AMENDMENTS

TO

TRADE UNIONS ACT, 1926

AND

INDUSTRIAL DISPUTES ACT, 1947

WITH REFERENCE TO THE RECOMMENDATIONS

OF

RAMANUJAM COMMITTEE

S.No.	Subject	Gist of the Ramanujam Committee Recommendations	Views of different Groups on the Recommendations	View formulated in Senior Officers'discussion & reasons	Amendment if any suggested
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	TRADE UNIONS ACT, 1926				
	Minimum strength for registration etc.	Minium strength for registration of trade union should be 10% of the employees or hundred employees whichever is less subject to a minimum of seven members. Trade union rights should be available to all employees regardless of wage, salary or status.		* The definitions of "trade dispute" and "trade union" may be left intact as they are in the law now. * The recommendation on minimum strength for registration being unanimous, section-4 of the Act(concerning mode of registration) may be amended to provide for minimum membership at 10% of the members of a union or hundred members whichever is less subject, however, that where the members are seventy or less in number, the required membership shall be a minimum of seven.	
	Compulsory registration of unions.	Trade unions should be registered compulsorily in the organised sector; National Federations and National Centres should be exempted from such compulsory registration.	Same as in column 3.	* It will be impractical to distinguish between the organised sector and the unorganised sector in the matter of compulsory registration of unions. * There is no justification for Federations and National Centres being exempted from compulsory registration. * Provision for compulsory registration of trade unions may be made by a suitable amend	

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3.	Membership fees	The minimum rates for membership subscription will be Rs.1/- per annum for rural workers; Rs. 3 per annum for workers under the Minimum Wages Act and in other unorganised sectors and Rs. 12/- per annum in other cases; and existing provisions in the Act for establishment of political fund shall continue.	Same as in column 3.	* There are serious practical problems in identifying rural workers; for example, there could be workers in a sophisticated industry set up in a rural area. * Fixing the subscription per annum could, in fact, contribute to accentuating the problem of collection for the unions themselves. * The existing uniform monthly subscription of 25 Naya Paise per month per member may be replaced by a uniform monthly subscription rate of 50 Naya Paise per month per member. * Section-C (ee) of the Act may be amended accordingly. * Provision for political fund may not be interfered with as it may help trade union members to enhance their collective bargaining strength through legislators etc. (vide section-16 of the Act)	

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4.	Election and tenure of office bearers.	Election of office bearers shall be once in three years or earlier as the members may provide for.		As periodicity of the election of office bearers etc. is an internal matter of the unions, provision for this may be made by an appropriate amendment to section 5 [illegible] of the Act - i.e. by including stipulations for the periodicity of elections amongst the provisions to be contained in the rules of trade unions.	
5.	Dual membership in unions	Employers: Dual membership should be discouraged. Labour: This should be discouraged.		This is an intra-union matter. May not be appropriate for Govt. to regulate intra-union matters Unclear whether prohibition of dual membership would be violative of Freedom of Association. No need to provide for the matter in the [illegible]	

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6.	Registering Authority (Multi-State Trade Unions)	Registrar of trade unions functioning under Central Authorities should be the registering authority of a union with operations in more than one State. In other cases registering authority should be under State authorities.		* The existing arrangements are working well a there are no complaints. * Even now it is the Central Government which designates, for Central Sector also, functionaries of States in which the Head Quarters of multi State unions are located, as Registrars. No particular advantage would b gained by the Central Government designating its own Officers as registering authorities for such unions. * The Central Government has a very healthy tradition of operating labour laws by statutory delegation of powers to State Governments. Designating Officers of Central Government even for purposes of registration of trade unions may not be consistent with this tradition. State Governments could be resentful of steps of this nature on grounds of centralisation tendencies. * Registration of unions is also mandatory so long as they conform to the legal provisions No discretion as such is left with the Registering Authority. * In the circumstances, no amendments to the law are needed.	

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7.	Ban on registration of trade unions based on caste, creed, occupation etc.		Labour: Left unions do not want ban on registration of unions based on occupations. Group of Ministers: Have unanimously wanted prohibition of registration of trade unions restricted to caste, creed community etc.	* No field problems reported in regard to caste based unions etc. * Castes and communities being sensitive issues statutory prohibition may create problems where there are none. * So no amendment to the law is required.	
8.	Officers' Union	Supervisory and Officers' union may not be treated as craft or occupation union as they form a distinct group.		* This recommendation follows from the main recommendation of the Ramanujam Committee to prohibit registration of craft/occupation based unions. * This need not be acted upon as the proposal is not to accept the main recommendation for prohibition of unions based, inter alia, on craft/occupation.	

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9.	Time limit for disposal of registration applications	Registrar of Trade Unions shall dispose of registration applications within a period of forty five days. For delays beyond this period, reasons should be recorded by the Registering Authority. There should be leave of appeal to the Labour Court against delays in and denial of registration.		* As registration of unions is dependent on compliance with statutory formalities by unions, time limit for registration is also to be dependent on ensuring compliance with legal formalities. * Subject to this, section 8 of the Act may be amended stipulating the time limit of 45 days as recommended. * In any case there may be no leave of appeal to the Labour Court as its function is to adjudicate on industrial disputes. Decision of Registrar of Trade Unions cannot be subject of an industrial dispute.	

