripura had poor industrial development, it had strong trade unions and implementing machinery. He, therefore, felt that there was no need for strengthening of labour laws and emphasized, instead, upon the need for their simplification.

21. Shri Ashok Ghosh, UTUC, said that violation of Labour Laws was equivalent to violation of human rights. He strongly emphasized upon the need for their effective implementation for the protection of workers. He felt that even a low floor level minimum wage of Rs.66/- was not being implemented throughout the country.

22. Shri P.K. Mukhopadhyay, NFITU, said that despite the existence of large number of Central and State Labour Laws, their violation should be followed by stringent punishment irrespective of the size of the establishment. He advocated the need for abolition of contractor raj.

23. Thanking all the Members of the Group, the Chairman emphasized upon the need to ensure maximum production on the one hand and welfare of workers on other.

#### **CONCLUSIONS:-**

The deliberations led to broad consensus on following points:

- The existing labour laws have to be implemented effectively.
- There is a need for consolidation of labour laws, which would help, in their effective implementation.
- The employers' felt that for the purpose of consolidation; simplification and rationalization of labour laws is imperative. The trade unions felt that in the name of simplification and rationalization, the exercise should not lead to the dilution of protection of workers.
- The implementation of labour laws should be overseen by bodies of tripartite nature both at the Central and State levels.
- The implementation machineries both in the Central and State Government need to be strengthened. They may be provided with adequate manpower, modern gadgets and there should be suitable training/reward/motivation to facilitate them.

There were discussions on the other issues on which there was no consensus:-

- The workers' side felt that there should be joint inspection and monitoring of implementation of labour laws at different levels. They proposed doing away with the system of self – certification; ban on granting exemption to any establishment from the purview of any labour law; universal application of labour laws to all establishments without any restriction based on employment and income stipulation; bringing the informal sector workers under the umbrella of labour laws governance; provision for penalty and punishment for violation of labour laws should be more stringent.
- The Employers' side felt that – with respect to violation, prosecution and penalty, government needs to distinguish between procedural and substantive violations. Accordingly, punishment commensurate with the gravity of the violation needs to be considered. Self-certification was considered as an acceptable model provided adequate checks and balances are put into place. The Inspection Book provided in statutes needs to be given due sanctity so that future Inspections do not revisit earlier observations recorded therein. Finally, employers' representatives felt that in the new economic era of liberalization, privatization and globalisation, a change of mindset by all the stakeholders needs to be considered.

The above-mentioned conclusions were presented by Dr. Ashok Sahu, Economic Adviser & Member Secretary of the Committee in the Plenary Session and were adopted by the conference.

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**II. SUMMARY RECORD OF DISCUSSIONS BY THE CONFERENCE COMMITTEE ON "PAYMENT OF BONUS ACT, 1965"**

The Conference Committee on Payment of Bonus Act, 1965 was chaired by Shri R P Singh, General Secretary, INTUC. Dr. Harcharan Singh, Deputy Director General, Ministry of Labour & Employment was the Member Secretary.

2. The Member secretary initiated the deliberations by giving details of the amendments proposed to raise the calculation ceiling from Rs. 2500/- per month to Rs. 3500/- per month and eligibility ceiling from Rs. 3500/- per month to Rs. 7500/- per month as recommended by the 2<sup>nd</sup> National Commission on Labour and as deliberated by the 40<sup>th</sup> session of ILC. The Chairman and Member Secretary laid down the order of speaking: the Workers group would speak first, followed by the Employers and then the Government side.

3. The Worker's side wanted to discuss not only hiking of the ceiling but also other issues relating the Payment of Bonus Act, 1965. However, the Employer's side wanted the discussion to be confined to the proposed amendments.

4. The Member-Secretary also apprised that the rise in the eligibility has become necessary, as the eligibility limit was revised w.e.f. 1.4.1993 when the All India Consumer Price Index (AICPI) for industrial workers (base 1982=100) for March, 1993 was 243. At present, the AICPI – Industrial workers (base 2001 = 100) for December, 2006 is 127, which works out to be 588 (base 1982=100), by taking into consideration the conversion factor of 4.63. This indicates the increase by 2.42 times in the cost of living and so the increase in eligibility for ceiling of Rs. 3500/- comes to Rs. 8469/- or Rs. 8500/- p.m. On the other hand, if the increase in AICPI (1982=100) at 481 in July, 2002 (just after the submission of the 2<sup>nd</sup> NCL report) to 588 in December, 2006 is taken into consideration, the eligibility ceiling works out to be Rs. 9168/- or Rs. 9200/- p.m. Hence, the rise in eligibility ceiling to Rs. 10,000/- per month can be considered. However, the calculation ceiling at Rs. 3500/- may not be considered for further increase, as it would involve a large financial implication for the government and other stakeholders.

5. Shri Kali Gosh, Secretary CITU, emphasized that minimum bonus of 8.33% is deferred wage and as per practice it is customary bonus that is being paid in India. Since bonus is based on a specific formula on allocable surplus, the concept of maximum and minimum ceilings is unnecessary as total allocable surplus is to be distributed to all the eligible employees. As bonus is in the interest of the employees, there should not be any limit; total allocable surplus is to be distributed as per the provisions contained in the Payment of Bonus Act, 1965. However, he stated that the employees would be very happy if the minimum bonus is fixed at 10%. He said that the gap between actual wages and living wages is widening which necessitates increasing minimum bonus to 10%. He also mentioned that in many profits making

companies & MNCs the bonus ceilings are negotiated. He also suggested that section 2(13) of the Payment of Bonus Act, 1965 be amended so as to include contract workers in the definition of the employee. Simultaneously section 32(vi) should also be deleted which exempt contract workers engaged in building construction from the purview of Payment of Bonus Act, 1965. He also wanted the amount of minimum bonus of Rs. 100/- mentioned in the Act to be changed to Rs. 1000/-. State and Central Government should be given power to amend the Act by way of notification.

6. Shri G. Ramanand, representative of All India Manufacturers Organisation (AIMO), wanted that Payment of Bonus Act, 1965 should be followed in true spirit in which it has been enacted. He mentioned that if bonus is treated as deferred wages, it become part of wages. He was against increasing the ceilings as it would lead to industrial strife and if the total amount of allocable surplus is distributed to higher number of the employees thereby decreasing the amount of bonus that was being paid to the eligible employees so far. He expressed his apprehension that raising the ceilings will lead to inflation in the economy. This was countered by the employees' side, which stated that even without increasing the bonus ceilings inflation is raising.

7. Shri S. P. Kukroty, Deputy Labour Commissioner, State Government of Uttarakhand informed that most workers are at present out of the purview of the Payment of Bonus, 1965, as they have crossed the eligibility ceilings of Rs. 3500/- p.m. He suggested that for maintaining industrial peace, the ceiling should be raised. He also wanted Section 16 of the Payment of Bonus Act, 1965 to be liberalized.

