A POLICY FOR HARMONIOUS INDUSTRIAL RELATIONS

NAVAL H. TATA

FORUM OF FREE ENTERPRISE
PIRAMAL MANSION, 235 DR. D. N. ROAD,
BOMBAY 400 001.

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

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

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Naval H. Tata *

The Labour scene today presents a picture of chaos, confusion and despair. There is a proliferation of strikes resorted to by every section of workers, most of them illegal and far from peaceful. It is noteworthy that many employees involved in the strike are from the better paid category of working class, such as bank employees, textile workers, petroleum and chemical workers, etc., etc. both in the public and private sectors. Any resistance from the management to exhorbitant demands of such workers provokes direct action by the unions with threats of violence in most cases. Such attitude necessitates closure or lock-out, if the unit concerned is to be protected. The vicious circle of illegal strikes and lock-outs has resulted in a record number of man-days lost. In a single year 1979, the toll was of the order of 32 million. Such chaotic state of affairs is often aggravated by the State Governments resorting to unilateral action of amending basic labour laws and practices enacted by Central Government without reference to the tripartite Labour Conference, which in the past was an accepted practice. Far from respecting such prevalent practices, they even fail to enforce existing state laws with firmness and objectivity. Such labour relations climate is hardly conducive to industrial growth, which alone can ensure better living standards for the massive section of the population in search of employment.

The new Government, therefore, faces a difficult task. To reverse the economic trend bordering on negative growth needs effective harnessing of human resources which can only be possible under cordial industrial relations to achieve a worthwhile growth rate with social justice.

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*Mr. Tata is President of the Employers' Federation of India.

Some of the problems on the industrial relations front which need immediate attention are :

(1) Promotion of orderly and meaningful collective bargaining through truly representative unions.

(2) Speedy settlement of disputes through labour courts, tribunals which are genuinely independent from interference of State Governments and encouraging voluntary arbitration whenever both parties are willing in preference to adjudication.

(3) Effective prevention of violence and maintenance of law and order.

(4) An equitable wage policy, with appropriate indexing for fluctuations in cost of living and a clear and unambiguous bonus law.

(1) **Promotion of Collective Bargaining:** The Trade Unions Act was enacted more than 50 years ago. Under it, any seven persons who have subscribed to the rules of a trade union can register themselves as a trade union. This is an open incentive for the mushroom growth of trade unions. The multiplicity of trade unions and the resultant inter-union rivalries have created enormous problems in the matter of determining a bargaining agent on behalf of the workers. Consequently, in the absence of a system for statutory recognition of unions, or voluntary recognition by employers on moral grounds, collective bargaining has not given the desired results.

Collective bargaining presupposes the existence of a representative and responsible organisation of workers capable of delivering the goods on their behalf. It is, therefore, necessary to provide for statutory recognition of a sole bargaining agent, since voluntary recognition is incapable of functioning under prevailing conditions. We may, therefore, have to resort to compulsory recognition of trade

unions under a law applicable to all undertakings employing more than one hundred workers. It should, however, be stipulated that a trade union seeking recognition under the law shall have not less than 30 per cent membership among the workers in that particular unit, in which it is functioning.

Secret Ballot vs. Verification of Membership: Statutory recognition will inevitably call for the creation of a properly recognised authority under the legislation, independent in status and free from Government interference. Such a body should have the exclusive right to determine the bargaining agent and to adjudicate rival claims. There are two options open to such authority to determine the bargaining agent. The first procedure is through verification of records of membership of trade unions in a unit. The second alternative is to conduct a secret ballot of all the employees entitled to vote In line with the practice in advanced countries the method of secret ballot appears the best being based on democratic principles and should be resorted to where more than one trade union exists in an industry/unit. This method is speedy and conclusive. The method of verification of records has its own advantage; but it is cumbersome and time-consuming and is open to abuse. Hence, the method of secret ballot should be preferred. However, as a compromise it is suggested that for the purpose of recognition where the difference in the verified membership between two unions is 10 per cent or less, then it should be incumbent upon the deciding authority to conduct a secret ballot of all those employees entitled to vote to decide the majority and representative union.

Rights of Recognised Union: Such a recognised union should be statutorily given exclusive rights of: (a) sole representation; (b) right to enter into collective bargaining; (c) right to collect membership subscription within the factory premises including the right of check-off; and (d) right to recommend names of representatives on Works/Grievance Committee and/or Management Committees. As regards the role of a minority union, it should only be

allowed the right to represent individual cases of dismissal and discharge before labour court. It should under no circumstances have the right to challenge an agreement arrived at by the majority union, as at present.