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10.	Intra Union Disputes	All intra union disputes should be referred to the National Trade Union Centre to which it is affiliated. Its decision to be based on principles of natural justice should be final. Intra union disputes of non-affiliated unions should be adjudicated by Labour Courts. These matters should be provided in the Constitution of trade unions.		* The manner of resolution of intra union disputes should be left to the unions themselves. * Labour Courts meant for adjudication of industrial disputes cannot be involved in intra union disputes. * However, section 6 of the Act may be amended such that the manner of settlement of intra union disputes is mentioned amongst the provisions to be contained in the rules of trade unions. For this purpose, a new section 6(j) may be introduced and the existing section 6(j) may be relettered as section 6(k).	

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11.	Inclusion of outsiders as office bearers/members in Executive Committees of unions	Outsiders should not exceed one third of the total number.	Labour: Left unions wanted the matter to be left to workers to decide. Right unions are in favour of excluding Ministers. Group of Ministers: Outsiders may be limited to one third of the total number.	* Section 22 of the Act to be amended to li outsiders to one third of the total numbe * By this amendment Ministers and those hol offices of profit in the Central and Stat Govts. are excluded. * (One view is that outsiders may not be pe mitted at all in the unions in small scal industries).	

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12.	Disqualification	Those convicted by a Court for moral turpitude and sentenced to imprisonment to be disqualified from holding union offices unless five years have lapsed since release.	Labour: Left unions wanted disqualification to be left to unions to decide; "moral turpitude" to be dropped; and only union office bearers convicted for defalcation of union funds or on curruption charges to be disqualified. Group of Ministers: They want existing legal provision to be retained.	* Tendencies towards criminalisation in trade union environment should be strongly discouraged. * As advised by Secretary, Planning Commission in Annual Plan discussions 1993-94, tendencies towards violence in trade union and industrial environment should also be strongly discouraged. * For the above reasons, section 21-A of the Act should be amended to disqualify from office bearership in trade unions, of persons convicted by Courts for offences involving moral turpitude or acts of violence, even if they are not sentenced to imprisonment and a period of five years has not lapsed since release after such imprisonment.	

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13.	Restoration of registration	If registration of a union is cancelled because of defaults in submission of annual returns etc. the same shall be restored within 30 days of rectification steps.		* The existing section 10 of the Act regarding cancellation of registration is very liberal. There is provision for two months' show-cause notice before cancellation of registration. * It is only for wilful contravention of the Act even after notice that registration is cancelled. * In any case even after cancellation of registration a union can apply for fresh registration. * So there is no need for any amendment to the Act in this regard.	

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14.	Court Jurisdiction	Civil Courts should have no jurisdiction over matters connected with working of trade unions.		Unions collect membership fees from membe Apart from this, office bearers change on account of election processes. In the us of the resources of the unions including control over the same as well as in regar to exercise of authority by office bearer disputes frequently arise. They are ofte of a civil nature. So it is not appropri to oust Civil Court jurisdiction on the working of unions. In any case, unions ha been provided immunity from certain civil suits as well as from liabilities under th Indian Penal Code for furtherance of tra disputes. This immunity is also to be continued as per recommendation of the Ramanujam Committee by retention of sectio 17 and 18 of the Act. So there need be no amendment to the Act in regard to this matter.	

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	INDUSTRIAL DISPUTES ACT				
1.	Name of the law	The name of the law should be "industrial Relations Act", the need being one of positive indication of the objective of the law.		* This recommendation should be accepted and and accordingly section 1(1) should be amended.	
2.	Coverage	. All employed persons regardless of the character of employer or destination of profit should have legal macninery to protect their interests. All employees except those covered by Air Force Act, Army Act, Navy Act and those in Police and Prison services should be covered. . Left unions: Non-combatant civilian employees should not be covered by Army Act etc. and should be considered as employees. All civilian Government employees including policemen should be covered.		* It would not be advisable to change the existing exclusions from the definition of the term "workman" - all Defence employees, Police, Managerial, Administrative employees etc. These exclusions may remain intact. * However, so far as supervisory employees are are concerned, exclusion may be in regard to those drawing wages exceeding Rupees three thousand per mensem (as against the present amount of Rupees one thousand six hundred per mensem). * It is of course desirable to exclude employees covered by the JCM (at present certain employees covered under JCM are also having	

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		. INTUC, AITUC, HMS and NLO: Employees covered by Joint Consultative Machinery of the Government need not be covered; JCM scheme itself could be improved. . INTUC, NLO and Employees side: Enactments like the Bombay Industrial Relations Act, Madhya Pradesh Industrial Relations Act etc. may continue to be in vogue. . Employers: Existing definition of "workman" may continue; supervisors should be taken out of coverage. . Group of Ministers: Pay limit of Rupees one thousand six hundred per mensem mentioned in the definition of "workman" should be raised to Rupees three thousand; Government employees covered by JCM should be excluded; Separate State laws may contine (view of majority of Group of Ministers).		the option of seeking remedies under the Industrial Relations Act apart from seeking access to Central Administrative Tribunals. However, exclusion of this category of employees from the purview of the Industrial Relations Law will have to be secured by appropriate amendments to the Administrative Tribunals Act. State laws may continue as they are since labour is a concurrent subject.	