8. Shri H. Mahadevan, AITUC, stated that employees don't agree to the proposed amendments because all those people, who were earlier covered by the Payment of Bonus Act, are now not eligible to receive bonus. More that 80% of the employees are not getting bonus whereas if the objective of the Payment of Bonus Act as enacted in 1965 is taken into consideration all employees should have been given bonus. The erosion in money value also necessitates increasing the bonus ceilings. He wanted all employees of all establishments, whether profit making or otherwise must be paid minimum bonus because of the fact that some companies are profit making and some are profit showing. He brought to the notice of the committee that all non-gazetted employees of the Central Government are being paid bonus irrespective of their salary. In 1965, when the Payment of Bonus Act was enacted even managers of Public Sector Undertakings were getting bonus whereas now even un-skilled workers are not eligible to receive bonus. He mentioned that Rs. 3500/- per month as eligibility ceiling is inadequate. At least one month's wages should be given as bonus. He also wanted contract labourers engaged in building operations to be covered by the Payment of Bonus Act, 1965. He wanted the allocable surplus formula to be stooped and provision of the Full Bench Formula (LAT) to be used for making of Payment of Bonus. All contract workers irrespective of the work they do should be covered under the Payment of Bonus Act; in consonance with the original objective of the Payment of Bonus Act, 1965. At present nobody is following Payment of Bonus Act and bonus is being paid through negotiations. This shows that employers are willing to pay bonus and are in fact paying competitively.

He suggested lower ceilings could be Rs. 5000/- to 6000/- per month with proportionate maximum ceilings.

9. Shri Pritpal Singh Betaab, Labour Commissioner, State Government (J&K) said that J&K State is industrially backward because of militancy. The State Government is however, agreeable to the proposals of enhancing the calculation/eligibility ceilings to Rs. 3500/- and Rs. 7500/- respectively.

10. Shri A.D. Nagpal, Secretary HMS, mentioned the proposed ceilings are not acceptable as the Second National Commission on Labour submitted its report in 2002 and many years have passed since then. The ceilings proposed have no relevance now. There is no limit in the bonus paid to employees of Railways and Post and Telegraph. Even in the private sector most of the employees have crossed the limit. The employees unions have demanded minimum wages for the lowest level of Government functionary to Rs. 10,000/- from the 6<sup>th</sup> Pay Commission and so the eligibility ceiling should not be less than Rs. 10000/-. He also wanted contract workers engaged for building operations may be included in the Bonus Act and amount of Rs. 100/- mention in the Act to be hiked reasonably.

11. Shri T.M. Jawaharlal agreed to the proposals to increase calculation ceilings from Rs. 2500/- per month to Rs. 3500/- per month. However, he expressed the concern of the industry to increase the eligibility ceilings beyond Rs. 7500/- per month. He wanted loss making units, micro and SSI units to be exempted from the Payment of Bonus. He mentioned that fluctuating bonus amount would cause problem, as employees are not willing to accept lower amount of bonus during a year compared to what was granted during the proceeding year. He mentioned that the employers are ready to agree to the proposals if loss-making units are exempted from Payment of Bonus Act, 1965.

12. Shri Girish Awasthi, President BMS, wanted contract workers engaged in building operations to be covered under the Payment of Bonus Act, 1965. He wanted Rs. 7500/- to be hiked to Rs. 10000/- for eligibility of bonus. In profit making industry there should be no ceilings and in other industries the upper limit should be Rs. 10,000/-. There should be no ceiling for contract workers and calculation should also be on actual wages.

13. Shri Bagra B. L, Director (Ministry of Mines), agreed to the proposed amendments and stated that whatever is agreed upon in the 40<sup>th</sup> session of the ILC should be implemented without wasting any time. As 20% of profit is being paid as dividends, the maximum amount of bonus at 20% should continue and this should not be hiked so that the PSU are not forced to seek budgetary support from the Government.

14. Shri Ashok Singh, Vice President (INTUC), stated that everybody has right to share profit and ceilings available now should be removed. He wanted old formula

(LAT) should also to be used for Payment of Bonus. He mentioned that more than 50% of the workers are employed as contract labourers but are not getting bonus even though they are contributing towards industrial growth.

15. Shri Achintya Sinha, All India Secretary, UTUC, mentioned that if there was consensus in the 40<sup>th</sup> session of the ILC, this item should not have been included in the agenda for the 41<sup>st</sup> session of the ILC. He stated that there was no consensus in the 40<sup>th</sup> session of the ILC and UTUC has sent a rejoinder on the minutes of the 40<sup>th</sup> ILC. He mentioned that all workers who are entitled for bonus and all establishments' irrespective number of the employees should be covered. In the present scenario any establishments in the IT sector can earn crores of rupees even with the help of five employees and so they should also be entitled for bonus. He mentioned that contract labour Act gives all benefits to contract workers. Payment of Bonus should be one of the conditions of the license of the contractor. He stated that calculation ceiling to be removed. He mentioned that if price index is taken into consideration the minimum and maximum bonus should be hiked 15 times, to what was available in the original Act in 1965. Ceilings should be enhanced based on formula and price hike from thereon.

16. Shri Jitendra Gupta, Laghu Udyog Bharti, wanted micro units to be exempted from Payment of Bonus Act, 1965 and the maximum ceiling should not be further hiked. He also desired that the applicability of the Payment of Bonus Act, 1965 may be linked in respect of micro and small scale industries/establishments with investments up to Rs. 25 lakhs and Rs. 150 lakhs respectively instead of 20 or more workers as at present.

17. Shri Mohammed Amin, CITU mentioned that actual financial condition of the industry is not transparent. He also wanted ceilings to be removed and emphasized that whole issue needs to be seen in fresh prospective.

18. Shri H. Mahadevan, AITUC, wanted Section 20 of the Act to be amended so as to include all PSUs in the Payment of Bonus Act, 1965. He was also of the view that procedures for recovery of minimum bonus should be simplified.

19. Shri A.A. Khan (Additional Labour Commissioner of UP) was of the view that there should be no restrictions and bonus should be given to all workers. It is an incentive and all workers contribute to the profits of the unit. At present the bonus paid amounts to only 5 to 7% of the company's profits, so if the ceilings are increased it will not affect profits of the company. All loss making units should however continue to pay 8.33% minimum bonus. He also mentioned the UP Government have already hiked the eligibility ceilings in certain industries from Rs. 3500/- to Rs. 5500/-. He also mentioned that contract labour should be paid bonus from the party from which it gets wages, as all contract labourers are covered by the Payment of Bonus Act, 1965. He wanted the proposed amendments to be implemented at the earliest.

20. Shri Kali Gosh further said that since contract workers are engaged for production they should be paid bonus by the principle employers.

21. Shri Girish Awasthi stated that as wages and DA are calculated on Consumer Price Index ceilings should also be calculated on Consumer Price Index and revised accordingly.

22. Shri Jawaharlal was of the view that discussion should be confined to the agenda and other items/issues should not be brought up. The employers are willing to pay bonus to directly employed contract workers and not to those employed indirectly by the contractor, which is not proper. He also wanted proposal of Rs. 7500/- to be brought down.