Industry-wise Recognition: Arising from the above suggestion, a question naturally will be raised whether recognition should also be extended to an industry-wise union. It is true that in recognising an industry-wise union, one of the difficulties is that such a union may not have adequate membership in all units of the industry. But, industry-wise recognition of a union may be found useful in cases where a uniform pattern of negotiations and collective bargaining between the industry and the representative union has developed over the years or where the terms and conditions of employment in all the units of the industry have been standardised. The minimum membership in such a case should be 25 per cent if a recognition is sought for an industry in a local area.

(2) **Settlement of Disputes through Independent Machinery:** More than a decade ago, the Government of India had set up a high-powered National Commission on Labour to study in depth the question of evolving a rational and orderly industrial relations system. This Commission made important recommendations relating to the setting up of Industrial Relations Commission, recognition of the bargaining agent on behalf of the workers, conciliation and arbitration.

It is recognised in all democratic countries that voluntary regulation of industrial relations between employers and union is preferable to undue dependence on the intervention of a third party. The Commission had, therefore, rightly observed that the best way to settle industrial disputes is for the parties to the dispute to talk over their differences across the table and settle them by negotiations and bargaining.

Industrial Relations Commission: Where, however, negotiations fail, the parties would be free to resort to a trial of strength through a legal strike or lock-out. In order

to settle such disputes which cannot be settled by negotiations, and particularly for those in essential industries, the National Labour Commission made a proposal to constitute **tripartite** Industrial Relations Commissions at the State level and at the Centre. In this system the Judge will be assisted by representatives of the employer and workers who would together constitute the Commission. The State IRCs were to deal with disputes in respect of industries for which the State Government was the appropriate Government, while the National IRCs were to deal with industries in respect of which the Union Government was the appropriate Government.

The principal merit of these Commissions was that they were to be so constituted as to be independent of the executive branch of the Government unlike the present industrial tribunals which depend for their tenure and terms on the Government of the day. This was intended to eliminate the possibility of political influence disturbing or distorting industrial relations in the country. These tripartite independent IRCs were to have sole power and responsibility for conciliation, and adjudication of industrial disputes and certification of unions as representative unions. Under a compromise reached at the tripartite Standing Labour Committee in 1970, it was agreed that the power of conciliation should remain with State Governments and they should also have a concurrent right to refer disputes to adjudication apart from a similar right given to the parties to a dispute. The time has come for Government, if it is sincere in its approach to evolve an appropriate industrial relations machinery, to scrap the existing tribunals and to establish Industrial Relations Commissions for resolving industrial disputes on the lines of the suggestions made by the National Commission on Labour.

Having established suitable machinery for settlement of industrial disputes by central legislation, the Union Labour Ministry should enforce it uniformly all over India. The State Governments should be restrained from undertaking legislation on their own on matters covered by Central Acts or to amend Central laws in the interest of

uniformity. Whenever the Central Government receives any such proposal from the State Government for its approval, it should place it for consideration by the tripartite Labour Conference. It is suggested that the tripartite body which has remained dormant for several years should be revived and activated.

Voluntary Arbitration: Compulsory adjudication in our industrial relations systems has become too cumbersome and time-consuming, often resulting in ill-will between the managements and the trade unions. In order to remedy the situation, representatives of the trade unions in the past have suggested that employers should accept voluntary arbitration in place of adjudication. This principle is sound. It must, however, be pointed out that voluntary arbitration, being a matter of choice, should be agreed to voluntarily by **both** sides and not at the will and wish of one party coercing the other to accept it against its own judgment. It may be recalled that in countries like the U.S.A., it is collective agreements which contain a clause providing for arbitration for dealing with doubts arising out of interpretation of the terms of the agreement. In other words, the parties to the agreement mutually commit themselves to arbitration in advance for this purpose and they actually name an arbitrator in the agreement itself.