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3.	Definition of "industry"		. Labour: Industry should be defined to include business establishments excluded by the 1982 amendment i.e. agricultural operations, hospitals and dispensaries, educational etc. institutions, charitable etc. organisations, Khadi and village industries, domestic service, professions, co-operatives etc. Employers: They have wanted implementation of the 1982 amendment and establishment of appropriate machinery for redressal of grievances of excluded categories by a separate law. Group of Ministers: There could be separate legislation/Grievance Redressal Machinery for hospitals and educational institutions.	* The 1982 amendment excluding hospitals etc. categories has not been brought under implementation so far by the Government. * Government made efforts to introduce a law to provide for special machinery to protect the employees of hospitals, educational institutions etc. But because of opposition to this law, it has not been pursued. * Section 2(j) as modified by the 1982 amendment is to come into force with effect from the date to be notified. This notification has not so far been issued. * It is desirable to bring the 1982 amendment under implementation because the institutions sought by this amendment to be excluded are by and large sensitive ones in which production/service should be kept going without disruption and those in which conflicts arising out of the collective strength of the employers and the unions should not be allowed to come into play under cover of industrial relations laws.	

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				' Even if the 1982 amendment is not brought under implementation, at least it is desirable to keep it on the statute book without being rescinded all together. In any case service in hospitals should be excluded because of its extreme sensitivity, human lives and human health being involved. ' No doubt, separate worker protection/Grievance Redressal Machinery for excluded categories should be established legally or otherwise.	

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4.	Definition of "appropriate Government"	. Employers: Central Government should be the appropriate Government in respect of industrial establishments of companies in which not less than 51% of paid up capital is held by the Central Government and in respect of corporate bodies having industrial establishments in more than one state. Central Government may also continue to be the appropriate Government in respect of industrial establishments already spelt out in the existing definition. . Labour: CITU, UTUC and TUCC want the existing definition to continue. INTUC, HMS, AITUC, BMS and NLO want, apart from the continuance of the status quo, companies in which Central Government have 51% or more of the paid up capital to be under the purview of the Central Government. UTUC-LS also agrees with INTUC etc. organisations in this regard but would want multi state private sector corporations to be under the purview of the Central Government.		* The existing definition of "appropriate Government" is in terms of specific mention in the law itself of the organisations that are to come under the purview of the Central Government, the other non-mentioned organisations, for purposes of industrial disputes coming under the State Government. Patently, the objective is to leave it to the Parliament (to specifically spell out the organisations in regard to the Industrial Disputes Act of which the concern should be that of the Central Government. This is a healthy practice and need not be changed. * Already the Central Labour Machinery is fully occupied with industrial relations problems arising in establishments under its purview as per the existing definition. It is not desirable to over load it with jurisdiction over vast numbers of other organisations. The existing dicentralised set up is only consistent with the vastness of the country and the geographical dispersal of industries. * Apparently, the recommendation to make the	

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		Group of Ministers: Minsters of West Bengal, Andhra Pradesh and Tamil Nadu are in favour of status quo. Ministers of Maharashtra and Uttar Pradesh agree with the view of INTUC etc. organisations.		Central Government, appropriate Government in respect of disputes in industrial establishments of companies in which not less than 51% of the paid up share capital is held by the Central Government has been made following the definition of "industrial establishments" under chapter V B. But the purpose of chapter V B is all together different - that of insisting on employers securing prior permission of the appropriate Government for lay-off, retrenchment and closure in certain establishments it will not be appropriate for the State Governments to be made'appropriate Governments'in respect of Central Government companies considering the objective of section V B. So, the definition of appropriate Government under chapter 5 B should not be transplanted into section 2 (a) under chapter 1. In fact, the intention of the Parliament was to provide for a modified definition of'appropriate Government'under chapter V B in specific deviation from section 2(a). This is patent from the wordings of section 25-L(b).	

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				* Of late there have been several demands presented to the Chief Labour Commissioner that new air services like Vayudoot, Pawan Hans etc. should come under the purview of the Central Labour Machinery for settlement of industrial disputes etc. In fact such industrial disputes are raised by them before the Central Labour Machinery. Likewise, there is a demand for the National Airports Authority of India also to be brought under the purview of the Central Labour Machinery. Inernational Airports Authority of India is already under the purview of the Central Government. Problems faced in the management of National Airports being similar to those faced in International Airports, National Airports Authority of India should also be brought under the purview of the Central Government. Section 2(a) of the Act may, accordingly, be amended specifically bringing "transport service for the carriage of passengers or goods by air" as well as the National Airports Authority of India under the Central Government.	