23. Shri Oscar Fernandes, Minister of State Labour and Employment, (independent incharge) intervened during the deliberations and mentioned that profit making establishments are paying much more than what is mentioned in the Act. He wanted the committee to suggest if the ceilings can be removed in case of profits making units under the ambit of the Payment of Bonus Act, 1965. This issue can be confined to private sector employees.

24. Shri Jawaharlal was of the view that if the eligibility ceilings is hiked and number of the employees eligible for bonus is increased the total out go would be higher, as bonus to senior employees will be higher than that of all lower placed employees. He suggested that such a big jump should not be taken and this issue should not be deliberated, as it will lead to industrial strife.

25. Member – Secretary informed the committee that Section 32(vi) can be removed so as to provide for the contract workers (who are engaged in building operations) for entitlement to bonus, which was agreed by all the stake holders in the present committee.

26. Shri B.N. Mahapatra, Executive Director, Ministry of Railways stated that in the productivity linked Bonus adopted by Railways, all non-gazetted employees are getting bonus. He stated that ceilings have become irrelevant, which should be revised appropriately.

A drafting committee was constituted with the following:-

1. Shri Girish Awasthi, Bharatiya Mazdoor Sangh (Employee Side)
2. Shri T.M. Jawaharlal Secretary, E.F.S.I (Employer Side)
3. Shri A.A. Khan (Additional Labour Commissioner, UP)

## **CONCLUSIONS:-**

The Drafting Committee drafted the deliberations of the committee, which was presented to the plenary session. In the plenary session the employees side agreed to leave the decision regarding hiking the eligibility ceilings from Rs. 7500/- per month to Rs. 10000/- per month to the chairman of the 41<sup>st</sup> ILC. The report of the Drafting Committee as accepted in the plenary session is as under:

2. Considering the recommendation made by Second National Commission on Labour regarding Payment of Bonus and subsequent discussions in previous Indian Labour Conference, and the views expressed by the members, the Committee considered various alternatives:

1. Central Trade Unions are of the firm view that there should be higher rates of payment of bonus for those organisations, who are in a position to pay and there should no ceiling either on coverage or on the calculation. However, with a view to reach a consensus the Central Trade Unions expressed their acceptance to the ceiling on the rate of Rs.3, 500/- per month in place of Rs.2, 500/- per month and the coverage to Rs.10, 000/- per month in place of Rs. 3, 500/- per month.
2. The Central and State Government representatives have also suggested for enhancing the eligibility ceiling to Rs.10, 000/- per month and calculation ceiling to Rs.3, 500/- per month.
3. Employers' representatives have agreed for the calculation limit to be enhanced to Rs. 3, 500/- per month and emphasized for increasing the eligibility ceiling Rs.7, 500/- per month per month limit as recommended by the 2<sup>nd</sup> National Commission on Labour. However, Employees' Organisations agreed that the increase in eligibility ceiling further from Rs. 7,500/- per month to a suitable level or to Rs.10,000/-, as agreed by the Central Trade Unions and the Central/State Governments, maybe decided by Hon'ble MOS(IC), Labour & Employment.
4. It was agreed that the Contract Workers engaged at Building constructions, who are not covered now, should be covered under the Payment of Bonus Act.
5. It was also agreed that the amendment to the Payment of Bonus Act, 1965 should not be made applicable retrospectively.

The following items have been suggested for further discussions:-

1. Recovery procedures for minimum bonus payment to be simplified.

2. All employees to be covered under the Payment of Bonus Act without any ceiling for eligibility.
3. Bring in amendment to include all industries irrespective of the number of employees.
4. The linking of the applicability of the Payment of Bonus Act, 1965 in respect of micro and small scale industries / establishments with investments up to Rs. 25 lakh and Rs. 150 lakh respective instead of 20 or more workers as at present as per the views expressed by Laghu Udyog Bharti.
5. Suggestion to include non-competitive Public Sector Undertakings under the purview of the Payment of Bonus Act by amending Section 20 of the Act.

The above-mentioned conclusions were presented by Dr. Harcharan Singh, Deputy Director General and Member Secretary of the Committee in the plenary session and these were adopted by the conference.

**III. SUMMARY RECORD OF DISCUSSIONS BY THE CONFERENCE COMMITTEE ON “CONTRACT LABOUR (R&A) ACT, 1970”**

The Conference Committee on Contract Labour Act, 1970 was chaired by Shri S. Krishnan, Additional Secretary, Ministry of Labour and Employment Government of India with Shri Anil Swarup, Director General Labour Welfare as Member Secretary.

**Views of the Workers’ Group**

Keeping in view the essence of the Contract Labour Act to abolish contract labour wherever possible and practicable, the Act needs to be amended to ensure the following basic requirements for strengthening the regulation part:

- (1) The Principal employer should be held responsible for implementation of all labour laws for the contract workers including maintenance of employment register, submission of annual returns to labour department, PF, ESI and other social security measures and workmen’s compensation. Any violation of those laws should attract stringent punishment on the principal employers. Section 23 and 24 of the Act to be amended accordingly.
- (2) Regularization of contract workers deployed in permanent/perennial jobs in the permanent roll of the company. Appropriate legislation to negate the impact of the Supreme Court Judgment in SAIL case, in setting aside its own judgment (Air India case).
- (3) A separate Inspectorate with adequate manpower has to be established in all states only for the purpose for inspection of the contract-employment related matters. Tripartite mechanism to be evolved both at National and State level to monitor the same.
- (4) Payment of the minimum wage prevalent in the company/establishment to the contract workers of the said company.
- (5) Even if contractor changes, the contract workers engaged by previous contractor should continue to be deployed without any interruption and change in service conditions: this provision should be incorporated as a condition in the tender to be invited for appointment of contractors.
- (6) Outsourcing should be treated as contract and be covered by the legislation.



## **Views of the Employers' Group**

The issue needs to be addressed in the present context of globalization and liberalization of the Indian Economy and its path of transition from a developing to a developed economy at the quickest of possible pace. A little bit of background is touched upon as follows –

(1) Outsourcing is a phenomenon which is driving economies and industries world over and India, as a country, is also a beneficiary of this in as much as a tremendous amount of employment creation in various sectors has taken place through outsourcing of jobs from overseas countries;

(2) The present growth of Indian economy is driven primarily by the infrastructure sector growth, which has its own peaks and valleys. In order to meet the demand and reconcile it with the need for creating additional jobs to provide employment to the teeming millions of young boys and girls, it is necessary for Industry to have a flexible approach in terms of its capability to meet this demand. This flexibility calls for specialized skills, which are not readily available, and outsourcing/contracting has to be depended upon. Moreover low-end jobs carried out by specialized agencies in organized sector improve the efficiency and effectiveness of the activities thus outsourced. Such workers though fall under contract labour are covered for most of the social security benefits.

(3) In the global and liberalized economy, with import competition driven by zero or nominal rate of duty industry has to be competitive. This calls for increased flexibility and improved productivity.

(4) There are no. of specialized jobs where highly skilled manpower is needed sporadically by different industries at different points of time, which are provided by specialized agencies; Such jobs are like critical welding, precision machining, high-end fitting, high voltage electrical systems, automation and instrumentation, where there is so much of shortage of manpower and astronomical level of labour remuneration these jobs can only be done by specialized contractors who work for different industries at different point of time and principal employer has no control over them.