There is another important feature which needs to be emphasised. In the situation obtaining in our country where we are not acclimatised to arbitration as a normal procedure, the arbitrators in their decisions must conform to certain norms based on well-recognised principles. If an arbitrator oversteps his jurisdiction or by chance gives a perverse award, there should be a safeguard in the form of a review of his decision by a court specifically provided in the law. Such a provision exists in the Bombay Industrial Relations Act, 1948. It is, therefore, suggested that a similar provision be incorporated in the Central Industrial Disputes Act. It would go a long way to disarm any suspicion in the minds of either party to the arbitration system. Employers' insistence on this provision has unjustifiably prejudiced minds of the workers, as a device to prolong the agony

of a delayed award. After all, it protects both the sides and resort to it would be occasional and on valid grounds alone. Even at this late stage, this one factor can change the climate of confrontation through greater resort to arbitration.

(3) **Violence and Law and Order:** During the last few years, it has become increasingly evident that a small section of trade union fraternity with a distinct extremist approach has increasingly resorted to violence in the form of gheraos, intimidation and physical assaults, in their disputes with the management. Such actions unfortunately betray a trait which is contrary to the spirit and philosophy of trade union movement, which is expected to enjoy freedom of association with immunity from prosecution provided they do not trespass bounds of law and order. Violence cannot be a legitimate part of a process of collective bargaining, which has an inbuilt system of arbitration and adjudication. Thus any display of violence is an obvious abuse of freedom of association enshrined in our Constitution. As such it **must** deprive the trade unions who resort to violence, the immunity and protection they are entitled to from the State. Hence the Government should not hesitate to deal with them under the common law when they deliberately forfeit their right to such immunity.

Collective bargaining should not be allowed to degenerate into a coercive and unlawful process. If our labour legislation is properly implemented and observed, there is no room for violence, particularly as the workers have a right to conduct a peaceful and legal strike and the employers have a corresponding right to lock out, in case negotiations break down. That apart, we have elaborate procedures for conciliation, adjudication and arbitration. If violence has gained upper hand in recent years it is due to the fact that administration of laws is not effective, prompt and proper. The tendency to violence is often accentuated through inter-union and intra-union rivalry. This can be remedied through appropriate legislation for recognition of a majority union. The following additional measures may be considered to eradicate such violence.

Government must declare categorically (i) that they will not tolerate violence and sabotage under any circumstances and (ii) that they will protect the workers and management staff from assault, gheraos, etc. resorted to by trade unions in furtherance of a strike.

Government should uniformly and impartially enforce the law and any illegal strike or illegal lock-out should be dealt with in accordance with law and not condoned.

No tribunal should take up an industrial dispute for adjudication until the charge of violence in connection with such dispute has been dealt with under the appropriate criminal law, and normalcy is restored.

Any union which is adjudged guilty of violence should be derecognised or deregistered for a period, of say, three years. Likewise, an office-bearer in a trade union or an industrial unit if adjudged guilty of violence should be disqualified for holding office for five to seven years.

(4) **Wage Policy:** One of the few things on which there is general agreement among planners, Government, employers and trade unions is that they are all in favour of a national wage policy. The trade unions seem to think such a policy would ensure higher wages to workers. The employers presumably believe that it would lead to a scientifically computed rational wage structure related to productivity. The Government favours it as an aid to check inflationary pressures in our economy. Regardless of achieving any or all of these objectives, there is one outstanding advantage of a definite wage policy. It allows the parties concerned to resolve their differences on the basis of accepted criteria rather than indulge in a long-drawn out tug-of-war in the process of bargaining.

Most industries, operating as they do in a seller's market, have no need to resist wage demands, unless it involves exploitation of the consumer, who has as much right to a fair deal as the worker of an industrial unit. Instead of antagonising their workers by refusing to give higher wages, employers would prefer to concede the wage demands

provided they can increase the price of their products correspondingly. But the prices are in many cases controlled and regulated by Government to safeguard the interest of the consumer. This limitation puts the employers in an unenviable position of having to explain why a wage rise beyond a certain limit cannot be conceded, thus exposing them to workers' hostility in the form of strikes, go-slow and gheraos.

In 1977, Government did set up a Study Group to examine and recommend an integrated Wages Incomes and Prices Policy. However, its recommendations were unfortunately rejected by the trade unions unceremoniously. Obviously, they apprehended that the Report of the Study Group was nothing than a recommendation for a wage freeze. Such attitude was nothing short of a deliberate distortion of a fair statement. What the Study Group attempted was to bring about some order in the wages payment and prevent the situation from reaching a chaotic condition, particularly when the Study Group had recommended an evolution of a national minimum wage and quantified it in the light of the economic development of different regions. These recommendations cannot be brushed aside summarily, but deserve careful consideration.