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6.	Individual Grievances	Every establishment employing fifty or more persons should institute a grievance procedure. This procedure should provide for appeals in two stages. The second appeal should be the final one. The decision of the appellate authority should be given within thirty days of the referral of the grievance. In every such establishment a panel of Grievance Arbitrators agreed upon between the employers and employees should be set up. Aggrieved employees should be free to choose an arbitrator from such a panel. After exhausting the grievance procedure, the employee may approach the Negotiating Council. If he does not want to go to the Council, he should have the right of direct access to a Labour Court or the Judicial Wing of the Industrial Relations Commission.		* Section 9 C of the I.D.Act already provides for setting up of Grievance Settlement Authorities in establishments where fifty or more workmen are employed. It also provides that no dispute shall be referred to Boards, Courts or Tribunals unless it has been referred to the Grievance Settlement Authority. This section introduced by the amendment of 1982 is yet to be brought under implementation. * In order that grievances do not escalate into disputes, it is desirable that section 9 C is amended elaborately providing for the elements of the Grievance Settlement Machinery specifically recommended by the Ramanujam Committee. However, the constitution of the Grievance Settlement Machinery, its procedures, dead lines for disposal of its business etc. may be provided under the Industrial Employees (Standing Orders) Act, 1946.	

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		Employees under suspension should continue to get the present rates of subsistence allowance. He should continue to get it where the employer goes in appeal or takes recourse to writ proceedings. Employers: The employees should have the right of direct access to Labour Court etc. only in cases of dismissal, discharge or termination of employment. Where the employer goes on appeal/ writ procedings, relief for the employee should not be automatic. It should be ordered only by the adjudicator or the arbitrator or the High Court/Supreme Court		* The individual workman need only be provided right of direct access to Labour Court/ Industrial Tribunal on the issues of discharge, dismissal, retrenchment or termination of service otherwise referred to in section 2 A of the Act. * Features and the operations of the Grievance Settlement Machinery to be built into the Model Standing Orders under the Industrial Employees (Standing Orders) Act, 1946 may be as follows:- (i) The primary authority, (usually the immediate superior) to whom the grievance shall be initially presented by the individual workman. (ii) The first appellate authority to whom appeal shall lie from the decision of the primary authority. (iii) The second and final appellate authority to whom appeal shall lie from the decision of the first appellate authority.	

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				(iv) A panel of arbitrators drawn up by mutual consent between the employer and the workmen. (v) Negotiating Council. An individual workman may present his grievance to the primary authority and that authority may give his decision within 21 days from the date of presentation of the grievance. Within seven days thereafter, the individual workman may present his appeal, if any, against the decision of the primary authority to the first appellate authority who shall give his decision within 21 days from the date of filing of the appeal. Within seven days thereafter the individual workman may present further appeal, if any, against the decision of the first appellate authority to the second appellate authority who shall give his decision within twenty one days from the date of receipt of such appeal.	

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				If the individual workman is not satisfied with the decision of the second appellate authority, he will be free to choose any one out of the panel of arbitrators to arbitrate on his grievance. The decision of the arbi-trator shall be final. If the individual workman does not opt for arbitration, he will be free to present his grievance against the deci-sion of the second appellate authority to the Negotiating Council. If the individual workman niether wants to opt for arbitration nor invoke the assistance of the Negotiating Coun-cil or if the Council is not willing to take up the case, the individual work-man may try to have it settled in terms of an industrial dispute as defined under the Industrial Disputes Act.	

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	Negotiating Council	There should be Negotiating Councils in industrial establishments employing fifty or more persons. The features of these Councils may be:- - They shall consist of an equal number of representatives of employers and employees. The number of representatives on each side may be dependent on the size of the undertaking. - Where there is no union, a team of five persons may be elected. Where there is contest, election should be through secret ballot by all the workers in the plant. - If there is only one union, it may nominate all the representatives. - Those who favour verification (INTUC & NLO) of membership of unions for recognition of sole Negotiating Agent have suggested the following formula.		* Conduct of secret ballot at unit/company/industry levels all over the country is a herculian task. Conduct of ballot, therefore, would involve huge financial expenditure. Elections will also have to be virtually a continuous process because dates of ballots may vary from enterprise to enterprise. * It may be left to the managements and the unions to choose any one of the three systems - verification as provided under the Code of Discipline; or check-off; or secret ballot. While verification and check-off could be confined to unionised members, secret ballot may be open to all the workers. * Negotiating Councils may be provided for by introduction of a new section 3 A under chapter-II dealing with authorities under the Act.	

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		. Where there are multiple unions, the union with more than 50% membership of total verified strength shall be recognised as the Sole Negotiating Agent. . If there is no union with more than 50% membership of total verified membership, the top two or more unions may be included in the Negotiating Council so that the total verified membership represented in the Negotiating Council comes to 75% in the establishment. But each such union must have a minimum of 10% verified membership strength. Once the coverage in the Negotiating Council reaches 75%, these unions with 10% or more verified strength shall be ignored. . If the total verified membership of all unions with 10% or more membership does not add up to 75%, unions with less than 10% membership shall be ignored even if total membership coverage in the Council does not add up to 75%, provided the total representation			

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		. Those who favoured secret ballot (CITU AITUC, HMS, TUCC, UTUC and UTUC(LS)) for determining strength of unions to be recognised as Sole Negotiating Agent have suggested the following formula:- * Where there are multiple unions, the union with more than 75% of the total polled votes shall be recognised as the Sole Negotiating Agent. * If there is no union with more than 65% support, the top two or more unions may be included in the Negotiating Council such that the total representation in the Council comes to 85% of the total polled votes. But each such union must have polled a minimum of 10% of the total polled votes. Once the coverage in the Negotiating Council reaches 85%, even unions polling 10% or more votes shall be ignored.			