### **SUGGESTIONS:-**

The employers' group is generally in agreement with the Hon'ble Minister's views that something need to be done to prevent exploitation of contract labour, although employer's feel that such cases are very small in no., the following suggestions are put forth by the employers' group, which could be a logical answer to the concerns of the government and the trade unions.

(a) A national level minimum wage depending upon the socio-economic condition of different regions, may be notified, which would be applicable to all sections of workers, including unorganized workers all over the country; the contract workers should be mandatory covered by this minimum wage.

(b) All the contract workers who are eligible to be covered under the EPF Act and ESI should be so covered and it may be stipulated that principal employers' may deduct appropriate amount of the contractors' bills and pay directly to the concerned authorities to ensure that the contractor does not have any temptation to hold back or delay in deposit of the PF/ESI amount;

(c) The principal employer should ensure coverage of the eligible persons under the ESI Scheme and take all reasonable steps including binding the contractor, to ensure this compliance;

(d) The Principal Secretary, Labour, West Bengal made a suggestion that some fund could be created constituting with some contribution from the employers and the contractors and the their workers which will take care of the long term gratuity of the contract workers; The employers feel that this is a very noble suggestion and should be considered; A small tripartite group can be constituted to examine and deliberate on this idea further.

2. The employers' group sincerely hopes that there will be a consensus on this very pragmatic approach by the employers' group and we should take this forward.

#### **CONCLUSIONS:-**

After deliberating on a number of issues relating to the Contract Labour (Regulation & Abolition) Act, 1970, the Group came to the consensus that there was a crying need to prevent exploitation of contract labour. It was felt that the provisions of the Contract Labour Act and Rules made thereunder should be implemented in letter and spirit and the regulatory mechanism further strengthened to ensure that the provisions of the Act are not flouted.

2. It was pointed out that there were a number of specific locations where conditions of contract labour was pathetic. It was also pointed out that in some other locations, the contract labour and their interests were being looked after very well. The Group came to the conclusion that the Government should document such cases and, if possible, sensitize representatives of stakeholders to such situations so that further constructive progress could be made.

3. All the contract workers who are eligible to be covered under the EPF and ESIC Act should be so covered and it may be stipulated that principal employers may deduct appropriate amount of the contractor's bills and pay directly to the authorities concerned to ensure that the contractor does not have any temptation to hold back or delay in deposit of the requisite amount.

4. In order to examine the issue relating to grant of gratuity to contract workers, the Group recommended constitution of a Tripartite Committee.

The above-mentioned conclusions were placed before plenary session and these were adopted by the Conference.

**IV. SUMMARY RECORD OF DISCUSSIONS BY THE CONFERENCE COMMITTEE ON  
“MEASURES TO IMPROVE EMPLOYABILITY OF THE YOUTH”**

Mr. Vineet Virmani, Chairman of Expert Committee on HRD, ASSOCHAM, New Delhi chaired the committee and Mr. Sharda Prasad, Director General of Employment and Training and Joint Secretary, Ministry of Labour and Employment, New Delhi was the member-secretary.

2. Chairman welcomed the members and briefed them about the issues raised in the agenda. He stated that the issue is very important keeping in view that India has younger population as compared of ageing population of rest of the World. The young generation is always considered as productive assets for the country. If this generation is equipped with proper skills, it will become more productive. He further stated that Govt. has given due attention on this important subject and accordingly the issue is being discussed here in tripartite forum. Shri Sharda Prasad, member-secretary, mentioned following important issues:-

3. Lower percentage of skilled persons in the workforce - only 5% of the Indian labour force in the age group of 20-24 has received vocational training through formal institutes whereas the percentage in industrialized countries is much higher, varying between 60% and 96%.

- Lower Labour Productivity - Labour productivity of an Indian worker in US \$ is 3.05 per worker per hour while in most of the developed economies, it is more than US \$ 30.
- Huge demand for vocational training for school drop-outs.
- New entrant to labour force - On an average, about 12.8 million persons joins labour force every year, whereas only about 2.5 million training seats are available.
- Need to focus on the skills for the informal sector. The largest share of new jobs in India comes from the unorganized sector that employs around 93 per cent of the national workforce whose training needs are largely untouched by the training system.

4. He further stated that unskilled labour force is not a healthy situation for the country. He informed that presently 107 trades are covered under CTS being implemented through ITIs which may be increased to 2000 covering all sector of economy. He also stated that there is a need to remove mismatch i.e. skill produced should match with skill required by the industry. He intimated members about the initiative taken by Govt. to improve quality of training by upgrading 500 ITIs (100 from domestic funding and 400 from World Bank Assistance) and World Bank has agreed to provide loan of Rs. 1581 crore for the purpose. He also mentioned the announcement made by FM during Budget Speech 2007-2008 regarding allocation of Rs 3500 crore for up gradation of 1396 Govt. ITI. (2.5 crore per ITI).

5. The forum was opened for discussion after the opening remarks of the Chairman and member-secretary. Gist of issues raised by the representatives of Workers' Organizations, Employers' Organizations and State Governments are mentioned below:-

**Issued raised by representatives of Workers' Organization:**

- Shrinking job scenario in the country. Large number of educated youth registered with employment exchange. Coal & Steel are examples of sectors where highly skilled persons are unemployed.
- Need to identify the areas where employment would be available.
- Active role should be played by two councils set up by the M/o Labour & Employment to address issues relating to skill building.
- The productivity of Indian workers can not be compared with the productivity of workers of developed country keeping in view their working environment.
- Workers in unorganized sector do not have time for their skill training as they have to work whole day to earn their living.
- Industry is adopting new technology. There is a need to identify new skill areas before introducing training programmes.
- Highly Skilled work force is going abroad. Need to look into the issues behind such brain drain.
- Public Private Partnership is not possible in Small Scale Industry. Only large scale industries can deliver in PPP mode.
- New trade areas should be identified in tripartite way for training & Govt. should formulate proper scheme for training in such trade areas.
- Vocational training must start right from the school level. Centre, State Govts. and Industry must come forward together to accomplish this task. Effective PPP model / tripartite model must be developed.
- Policy should be evolved for employment of those workers who are skilled but unemployed for some reason or the other.
- Investment in the agriculture sector as well as in informal sector must be made in a big way in order to create more employment opportunities to stop migration to urban areas.
- Occupational Safety and Health (OSH) may also be included in the course curriculum of ITIs.

### **Issued raised by Employers Organization**

- Quality of instructor need to be upgraded.
- There should be an academic connect between Industry & institute.
- Skills of tomorrow need to be identified.
- Quality of training also required to be improved
- Demand for skills in hospitality sector need to be met.
- PPP model in training is should be encouraged
- Training institutes should be given full autonomy.
- There should be provision for change in syllabi as per regional need.
- Change in attitude of Instructor is needed.
- Emphasis should also be on development of entrepreneurship. An entrepreneur can do his own business and in turn can give employment to others.
- Training in ITI is only basic training, which needs to be supplemented with on the job training.
- Review the Apprentices Act, 1961 to make it demand responsive. Increase the number of trades for apprenticeship training and number of establishments to as many as possible.
- Part of 3% cess on education should be defrayed to pre employment / vocational institutional training.