Content of Wage Policy: Upward revisions of existing wages alone cannot be the only guidelines for a national wage policy. The guidelines should apply not only to the additional increases, but also to the wages already being paid. As is well-known, there are excessively wide disparities in the wages paid in different industries and in different regions, in the same, similar as well as different occupations. Even the lowest wage in many industries is several times higher than the **per capita** national income and is further supplemented by large annual bonuses. The automatic neutralisation of the rising cost of living without a ceiling has resulted in an almost unbearable burden of dearness allowance on many industries. The system of dearness allowance, moreover, has eroded wage differentials to such an extent that workers have lost the incentive to improve their skills and productivity. It has also created inequalities in the remuneration paid to the supervisory and management staff as against

Prepared on February 18, 1978

WAGE MAP OF BOMBAY SHOWING THE EARNI OF FRINGE BENEFITS AND OTHER ALLOWA

1	Maz-door 2	Skilled 3	Fore-man 4	Peon 5	Driver 6	Clerk 7	I
1. **Central Govt.**							
(i) Minimum				337	445	445	
(ii) Maximum				398	572	632	1
2. **State Govt.**							
(i) Minimum				324	393	406	
(ii) Maximum				432	639	728	
3. **Bombay Muni. Corp.**							
(i) Minimum	363	421	461	369	398	452	
(ii) Maximum	442	562	727	447	518	837	1
4. **B.E.S.T. Undertaking**							
(i) Minimum	440	570	705	440	470	480	
(ii) Maximum.	525	920	1,195	525	625	915	1
5. **Life Insurance Corp.**							
(i) Minimum	412			427	553	496	
(ii) Maximum	783			799	1,006	1,558	1
6. **Banks (Nationalised)**							
(i) Minimum				396	690	493	
(ii) Maximum				675	839	1,546	
7. **Cotton Textiles**							
(i) Minimum	426	675	731	451	—	498	
(ii) Maximum			1,194	462	—	882	1
8. **Engineering**							
(i) Minimum	396	410		464	525	527	
(ii) Maximum	759	1,128		865	1,212	2,225	
9. **Pharmaceuticals**							
(i) Minimum	388	469		420	665	708	
(ii) Maximum	918	1,082		918	1,082	2,383	
10. **Chemicals**							
(i) Minimum	460	553		488	630	730	
(ii) Maximum	986	1,540		986	1,333	2,164	
11. **Automobile Ancillary**							
(i) Minimum	433	480		465	501	479	
(ii) Maximum	744	924		958	1,121	1,618	
12. **Fabrication & Forging**							
(i) Minimum	310	410		433	463	600	
(ii) Maximum	511	709		631	768	1,428	
13. **Electricity Undertaking**							
(i) Minimum	337	402				387	
(ii) Maximum	942	1,291				2,077	
14. **Bombay University**							
(i) Minimum				347	434	478	
(ii) Maximum				451	560	901	1
15. **Schools (Bombay Municipal Corporation)**							
(i) Minimum				375		452	
(ii) Maximum				463		848	1
16. **Agriculture**							
(i) Minimum	169	270					
(ii) Maximum (As Notified under Minimum Wages Act)		338 (Highly Skilled)					

(reference to above map on page 12).

S (BASIC + DEARNESS ALLOWANCE) EXCLUSIVE
ES, IF ANY, FOR THE MONTH OF JUNE 1977 (In Rupees)

d rk	Section Head/ Supdt.	Teacher (un-trained)	Head Master	Lec-turer	Pro-fessor	Police Cons-table	Sub-Ins-pector	Class I Officer	Class II Officer
	9	10	11	21	13	14	15	16	17
1	1,106							1,621	1,043
6	1,390							2,091	1,688
	1,020					355	542	1,002	882
	1,646					529	1,072	1,896	1,540
1	796								
6	1,116								
5	755							2,015	915
5	1,295							2,740	1,615
4	1,004							1,362	679
5	2,185							3,425	2,103
	1,356								
	2,200								
	935			865	1,527				
	1,153			1,457	1,967				
	1,171	388	514						
	1,579	639	918						

1.	I.A.S. Officers (Starting Salary)	Rs. 1,054 p.m.
2.	High Court Judge	Rs. 3,500 p.m.
3.	Labour Tribunal Judge	Rs. 1,418 p.m.