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		* If the total representation of unions with 10% or more polled votes does not add up to 85%, unions with support of less than 10% shall be ignored even though the total representation does not add up to 85% but is more than 65%. - Election/verification should be done by an independent machinery. - The representation of each union in the Council should be in proportion to its membership. - A union should have completed atleast one year after registration for claiming position in the Negotiating Council. - Chairmanship and meetings of the Council shall be by rotation between the employers and workers' representatives. - The Council shall have a tenure of three years. - The expenses relating to the Council shall be borne by the industry.			

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		- In the case of composite Negotiating Councils, union with largest membership will be recognised as the principal Negotiating Agent. - There could be company level Negotiating Councils where there are multi units under the company - over and above, unit-wise Councils. - There could be industry-wise Negotiating Councils of a non-statutory nature.	(The CITU and the UTUC(LS) would feel that those un represented on the Negotiating Councils should not be ignored and should be made parties to agreements that may be reached in the Negotiating Council meetings). Employers: They do not want to take responsibility for conduct of elections through secret ballot. Group of Ministers: They favour secret ballot for verifying membership strength of unions.		

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6.	Voluntary Arbitration	- Every establishment employing hundred or or more persons shall establish a Standing Panel of arbitrators agreed to by both parties. If there is failure of dispute resolution in the Negotiating Council, either party shall be entitled to invoke arbitration by a single person or by a Board drawn from the panel. Arbitration could also be done by a non-panelist. - If the Board of Arbitration consists of equal number of persons from both sides, the arbitrators could appoint an umpire. - Arbitration award shall be final and shall not be appeallable in any Court of law except where arbitrator has acted without jurisdiction. - The expenditure on arbitration (incurred on both sides) shall be charged on the industry - Arbitration shall be time bound, normally with a time limt of six months.		* Even now section 10-A of the Act provides for voluntary arbitration. Effect of this section read with the extant Court rulings is not very different from that of the recommendation of the Ramanujam Committee. * It is unclear whether what is implied in the recommendation of the Committee is that the appropriate Government shall not have the right of rejecting or modifying an arbitration award as envisaged in section 17-A of the Act. * In case any further improvement is to be made in existing provisions relating to voluntary arbitration in the Act, further clarifications/discussions may be required.	

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		- Disputes on interpretation of arbitration award shall be left to appropriate judicial authorites. Left Unions: They will not accept voluntary arbitration as a logical next stage after failure of dispute resolution in the Negotiating Council. They would also approve of resort to voluntary arbitration only if there is 75% support in the Negotiating Council. Employers: All individual disputes except dismissal should be referred to voluntary arbitration. Group of Ministers: Existing provisions in the I.D.Act are adequate.			

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9.	Strikes and Lockouts.	- Strikes and lockouts shall be the weapons of last resort. - In essential services (water supply, electricity, health, defence etc.), strikes and lockouts should be avoided. There should be one month's mandatory notice. - In industrial units where a strike or lockout takes place, essential services connected with safety, water supply, electricity, medical etc. shall be exempted. - Government should not declare any civil service as essential except with the consent of the Parliament. - In non-essential services, strikes/lockouts should be preceded by fourteen days notice. - Any strike or lockout during pendency of proceedings before Negotiating Council, Conciliator, Labour Court, the Industrial Relations Commission or Arbitrators shall be illegal.		* The provisions contained in chapter 5 relating to strikes and lockouts are based on a fine balance of disadvantage for employers as well as workers in the event of recourse being taken to lockout or strike as the case may be. * If it is to be stipulated that there shall be a strike ballot amongst the workers and strike action should be supported by any stipulated percentage of them, similar responsibility in the case of lockouts may also have to be cast on the employers. Stipulating support for lockout action from a stipulated percentage of - say, shareholders may not be feasible or practical. * It may not also be appropriate to stipulate that strike action could be supported by any stipulated percentage of workers represented on the Negotiating Council. The reason is is that there could be workers not represented on the Negotiating Council. * The modalities of decision making for declaring strike/lockout are best left	

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		- Strike/lockout over issues covered by a settlement or an award shall also be illegal. - Every strike should be preceded by a strike ballot and there should be support by two third of the workers in the establishment. Labour: Employers should get prior permission of appropriate authority before declaring lockout; in the case of illegal lockouts, employees should be eligible for full wages and other benefits; and Labour Court/Industrial Relations Commission. - AITUC, UTUC, UTUC(LS): These Central Trade Union Organisations are against strike ballot. BMS/HMS: Where unions representing more than 51% of the workers on the Negotiating Council are in favour of strike, no strike ballot is necessary. Employers: They are against any stipulation for prior Government concurrence before lockout is effected.		to the unions and the employers. * However, appropriate amendments may be introduced under chapter V stipulating notice of twenty one days for strikes and lockouts in public utility service and fourteen days for strikes and lockouts in services other than public utility service. * It will be inappropriate to stipulate that prior permission should be obtained by the employers before lockout is effected. It will be as bad as stipulating that workers should obtain prior permission of Government before declaring strike. * The existing provision under section 2-N(vi) empowering the Government to declare additional services as public utility service by notification may be retained. The reason is that, in any case, industries in respect of which such notification could be issued by the appropriate Government have been specified in the first schedule of the Act. Even industries under this schedule could be notified as public utility service only if public emergency or public interest so require.	