### **Issues raised by State Governments**

- Training program in new areas, which provide the maximum number of jobs, should be started like Hospitality, Tourism, Retail, Food Processing, Nursing, Construction, Textile, etc.
- Training in soft skills, like communications, attitudinal development, entrepreneurial development and computerisation, teamwork, etc.
- Adoption of ITIs by Industry for improving their quality.
- Present training need to be strengthened & made demand driven
- Training & retraining of Instructors
- Competency based training.
- Training system need to be more flexible.
- Literacy level need to be improved.
- Competency based Certification system

- Capacity of training needs to be increased for raising the trained work force from 5% to 50%
- ITIs should develop CoE for more than one sectors.
- Serious efforts must be made to upgrade the quality of Instructors.
- Instructor training institutes at State level need to be opened. DGE&T may consider grant of Affiliation to such institutes.
- Seating capacity in different trades in ITIs may be increased by 25%.

### **CONCLUSIONS:-**

After detailed deliberations, following conclusions were drawn with consensus among representatives of workers' organizations, employers' organizations, central and State Governments.

1. More than 50% population of the country is below the age of 25 years. India is said to be the youngest country while the rest of the world has either aged or aging population. We must, therefore, make maximum use of this demographic dividend.
2. Make youth productive by providing employable skills both for wage and self-employment.
3. Vocational training must start right from the school level. Centre, State Govts. and industry must come forward together to accomplish this task. Effective PPP model / tripartite model must be developed.
4. Include emerging employment potential trades in vocational training fold – Hospitality, Tourism, Retail, Food Processing, Nursing, Construction, Textile, etc., which provide the maximum number of jobs. Increase the number of trades under Craftsmen Training Scheme (CTS) from 107 to as many as feasible.
5. Review the Apprentices Act, 1961 to make it demand responsive. Increase the number of trades for apprenticeship training and number of establishments to as many as possible.
6. Modular approach should be adopted for multi-skilling of workers.
7. Quality improvement in training must be made by augmenting existing infrastructure in the ITIs.
8. Develop system of forecasting of employment opportunities at micro level through demand mapping.

9. Develop large number of training institutions by creating a suitable policy mix and improve quality of training to the international standards.
10. Develop training courses for the trades in the informal sector.
11. Make training demand responsive in consultation with the industry and trade bodies.
12. Increase the number of institutions for training of Instructors to take care of the emerging needs and improve their quality.
13. Training in soft skills, like communications, attitudinal development, entrepreneurial development and computerisation, etc.
14. Make NCVT and CAC more effective and assign them the task of monitoring the quality of vocational training. They should meet more frequently.
15. Role of Ministry of Labour & Employment must be strengthened. It must be made nodal Ministry for Vocational Training and Employment.
16. Policy should be evolved for employment of those workers who are skilled but unemployed for some reason or the other.
17. Investment in the agriculture sector as well as in informal sector must be made in a big way in order to create more employment opportunities to stop migration to urban areas.
18. Part of 3% cess on education should be defrayed to pre employment / vocational institutional training.
19. Seating capacity in different trades in ITIs may be increased by 25%.
20. Serious efforts must be made to upgrade the quality of Instructors.
21. Occupational Safety and Health (OSH) may also be included in the course curriculum of it is
22. Review of trades under CTS/ATS be done regularly, and trades which are not relevant should be deleted.

Above mentioned conclusions were placed before the conference in the plenary session by Shri Sharda Prasad, DGET and these were adopted by the conference.



**PRIME MINISTER'S ADDRESS ON THE OCCASION OF THE 41<sup>ST</sup> SESSION OF INDIAN LABOUR CONFERENCE, 2007 AND PRIME MINISTER'S SHRAM AWARDS FUNCTION.**

I am happy to be here at the 41<sup>st</sup> Session of the Indian Labour Conference. I attach great importance to the deliberations of this conference. I would like this conference to create a climate congenial to good industrial relations in our country. Our Government is committed to working with labour and business to create a new era of inclusive economic growth. I urge you all to strengthen our hands in our efforts to speed up the process of industrial development.

I am particularly happy that on this occasion we are presenting the Shram Awards for the year 2004. I offer my greetings and hearty congratulations to all the award winners.

The Shram Awards recognize exemplary commitment and dedication to work. It is said that successful people are not different from others. They only do things differently. Our award winners today are ordinary people who have accomplished extraordinary achievements. Their single-minded pursuit of excellence through creativity and hard work should be a source of inspiration to all their colleagues and comrades. These awards are a way of expressing our appreciation. They should inspire others to also work hard for the welfare of our people, and the progress of our nation.

**Ladies & Gentlemen,**

It is not a coincidence that this year we have chosen to present the Shram Awards at this event. It is our intention to give these awards in the presence of the tallest leaders of our Trade Union Movement, distinguished representatives of business and representatives of Central and State Governments. These three arms form the tripartite edifice of the industrial economy of our country and must work together for the nation to move forward. Each one of the three arms should feel proud that we have among our workers and employees exemplary achievers. Let us all celebrate their achievement together, since we are all the beneficiaries of our nation's progress.

Our labour policy derives its origin, inspiration and strength from the leaders of our freedom struggle and from the ideas of our socially conscious citizens. Our policy reflects the wisdom of the Constituent Assembly, of the Constitution, of the Conventions and Recommendations adopted by the International Labour Conference, as well as the decisions taken in the Indian Labour Conferences over a period of the last six decades. Your Conference has aptly been described as the Labour Parliament of India. It is a confluence of creative forces and energies, the testing ground of tripartite consultations and symbolizes the merits of consensus in decision-making.

**Ladies & Gentlemen,**

The National Common Minimum Programme (NCMP) gives primacy to employment. It is our firm belief that the defining objective of our labour policy should be employment generation and the welfare of the working people. The UPA Government believes in the value of dialogue in the formulation of policy. This forum is meant for such dialogue. I assure you that our Government will work with trade unions and industry to strengthen labour laws to ensure that we meet the twin objectives of employment generation and workers' welfare. I would like our trade union movement to be as committed to the task of generating new employment as it is to the responsibility of protecting the interests of those already working. In the long run, the standard of living of our people is a matter of higher productivity and there are no shortcuts to it. Our system of industrial relations should promote both growth of productivity and a fairer sharing of the gains resulting from rising productivity. We have to create an environment in which all stakeholders have an incentive to be active participants in the management of social and economic change.

To promote new employment we need an environment in which both the Government and the private sector are encouraged to invest. There is much that trade unions and business leaders can do to help us create such an environment. I sincerely believe that if we can provide an environment in which investors feel confident enough to invest, we will be able to generate more gainful employment and promote workers' welfare.

**Ladies & Gentlemen,**

The challenge before us is to ensure that our economy functions at the frontiers of modern science and technology. We have to be receptive to technological change and to the imperatives of modernization to remain competitive in an increasingly integrated global economy.