		Statutory Minimum (Per Month)
1.	Shops & Commercial Establishments	Rs. 120
2.	Engineering	Rs. 221
3.	Hotel & Eating Houses	Rs. 90

Per Capita **Annual Income** at Current Prices — Rs. 1,049 (1976-77)

that of the operatives. These glaring disparities are vividly illustrated in the chart which shows the salary/wages of a sample of industrial workers, commercial employees and professional workers in Bombay City. The soaring wage costs tend to dissuade several industries from expanding their activities and to encourage introduction of labour-saving technology despite the heavy capital cost involved, thereby restricting the growth of employment opportunities for the ever increasing labour force in the country. All these are issues directly relevant to the implementation of a wage policy.

The following objectives are desirable in formulating our wage policy: (1) It should reduce inter-industry and inter-regional disparities in wages; (2) It should maintain a reasonable balance between wages and non-wage incomes in all sectors of the economy; (3) It should ensure improvement in the wages of those who remain poorly paid and unorganised amongst workers, before the higher paid groups are allowed to claim further benefits; (4) It should promote employment by making it economically attractive for industries to expand and to discourage indiscriminate labour-saving devices; (5) It should help to curb inflationary pressures, and if prices rise despite all efforts, then the wage policy must ensure distribution of the burden of high prices among all the groups in society in an equitable manner, through requisite restraints.

II

THE BONUS TANGLE: A WAY OUT

When the Payment of Bonus Act was passed in 1965, it was hoped that it would be an all embracing enactment to resolve all aspects affecting bonus. It was expected to bring about uniformity and ensure industrial peace. Unfortunately, it has generated more disputes than solved the aspirations and expectations of labour and management. Subsequent amendments have neither rectified the lacunae nor improved the efficacy of the Act. There are two obvious reasons for increase in industrial strife arising from bonus; viz. the lack of clarity regarding the concept of bonus; and the introduction and misuse of Section 34(3) of the Act, which has subsequently been revised and renumbered as Section 34(1).

In dealing with the concept it is noteworthy that historically Bonus was paid as an ex-gratia payment. It was merely intended to be a gesture of goodwill. Subsequently it has been conveniently interpreted in a variety of ways to suit the logic of those claiming it. Thus it was variously described as an annual payment linked to a festival or a share in the profits or a deferred wage. Under the Bonus Act, the dominant characteristic of Bonus is depicted as a share in the prosperity of a concern. It was intended to be payable **after** profits exceed a certain base. This was the approach of the Bonus Commission chaired by the late Mr. M. R. Meher, I.C.S.

The Commission also held the view that Bonus is not paid to bridge the gap between the actual wage and the living wage. If it was so intended, then it would be necessary to calculate the extent of that gap in relation to a Fair or Living Wage and vary the amount of the bridging element inversely with the wages per worker. Despite such clear indication on the subject the trade union leaders and politicians knowingly distorted the concept by putting a generous

interpretation on the term and persistently claimed bonus as a "deferred" wage. The implication of bonus as a deferred wage is as clear as it is frightening. Those in authority have obviously not realised sufficiently its impact on the economy. If such concept is accepted, it would mean our country will have to pay to all wage-earners in all sectors of the economy whether organised or unorganised, including Post & Telegraph, Defence, State and Central Government employees, Nurses, Teachers, etc. a quantum of bonus on the plea that they are not receiving a fair or living wage and hence an additional payment in the form of bonus to bridge the gap is necessary. One eminent economist has recently calculated that if a minimum bonus of 8 1/3% is payable to all employees of Government, the total amount to be disbursed by Government will come to Rs. 1,500 crores per annum. But even before that, our country will have to appoint a commission to determine what is a Fair Wage, a Living Wage as also a national minimum. It would be an exercise too complex and costly to afford for a developing nation.

On the other hand the concept of Bonus as a share of profit has a lot of validity. But it has to be a bonus which is in reality a share in profits and as such it can only be paid out of profits. If this is agreed, there would be no room for dispute as to its coverage. Obviously, it follows that only profit-earning activities, either industrial or commercial, both in the public and private sectors, alone would under such conditions be liable for bonus.