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		Group of Ministers: One montns' prior notice snould be stipulated before strike and lockout in essential as well as non-essential services. No strike or lock-out should be permitted during the pendency of conciliation proceedings. (West Bengal Minister , of course, did not support this view).		Apart from this, the periods for which sucl notified industries would be treated as public utility services has to be specifie and extended from time to time. Thus ther are enough safeguards. It is not necessar in the circumstances, to confine the autho rity for declaring additional industries a public utility services to the Parliament.	

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10.	Lay-off	- For lay off beyond the control of the management, existing 50% compensation may continue; for lay off within the control of the management, full wages should be paid. - Lay off compensation should be payable in industrial establishments employing twenty or more workers; and also to casual and Badli workers who are on the muster roll and have been in continuous service for a year or more. - Where the contractor lays off his workers without paying compensation, the obligation to pay it should be cast on the principal employer. - Lay off should be with the concurrence of the Negotiating Council; where the Negotiating Council does not give its concurrence, the matter should be disposed of as an industrial dispute. Employers: Employers have made different recommendations. Some have stated that		* Lay off, as envisaged in the Act now, is meant to be taken recourse to only in circumstances where fuel (coal, power etc) is in shortage; or where power is in short supply or there is breakdown of machinery or there is natural calamity or there is accumulation of stocks. These are very valid factors affecting the very economic viability of an industry. * It is also inappropriate to bring smaller establishments within the purview of lay off provisions. * Trying to distinguish between lay off within the control of the management and that which is not would only give rise to interminable disputes. * Stipulating prior Government permission for lay off in the current state of our economy in which power, raw-material etc. is in frequent short supply is an avoidable restrictive practice. A fair and appropriate solution is scrapping prior Government per-	

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		section 25-M requiring Government permission for lay off should be deleted. Others have stated that chapter V B as a whole should be deleted; and if lay off provision should at all be retained, the same should be applicable to establishments employing one thousand or more workmen.		mission for lay off, but instead, deterring scope for abuse of lay off right by stipulating higher rates of lay off compensation and liability for such compensation for a longer duration. Section 25-C of the Act may be amended to provide for lay off compensation @ 75% of the basic wages and dearness allowance and it may be made payable upto ninety days. This is also a recommendation of the Inter-Minsterial Group on Industrial Restructuring. * The question of casting obligation on the principal employers if contractors don't pay lay off compensation to contract workers if they are eligible for it, should be handled in the context of the Contract Labour (Regulation and Abolition) Act, 1970.	

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11.	Retrenchment	- There shall be no retrenchment on account of automation, computerisation and modernisation, provided the employers accept retraining and redeployment. - Surplus labour, if any, shall be adjusted in other plants under the same management or operation of additional shifts/seven day working/capacity expansion. - Where retrenchment is unavoidable	. Labour: Left unions have wanted approval by Negotiating Council/ Participative Forum for retrenchments. They want no reduction of rate of compensation in establishments with less than two hundred fifty employees. Employers: Different suggestions have been made by them:- - Prior permission of Government for retrenchment under Section	* It is not time yet for altogether scrapping the provision relating to prior permission for retrenchment, while this could be dispensed with in due course, as recommended by the Inter-Ministerial Working Group on Industrial Restructuring. * Some limited restrictive provision against possible abuse of retrenchment right by unscrupulous employers during times of Industrial Restructuring may not be out of place. * In any case, chapter V B as it stands now, has application only to labour intensive industrial establishments - Mines and Plantations - and organised employments covered by the Factories Act, 1948, that too larger ones amongst them. * Chapter V B provision regarding retrenchment may be made a little more liberal to the industry by making the same applicable to industrial establishments employing not less than three hundred workmen. Section 25-K(1) may be amended accordingly.	

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		all avenues, surplus shall be identified in consultation with the Negotiating Council; and retrenched employees shall be paid compensation at the enhanced rate of one months' average pay for every completed year of service. - Where the employer recruits new employees after having effected retrenchment within three years thereof, such recruitment shall be confined to the retrenched emplo-	25-N should be dispensed with. - Retrenchment upto 2% of total employment per annum should be taken out of the definition of retrenchment. - On payment of thirty days' compensation for every completed year of service, the employers should be free to retrench. (Thirty days' compensation has been recommended by the Inter-Ministe-	* In order that there is increased deterrence against possible abuse of retrenchment right the compensation may be upwardly revised as thirty days' average pay for every completed year of service etc. Section 25-N (a) may be amended accordingly. * Even as recommended by the Inter-Ministerial Working Group on Industrial Restructuring that the power of granting prior permission for retrenchment be given to independent authorities (other than the Appropriate Government), this power may be vested in Industrial Tribunals. The decisions of the Tribunals in this regard may be reviewed by the Industrial Relations Commission. Section 25(1)(b), (3), (4), (5) and (6) may be amended accordingly.	