The experience of countries like China should alert us to the vital role of industrial modernization and technical change. At the same time, I do believe that the cost of modernization and change should not be borne unduly by the working class. It is our solemn duty to protect the interests of workers and of all those seeking work even as we manage change. It is, therefore, necessary to evolve a mechanism to smoothen the process of technological progress. Our industrial relations policy must be sensitive both to the need to absorb new technologies and ensure competitiveness of our firms, as well as the need to create new employment opportunities and protect the interests of the working people.

**Ladies and Gentlemen,**

Our country is passing through a phase in which it is blessed with a large working population. People can be turned from social liabilities to economic assets if they can be gainfully employed. Investment in their capabilities, in workers'

education and training and investment in labour-intensive manufacturing are necessary to promote employment and workers' welfare.

The challenge before us is to increase the skilled workforce from 5% at present to about 50%, which is the norm in developed countries. To make our working people employable, we must create adequate infrastructure for skill training and certification and for imparting training. Industrial Training Institutes must keep pace with the technological demands of modern industry and the expanding universe of technical knowledge.

I hope your Conference would deliberate on this issue of enhancing the knowledge and skills of our labour force, including in the informal sector. The certification of skills acquired through informal means can help increase employability of our working people. Industry must involve itself in every aspect of skill development so that skill creation is demand-driven and relevant to emerging market opportunities.

I commend our technicians, technocrats and engineers whose toil and hard work have put India among the front rank of the nations of the world. I once again compliment the Shram Award winners. I do believe that a better educated, informed and technically qualified workforce and world class and cost effective infrastructure can help Indian industry compete in the global markets and generate more employment opportunities for our working people.

**Ladies & Gentlemen,**

The strength and vibrancy of Government's partnership with workers and employers has withstood the test of time. I am sure that all of us – the Government and its social partners – can work together with an accommodative approach and address the challenges facing the nation. We are all partners in nation building, not adversaries. Let us, therefore, work hard with a greater sense of purpose and renewed commitment to take our nation to greater heights of industrial development.

Thank you.

**ADDRESS BY THE HON'BLE MINISTER FOR LABOUR & EMPLOYMENT ON THE OCCASION OF THE 41<sup>ST</sup> SESSION OF INDIAN LABOUR CONFERENCE, 2007 AND PRIME MINISTER'S SHRAM AWARDS FUNCTION**

Respected Pradhan Mantriji, Smt. Sudha Pillaiji, representatives of employers and Central Trade Unions, Labour Ministers and senior officers from State Governments, representatives of various Ministers of Central Government, Distinguished Awardees, Ladies and Gentlemen.

2. I am extremely privileged today to extend a warm welcome to Adarniye Pradhan Mantriji and to the distinguished representatives of Central Trade Unions, representatives of employers, Labour Ministers & Senior Officers from the State Governments and Central Ministers/Departments. It gives me immense pleasure to extend a very warm welcome and hearty congratulations to all the distinguished winners of the prestigious Shram Awards. It was on the May Day in 1985, that our late Prime Minister Shri Rajiv Gandhi first announced institution of these awards to felicitate the workers in recognition of their outstanding and innovative performance towards industrial development. The Prime Minister's Shram Awards are given every year to the workers of Public Sector Undertakings under the Central Government and State Government for outstanding performance, which has helped increases production and also has resulted in saving of substantial foreign exchange for the country. Since then a total of 507 distinguished workmen have been awarded for their innovative abilities and outstanding contribution in the field of productivity. This year, for the first time, the Private Sector has also been brought within the ambit of Prime Minister's Shram Awards' Scheme. The number of awards have also been increased from 17 to 33. Even though the total number of awards in 33, the number of workers receiving Awards this year is 45, of which six are women workers. The awardees include 29 workers from the public sector and 16 from the private sector. It is real tribute to their sincere and dedicated contribution that these awards are presented to them by the Hon'ble Prime Minister himself. I once again congratulate the award winners and express my sincere gratitude for their invaluable contribution in the process of nation building.

3. We have always believed in collective wisdom and cooperation of all stakeholders in nation building. Our Government has always given utmost importance to social dialogue amongst all the social partners. The employer and employee have to work together in tandem to achieve the common objective of prosperity. The distinguished award winners are a fine example of very cordial relation between the employee and employer. The employers gave the employees freedom to innovate and improve the process as well as productivity. The employees responded with fine result. The mutual cooperation and respect. On this occasion, I would like to applaud the positive role of the managements and Employers for the outsourcing achievements of their workers. I would appeal to our leaders from employers' fraternity to give more and more space to the workers to innovate and improve productivity. At the same time, the workmen should come forward in extending their whole hearted support and contribution in the process. This is the tried and tested mantra for success.

4. It was at the first Session of the Labour Ministers' Conference held in January, 1941 that the recommendation of the Royal Commission on Labour to set up Industrial Council, consisting of representatives of Government, workers and employers, to coordinate matters pertaining to labour conditions all over India, was considered. On 7<sup>th</sup> August, 1942 the first tripartite meeting was held. The emergence of such a Conference was the result of the realization that industrial problems could not be solved unless the three social partners – governments, workers and employers – developed a sense of responsibility and responsiveness towards one another, accorded more respect to the views of one another and agreed to work in mutual interest. A forum to bring them together and to let them talk across the table was necessary for the realization of this purpose.

5. The Indian Labour Conference has always been considered as the “Labour Parliament of India”, a confluence of creative forces and energies and the testing ground of tripartite consensus in decision-making. Notable among the decisions and recommendations of Indian Labour Conference which have shaped and influenced the Labour Policy in India are:-

- The fifth Session of ILC held in 1943 urged upon the Government to set up a machinery to investigate the question of wages and earnings, employment, housing and social condition of workers.
- The eleventh Session of the ILC held in 1951 emphasized the need for training and suggested setting up of a Central Training Institute for theoretical vocational skill training to be supplemented by practical training.
- The fourteenth Session of the ILC held in 1955 suggested the need for enacting protective laws for child labour.
- The fifteenth Session of the ILC held in 1957 recommended the setting up of the Central Board of Workers' Education. It also laid down the norms for fixation of minimum rates of wages.
- The nineteenth Session of the ILC held in 1961 recommended abolition of contract labour wherever feasible and providing satisfactory working conditions for contract labour where abolition of the same was not feasible.
- The Twenty-fifth Session of the ILC held in 1968 recommended Central Legislation for payment of gratuity.
- The Twenty-eight Session of the ILC held in 1985 inter – alia, strongly supported the proposal for a comprehensive legislation on child labour.

6. Subsequent events show that these recommendations had considerable bearing on enactment of legislations like Contract Labour (Regulation and Abolition) Act, 1970, Payment of Gratuity Act, 1972 and Child Labour Act, (Prohibition and Regulation) Act, 1986. They Paved the way for emergence and growth of institutional

mechanisms like the Central Board for Workers' Education and a series of Vocational Skill training Institutes at the national and regional level.