Thus in order to avoid any misunderstanding the concept of bonus should be made absolutely clear. For the sake of convenience for claiming bonus, it should not be confused with additional wage or deferred wage, in order to expect loss making units to pay it in the guise of a minimum bonus. Apart from being illogical, such a concept does not exist in any advanced country. Nor does it prevail in socialist and communist countries, which put so much emphasis on social justice.

Minimum Bonus and Maximum Bonus: The minimum bonus was originally intended to be an exercise in expediency to meet the contingency of some loss making units not being able to give any bonus. In industry-wise units it would have created embarrassment to trade union leaders in pursuit of success at collective bargaining. Therefore, to make the agreement acceptable to all employees in a particular industry, the expediency of a minimum bonus of 15 days' basic wage was originally thought of regardless of profits as a token of goodwill. Moreover, since the employers insisted on a ceiling in the form of a maximum, the Bonus Commission decided to fix a maximum limit with a carry forward provision. This was to counter balance the fact that there would also be a floor against a ceiling, in the form of a minimum. A ceiling of 20 per cent on bonus had to be provided because grant of excessive quantum of bonus by some units succumbing to pressures from unions would create "problems in the vicinity". Bonus, the Labour Appellate Tribunal said, was not intended to supplant wages but to supplement them. It is now well known that large bonus payments extracted by trade unions under pressure have created dangerous distortions in the wage structure apart from generating further discontent. Despite anomaly of a bonus totally unrelated to profit, the concept of minimum bonus was thus merely tolerated by the industry as the original floor was reasonably low at 4 per cent of the basic wage alone. Once, however, the minimum of four per cent was jacked up to 8 per cent payable both on basic and dearness allowance, which was progressively mounting, the rationale for accepting the minimum as a mere compromise disappeared.

It has been proved beyond doubt that the so-called minimum which has escalated to an inordinately high level because of increased percentage and bloated D.A. that most profit making units are unable to pay beyond 8 per cent. In such cases though the percentage has remained at 8 per cent, the quantum has gone up phenomenally higher, for reasons explained. In such a predicament to expect loss making units to pay the minimum of 8 per cent is tanta-

mount to raiding the capital of the marginal units when every Rupee is needed for rehabilitation.

The most logical course, therefore, is to delete the existing minimum bonus by abolishing it altogether. As an ultimate compromise, it may be perhaps advisable to eliminate this fallacious concept out of our industrial system by merging the quantum of bonus in wages over a period of say, 3 years. In other words, there would be a wage boost in the form of 1/3 of the minimum bonus every year for three years, so that an element contaminating the Bonus Act can be eliminated altogether. After such abolition, the philosophy of bonus payment would acquire its true character and would be paid only where an industry has made an actual profit after meeting necessary prior charges. There would, of course, be a ceiling so that the wage structure is not any further distorted.

In this connection, it is relevant to submit that company law provides that dividend shall not be declared if a company has not made profit or has incurred a loss. This is intended to prevent erosion of capital, to ensure survival of the unit. For the same reason, it is equally essential that bonus should not be payable by industrial units making a loss, to ensure its financial solvency. It is interesting to note that payment of minimum bonus by loss making units could be in violation of certain fundamental rights under our Constitution. At least that is the opinion of some eminent constitutional lawyers.

Productivity-linked Bonus: The Bonus Act, 1965 provided for exemption from profit-sharing bonus to those units which nad a scheme of bonus linked to productivity. This concept deserves to be promoted as it will give a genuine incentive to produce more to be able to earn an additional reward. However, this concept of bonus did not become popular in the light of an easier option of bonus as a share in profits. In 1976, the Government amended the Bonus Act with a view to encouraging industries to pay productivity-based bonus in place of profit-bonus. It is necessary that this provision should be restored in national interest,

to enable industries to switch over to a scheme of productivity oriented bonus which would be genuinely in the interest of employees as well as industry. It is unfortunate that the Janata Party, out of political expediency declared in their manifesto that bonus was a "deferred" wage. In doing so, they created further uncertainty and widespread industrial strife. The results of this are not far to seek. In fact 35 million mandays were lost during 1979. In this context, it is fortuitous that the caretaker Government, through accident, expediency or intent was able to accept a productivity-linked bonus for railway workers. It must be recognised that a major breakthrough on this highly vexed question is sorely needed. It is a step in the right direction and the principle should be extended not only to those covered by the Bonus Act today but most other categories of employees who are clamouring for payment of bonus. Of course, there are a number of occupations in which it is well nigh impossible to compute productivity.