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		yees, if they offer themselves for employment on the terms of the employer. - In respect of establishments employing less than two hundred fifty employees or with a turnover of less than Rs. 5 crores, the existing rate of compensation should continue - reason being that if the establishment is small, compensation payable would be small too.	rial Working Group on Industrial Restructuring. They have also recommended Income Tax Concessions when employers incur expenses under Voluntary Retirement Schemes). - Group of Ministers: Retrenched workers should be paid uniform compensation of forty five days wages for every completed year of service, irrespective of the size of the industrial units.		

o.	Subject	Gist of the Ramanujam Committee Recommendations	Views of different Groups on the Recommendations	View formulated in Senior Officers'discussion & reasons	Amendment if any suggested
	2	3	4	5	6
3.	Closure	- Section 25-O of the Act should be replaced by a new section whereunder an employer intending to close down an establishment wholly or partly should place the matter before the Negotiating Council atleast ninety days before the intended closure for its concurrence. - If the Council is enabled to arrive at an agreement within 30 days, the issue may be referred to the Indus- [illegible] Relations	. Employers: Section 25-O of the Act should apply only to industrial establishments employing atleast one thousand workers; it should suffice if the employer gave prior intimation of closure to appropriate Government and should not be subject to securing prior permission from Government. Another view amongst the employers was that higher level of	* As in the case of retrenchment, it is not time yet for altogether scraping the provision relating to prior permission for closure. * Limited restrictive provisions against possible abuse of right of closure by unscrupulous employers during times of industrial restructuring are not out of place. * Again as mentioned in the case of retrenchment, chapter V B, as it stands now, has application only to labour intensive industrial establishments - Mines, Plantations and organised employments covered by the Factories Act, 1948, that too larger ones amongst them. ' Again as already suggested in the case of retrenchment, the provision regarding closure also may be made a little more liberal to the industry, making chapter V B applicable to industrial establishments employing not less than three hundred workmen. This would be achieved by the amendment of section 25-K(1) as suggested earlier in the case of	

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		Commission by either party (the Commission could be empowered to appoint an Expert Committee to study causes of closure/ sickness). - The Commission, after hearing parties, shall give its award within thirty days; it may also grant interim relief to employees if deemed necessary	compensation could be stipulated for closure without prior permission than payable after obtaining prior permission. - Labour: The provision for obtaining prior permission for closure from Government should be retained; and in fact, should be made very stringent. (The latter view is that of the left unions) - Group of Ministers: The protective provision of chapter V B relating	retrenchment. * In order that there is increased deterrence against possible abuse of right of closure, the compensation may be upwardly revised as thirty days average pay for every completed year of service etc. Section 25-O(8) may accordingly be amended. * The power of granting prior permission for closure may be vested in Industrial Tribunals. The decisions of the Tribunals in this regard may be reviewed by the Industrial Relations Commission. Section 25-O(1), (2), (3), (4) and (5) may accordingly be amended.	

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		to closure should also be applicable to industrial units employing not less than fifty workers (at present applicability of chapter V B is only to industrial establishments employing not less than hundred workers); protection should also be extended to workers employed in establishments other than factories, mines or plantations.		

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3.	Restrictions on change in conditions of service etc. under certain circumstances (Section 33 of the Act)	Section 33 with its sub-sections may have to undergo changes consistent with the proposals of the Committee elsewhere.	. Labour: Distinction between section 32(2) and 33(3) should be removed i.e. there should be no distinction between change in conditions of service of workmen in regard to matters connected with industrial disputes on the one hand and in regard to matters not connected with industrial disputes on the other. Irrespective of whether change in conditions of ser-	* The recommendation of the Ramanujam Committee in regard to section 33 is in rather general terms. Therefore, it is not feasible to identify specific changes that are required in respect of section 33. * However, the existing distinction between change in service conditions connected to matters under dispute and those not so connected is quite clear and needs to be retained. While it is inappropriate to change service conditions on a matter connected with a dispute pending before an authority, to put a blanket prohibition on changes of conditions of service even in regard to matters not connected with such pending disputes, shall be unfair and arbitrary. * Section 33-C(2) is to be read with section 33-C(1). Both the sub-sections basically deal with the same matter, namely, recovery of money due to workmen from an employer under the Revenue Recovery Act. As clarified by Court rulings, action under section	

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			vice are connected with matters under dispute or not, permission of the authority concerned before whom the disputes are pending should be obtained for effecting changes. - Employers: The existing provisions and the distinction should be continued. A one year time limit should be stipulated for filing of claims before the authority for recovery of dues by the workmen under section 33-C(2).	33-C(2) is in the nature of execution proceedings. The appropriate Government refers to the Labour Court only questions that may arise as to the amount of money due or as to the amount at which an entitled benefit is to be computed - after application has been made by the workmen, within one year from the date on which the amount became due. In other words, the time limit under section 33-C (1) is applicable to section 33-C(2) also. No question relating to money due to a workman can be decided by a Labour Court unless application for recovery of money due had been made by the workmen within one year from the date on which it became due. Therefore, there is no need for any amendment to section 33-C(2).	