7. The Indian Labour Conference is held almost every year. So far 40 Sessions have been held and this is the 41<sup>st</sup> Session in the series. The items for discussion in this Session are of great importance and relevance in the context of the existing global scenario.

8. There are about 43 Central labour laws concerning different aspects of labour such as industrial relations, wages, working hours, conditions of service & employment, equality & employment of women, those relating to deprived and disadvantaged sections, social security, labour welfare, employment & training etc. Though enacted by the Central Government or (b) the Central as well as the State Governments or (c) The State Governments alone. Besides, there are about 91 State labour laws enacted and enforced by the State Government in their respective domain. In order to facilitate implementation, Rules have also been framed under various labour laws.

9. Review/updation of labour laws is a continuous process in order to bring them in tune with the emerging need of the economy. The National Common Minimum Programme (NCMP) of the UPA Government provides as follows:

“The UPA rejects the idea of automatic hire and fire. It recognizes that some changes in the labour laws may be required, but such changes must fully protect the interest of workers and families and must take place after full consultation with trade unions. The UPA will pursue a dialogue with industry and trade unions on this issue before coming up with specific proposals. However, labour laws other than the Industrial Disputes Act that create on Inspector Raj will be reexamined and procedures harmonized and streamlined”.

10. Agenda Item No.1 of this Session of the Indian Labour Conference relating to ‘Strengthening’ of Labour Laws and their effective implementation to prevent violations’ needs to be discussed against this background, the basic objective being to underscore the fact that labour laws have been enacted to confer certain benefits upon workers, which are denied if their implementation is tardy and ineffective. These labour laws are to be implemented by the implementation machineries of the appropriate Governments. To facilitate this Acts/Rules provided for a framework of maintaining records, furnishing returns, inspection system, penal provisions etc. Since our ultimate goal is to minimize violations, the thrust of the agenda item is to have changes required in the Acts and Rules, inspections and concomitant action and the need to strengthen the labour enforcement machinery. I would, therefore, request this August body to consider deliberating and suggesting broad parameters taking into account the requirements of the individual Acts to help the Government in taking further necessary action in the matter.

11. Contract Labour has been a significant form of employment. It is prevalent in almost all industries, in agriculture and allied operations and in service sector. It generally refers to workers engaged through an intermediary and is based on a

triangular relationship between the user enterprises, the contractor (including the sub contractor) and the workers. These workers are millions in number and generally belong to the unorganised sector. They have very little bargaining power, have little or no social security and are often engaged in hazardous occupations endangering their health and safety. On the other hand, reasons like sporadic nature of work, difficulty in ensuring closer supervision by the employer or cost effectiveness, flexibility in manpower deployment, concentration in core competencies etc. are advanced to justify the system of contract labour.

12. Recognizing the need for protecting the interest of contract labour, the Contract Labour (Regulation and Abolition) Act, 1970 was brought on the State Book to regulate the employment of Contract Labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

13. While the trade unions have been demanding that the Act should be amended to provide for automatic absorption of contract labour in the event of prohibition of employment of contract labour, the employers' organizations are vehemently opposed to it. Their view is that the employers should be given flexibility to determine the composition of the workforce for the industry to survive in a competitive environment. They plead that contract labour should not be abolished in non-core activities of and establishments and should be allowed to be parceled out to specialized agencies, which have grown rapidly, for better time management, better operational efficiency and high percentage of consumer satisfaction. Some of the State Governments, in tune with the changing times, have proposed measures to liberalize the Act to spur the growth of industry.

14. In view of the diametrically opposite views held by the trade unions and the employers' organisations, on the issue of absorption, and the present thinking of some State Governments, a view needs to be taken on amending the Act to facilitate outsourcing or prohibit employment of contract labour in core activities and to mandate automatic absorption of existing contract labour.

15. Another important issue before the Conference relates to "Measures to improve Employability of the Youth. I firmly believe that economic and social emancipation of a nation depends to a large extent on the way it harnesses its human resources. We are among the top ten most skilled nations in the world. Nearly two thirds of our workforce is in the productive age group. However, the irony is that we have yet to fully benefit from this obvious demographic dividend. It is a high time that we review and reassess our human resources policy in the light of the under-currents and complexities of the new and evolving economic order. We need to adopt a multi-pronged approach, which includes development of our human resources, modernization of our vocational training institutions, revamping of our national employment services, promoting Public-private partnership in HRD, facilities for retraining and re-skilling of the workforce, and financial support to enable the workers to avail these opportunities. In this context, I would like to inform this august body that recently we had organized a seminar with the EU on "Skills Development, Training and Employment", when we had an opportunity to share the

response of EU countries to the Labour market challenges. We have also signed an MOU with them on Employment and Social Policy. I hope the cooperation with EU would facilitate labour market integration and skill mobility of our workforce.

16. The DGE&T is implementing a Scheme to upgrade the existing 100 ITIs into “Centres of Excellence” for producing a multi skilled workforce of world standard. The highlights of the scheme are introduction of multi–skilling courses during the first year, followed by advance/specialized modular courses subsequently by adopting industry-wise cluster approach, multi-entry and multi-exit provisions, and Public-Private Partnership in the form of Institute Management Committee to ensure greater and active involvement of industry in all aspects of training. Another 400 ITIs are to be upgraded with World Bank assistance.

17. Our Government is implementing the Centrally Sponsored Scheme “Establishment of new Industrial Training Institutes (ITIs) in the North-Eastern States and Sikkim” with the main objective to meet both qualitative and quantitative and, skilled and semi-skilled manpower requirement for industry, service sector, self employment etc. by way of creating and developing infrastructure for training of youth in identified skill areas. The scheme envisages establishment of 22 New ITIs and strengthening as well as modernization of 35 existing ITIs in North-Eastern Region. On completion of implementation, the seating capacity in ITIs would increase from the existing 7, 244 to 13,144. The scheme also provides technical assistance for training of faculty and sponsored candidates from North East Region. An amount of Rs.76.89 crore has already been released to the North Eastern States and Sikkim out of the total sanctioned amount of Rs.89.39 crore for Civil Works, Equipment procurement, Recurring expenses and Technical Assistance components of the CSS. Courses have already commenced in the newly created infrastructure in 15 new ITIs and 25 existing ITIs covered the CSS.

18. We have already started working on setting up of a “National Mission for Skills”. A Task Force on Skill Development under the Chairmanship of Dr. Tarun Das, Chief Mentor, CII has been set up to give recommendation on how to meet the requirement of skilled manpower for India’s growing economy in the Eleventh Five Year plan period and beyond.

19. I am looking forward to a very fruitful discussion on these important issues and am expecting valuable inputs from this August house for facilitating government in the decision making process. I would once again congratulate the winners of PM’s Shram Awards and express my gratitude to the Hon’ble PM for blessing us all by his presence.