Section 34(3) of 1965/Section 34(1) of the Bonus Act, 1976-77-78: This sub-section enables agreement between employees and employer for paying an amount of bonus "under a formula which is different from that under this Act". In its origin, this was a provision meant to safeguard prevailing practices in certain units favourable to workers, before the commencement of the Act. However, experience has shown that it has been exploited by militant trade unions aided by some State Governments to pressurise management to pay bonus not only in excess of the Act formula but in many cases beyond the maximum quantum laid down in the Act. There are many instances where managements have been compelled to grant a maximum bonus of 20 per cent of wages plus an amount of ex-gratia which together exceed 35 per cent or 40 per cent. Thus, under the guise of collective bargaining, which sometimes has the tendency to degenerate into coercive bargaining, in the form of strikes, violence and intimidation, gheraos, trade union leaders have been able to pressurise management to flout the law of the land. As a result, all the norms of the Act are totally ignored and the Act stands completely

nullified. This unfortunate section of the Act has been a cause of plethora of disputes. In fact, every year the period from June to November, when bonus becomes due for payment, has become notorious for violent agitations by workers in pursuit of extortionate demands for bonus under this Section, totally unrelated to the profits or capacity of the industry. In the interest of industrial peace and to attain some semblance of uniformity, it would be advisable for Government to scrap this provision. In fact, this was the recommendation of the Bonus Review Committee under the chairmanship of Mr. Madan. Unfortunately, it was implemented only for a short period during 1975-76 but regrettably, restored by the Janata Government in 1977.

Alternative Mode of Bonus Payment: Never-ending bonus demands involving painful negotiations, adjudication and appeals to Supreme Court have vitiated the climate of industrial relations year after year. Even most generous wages and working conditions in some enlightened concerns have not prevented such militant attitude. The damage done to production and national economy through such disputes runs into millions of rupees. Out of desperation, one is inclined to look for alternative method of payment of bonus. Perhaps the Government which collects approximately Rs. 4,000 crores in form of excise from the organised manufacturing sector, may establish a fund by levying a small surcharge on excise for the specific purpose to be distributed as an annual national dividend to labour. It may be perhaps an over simplified solution, but there is a dire need for an alternative, which is not beyond the ingenuity of intellectuals in our secretariat in Delhi. The percentage of the levy to the value of industrial production may be calculated at 4 per cent of the basis of 1976 figures. Of course, it would be necessary to work out various other details to make the scheme feasible. This proposal has the supreme merit of avoiding annual confrontation between labour and management on bonus and securing uninterrupted production, which is the prime need of the hour.

Since the Government has undertaken to review the Bonus Act, it is important that the concept, characteristics and basis of bonus payment should be gone into in depth. The statutory formula on bonus needs revision particularly the rate of return on capital and reserves which should be brought in line with current realities of the market. It would be necessary to ensure that whatever decisions are taken in the many vexed issues which have arisen since the 1965 Act was passed, are taken care of in the proposed new law. It is also essential that its provisions should be applicable in all bonus disputes, so that there is no scope for collective bargaining for settling issues outside the Act. If the objective of the legislation is to achieve industrial peace with social justice, then the Act should be comprehensive, unambiguous and exhaustive to cover all situations arising out of bonus. There should be no room for claims for any other type of bonus payment, viz., customary, ex-gratia or goodwill or any other claim in addition to what is finally provided for in the law.

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

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

—**Eugene Black**

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The Forum of Free Enterprise is a non-political and non-partisan organisation, started in 1956, to educate public opinion in India on free enterprise and its close relationship with the democratic way of life. The Forum seeks to stimulate public thinking on vital economic problems of the day through booklets and leaflets, meetings, essay competitions, and other means as befit a democratic society.

Membership is open to all who agree with the Manifesto of the Forum. Annual membership fee is Rs. 15/- (entrance fee, Rs. 10/-) and Associate Membership fee, Rs. 7/- only (entrance fee, Rs. 5/-). Graduate course students can get our booklets and leaflets by becoming Student Associates on payment of Rs. 3/- only. (No entrance fee).

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Published by M. R. PAI for the Forum of Free Enterprise, "Piramal Mansion", 235 Dr. Dadabhai Naoroji Road, Bombay-1, and printed by B. D. Nadirshaw at Bombay Chronicle Press, Sayed Abdulla Brelvi Road, Fort, Bombay-1.

14/April/1980