**JAI HIND**



**41ST SESSION OF THE INDIAN LABOUR CONFERENCE HELD ON 27 - 28TH APRIL, 2007, NEW DELHI**

**PLENARY SESSION**

**LIST OF PARTICIPANTS**

Shri Oscar Fernandes, Chairman  
Union Minister of State (IC) for Labour & Employment

Shri Girish Awasthi, Vice Chairman (Workers Group)  
President, BMS

Shri J.P.Choudhury Vice Chairman (Employers Group)  
Council of Indian Employers

<b>Sl. No.</b>	<b>Name/Designation</b>	<b>Office/State/Organisation</b>
1	Ms. Padmaja Mehta, Adviser	Ministry of Agriculture
2	Shri Mrityunjaya Singh, Addl. Eco. Adviser	Ministry of Agriculture
3	Shri H.C.Agrawal, Director	Ministry of Coal
4	Shri R.C.Jha, Deputy Secretary	Department of Chemicals & Petrochemicals
5	Shri Suresh Chandra, Addl. Govt. Counsel	Ministry of Law & Justice
6	Shri R.K.Malhotra, Deputy Secretary	Ministry of Mines
7	Shri Anand Mathur, Chief Personnel Officer (A)	Northern Railway
8	Shri S.C.Das, Under Secretary	Ministry of Petroleum
9	Shri Subhhash Chander, Director (SR & Legal)	Department of Posts
10	Shri G.S.Bothyal, Director	Department of Public Enterprises
11	Ms. Sunita Sanghi, Director	Planning Commission
12	Ms. Nitika Gupta, Sr. Research Officer	Planning Commission
13	Shri Shailendra Sharma, Consultant	Planning Commission
14	Shri S.K.Saha, Joint Adviser	Planning Commission
15	Shri B.N.Mohapatra, Executive Director (F)	Railway Board
16	Shri A.K.Nigam, Adviser (IR)	Railway Board.
17	Shri Satish Wadhwa, ADG	BSNL, Department of Telecommunications
18	Shri Shakeel Ahmad, Dy. DG	BSNL, Department of Telecommunications
19	Shri Sundar Lal, GGM	ONGC.
20	Shri R.M.Rao, DGM	ONGC
21	Shri P.Narayana Murty, Joint Secretary	Ministry of Social Justice
22	Sshri P.K.Sinha,Dy. Director	O/o.DC (SSI), Min. of Small Scale Industries
23	Shri J.K.Sharma, Joint Secretary	Ministry of Textiles.
24	Shri A.K.Sinha, General Manager	Directorate of Printing, Min. of Urban Development

25	Shri S.Mishra, Dy. Director	Directorate of Printing, Min. of Urban Development
26	Shri Kailash Chandra, Special Secretary (Labour)	Andaman & Nicobar Admn.
27	Shri Avtar Singh, Labour Commissioner	Andaman & Nicobar Admn.
28	Shri G. Vinod, Minister	Government of Andhra Pradesh
29	Ms. Asha Murty, Special Chief Secretary	Government of Andhra Pradesh
30	Shri M.S.N.Rau, Addl. Labour Commissioner.	Government of Andhra Pradesh.
31	Shri P.Kiran Kumar, Deputy Director	Government of Andhra Pradesh
32	Shri B.R.Samal, Labour Commissioner	Government of Assam
33	Shri K.K.Mittal, Commissioner & Secretary (Lab. & Emp.)	Government of Assam.
34	Shri Prithibi Majhi, Minister	Government of Assam
35	SHri Sushil Kumar Modi, Dy. Chief Minister	Government of Bihar
36	Shri Vyas Ji, Secretary (Labour)	Government of Bihar
37	Shri Ramdeo Prasad, Chairman	Government of Bihar
38	Dr.Amarkant Singh, Dy. Labour Commissioner	Government of Bihar
39	Shri Anuradha Lamba Yadav, Asstt. Labour Commissioner	UT. Of Chandigarh
40	Shri Piyush Sharma, Joint Labour Commissioner	Govt. of NCT of Delhi.
41	Dr.Onkar Sharma, Welfare Commissioner	Govt. of NCT of Delhi.
42	Shri S.A.Deshprabhu, Commissioner, Labour & Employment	Government of Goa
43	Shri Mulubhai Bera, Minister	Government of Gujarat
44	Shri A.K.Solanki, Labour Commissioner	Government of Gujarat
45	Shri M.K.Chaudhary, Add. Director, E&T	Government of Gujarat.
46	Shri Manish Bhardwaj, Director, E & T	Government of Gujarat
47	Shri D.C.Baxi, Assistant Commissioner	Government of Gujarat.
48	Ch. Birendra Singh, Minister	Government of Haryana
49	Shri Manik Sonawane, Principal Secretary	Government of Haryana
50	SHri K.K.Khandelwal, Labour Commissioner	Government of Haryana
51	Shri Raj Krishan Gaur, Minister for Labour & Employment	Government of Himachal Pradesh
52	Shri Kashmir Chand, Labour Commissioner	Government of Himachal Pradesh
53	Shri K.R.Bharti, Director Technical Education, Vocational & Industrial Training	Government of Himachal Pradesh
54	Pt. Mangat Ram Sharma, Minister for Labour & Employment	Government of J & K
55	Shri B.L.Nimesh, Principal Secretary	Government of J & K
56	Shri Pritpal Singh Betab, Labour Commissioner	Government of J & K
57	Shri Ashok Kumar Sinha, Dy. Labour Commissioner	Government of Jharkhand
58	Shri Ram Pravesh Singh, Dy. Labour Commissioner	Government of Jharkhand
59	Shri Raj Kumar Chaudhary, Jt. Labour Commissioner	Government of Jharkhand
60	Shri K.S.Manjunath, Labour Commissioner	Government of Karnataka
61	Shri Jothi Ramalingam, Principal Secretary (Labour)	Government of Karnataka
62	Shri S.Narasimhaiah, Addl. Labour Commissioner	Government of Karnataka
63	Shri S.Manjunatha Sastry, Joint Labour Commissioner	Government of Karnataka

64	SHri V.N.Hittanagi, Dy. Labour Commissioner	Government of Karnataka
65	Shri B.S.Raghupathy, Dy. Director, Emp. & Training	Government of Karnataka
66	Shri P.K.Gurudasan, Minister for Labour & Excise	Government of Kerala
67	Shri P.Sasidharan, Special Private Secretary	Government of Kerala
68	Shri C.K.Viswanathan, Secretary for Labour & Environment	Government of Kerala.
69	Shri K.S.Premachandra Kurup, Labour Commissioner	Government of Kerala
70	Shri C.Mohanan, Addl. Secretary	Government of Kerala
71	Shri Rakesh Bansal, Principal Secretary	Government of Madhya Pradesh
72	Shri G.T.Sharma, Dy. Labour Commissioner	Government of Manipur
73	Shri Z.H.Ropuia, Minister of State for Labour	Government of Mizoram
74	Shri P.Lalthlengliana, Director	Government of Mizoram
75	Shri J.N.Mishra, Labour Minister	Government of Orissa
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**CONFERENCE COMMITTEE ON "STRENGTHENING OF LABOUR LAWS AND ITS EFFECTIVE IMPLEMENTATION TO PREVENT VIOLATIONS"**

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<b>CONFERENCE COMMITTEE ON "PAYMENT OF BONUS ACT, 1965"</b>		
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