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14.	Unfair Practices	- The fifth schedule of the Act listing unfair practices on the part of employers and unions may be deleted; a simple illustrative list may be prepared embodying the principal provisions of the Code of Discipline in Industry and the Code of Conduct unanimously accepted in the Indian Labour Conference in 1958; and any unfair practice by either party may be referred to Labour	. Labour: Left unions agreed to the deletion of the fifth schedule; however, they are not prepared for establishment of an illustrative list of unfair practices. They are also not in favour of legal processes for deciding on unfair practices. - Employers: The fifth schedule may be retained. Failure to implement award, settlement or agreement may also	* The existing provisions in the Act regarding unfair labour practices have stood the test of time. The legal provisions may not be replaced by informal illustrative lists. * Failure to fulfil obligations under an award, settlement or agreement may be added as item number 9 of part (II) of the fifth schedule of the Act. This will only be a fair complementary provision vis-a-vis item 13 under part (I) of the fifth scheule which refers to "failure to implement award, settlement or agreement".	

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		Court which shall give its decision within ninety days of receipt of the complaint.	be listed in part two of the fifth schedule.		
15.	Penalties	- The penalties under the Act should not be nominal so that employers as well as unions and workers take the Act seriously. Penalties should be made sufficiently deterrent and their enforcement made meaningful by entrustment of authority to the Industrial Relations Commission.	. The Left Unions: They are against entrustment of enforcement functions to the Industrial Relations Commission. They want Government to continue to be the Enforcement Authority.	* The penalties in terms of fine are indeed nominal. They could be upwardly revised to add to the element of deterrence. Sections 26 to 31 and Sections 25-Q and 25-R may accordingly be amended - generally by scaling up the fine to double the existing amount.	

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14.	Go Slow	- There should be deduction of wages when a workman resorts to go slow; "slow-down" should be defined; only proportionate pay should be given for proportionate work; reduction of wages for go slow should be without prejudice to other punishments (all these are recommendations of employers organisations) - Group of Ministers: Go slow should be discouraged.		* Go slow is already covered under item 5, part (ii) of the fifth schedule relating to unfair labour practices. There is also penalty under section 25-U for indulging in unfair labour practice. In any case, 'go slow' could be handled in terms of misconduct under the Industrial Employment (Standing Orders) Act.	

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15.	Notice of change in regard to service conditions under section 9-A.	- Item number 10 in the fourth schedule of the Act may be deleted. - The Act may be amended so that under Section 9-A, the notice time is reduced from twenty one days to seven days (These are suggestions of the employers).		* Item 10 in the fourth schedule relates to rationalisation, standardisation or improvement of plant or technique which may lead to retrenchment of workmen. Retrenchment of this nature is a rather crucial matter and therefore, it is only fair that prior notice of change is given. Such notice should also be of a substantial nature. Therefore, twenty one days' notice may be retained as it is. * In any case under Section 9-B, the Government have reserved to themselves the powers of granting exemption from the application of Section 9-A where, inter alia, the Government are of the view that the employers are so prejudicially affected that there could be serious repurcussions on the industry. * In the circumstances, no change in regard to section 9-A need be made.	

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16.	Grant of relief to discharged/ dismissed workmen by Labour Courts etc. under Section 11-A.	- Courts should not interfere with the quantum of punishment where a Labour Court/Industrial Tribunal finds that a proper and fair enquiry has been held; that charges levelled have proved by evidence; and that the punishment is indeed one provided in the Standing Orders or the Conditions of Service. There should, however, be no objection to reasonable compensation being ordered as a matter of relief. (This is the view presented by employers).		* Section 11-A in its present form has been introduced by an amendment of 1971. This is is also in pursuance of ILO recommendation for grant of relief to workmen unfairly discharged/dismissed. * While it is only fair and appropriate that relief may be granted, ordering of a lesser penalty by a Labour Court/Tribunal has the effect of such Courts/Tribunals performing the role of the management, cutting into its jurisdiction. * Therefore, section 11-A may be suitably amended.	

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Deleting of Section 2-A: Deeming dismissal etc. of an individual workman to be an industrial dispute.	- Section 2-A should be deleted; while the case of discharge, dismissal or termination otherwise of the services of an individual workman could be a subject matter of industrial dispute to be raised by a union, it is not appropriate to allow the individuals to raise disputes in this regard. (This is the suggestion of employers).		* No justification as such has been given in support of this suggestion of the employers. Therefore, there is no need for amendment to the Act in this regard.	

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17.	Representation of parties under section 36 of the Act.	- Section 36 (4) providing for parties to the dispute to be represented by legal practitioners before Labour Court etc. should be deleted. If this is not possible, the anomaly as between section 36(1) and Section 36(2) should be removed.		* Under Section 36(1) a workman who is a party to a dispute can be retrenched inter alia, by any member of the executive of a union. But under section 36(2), an employer who is a party to a dispute cannot be represented by a member of the executive of association of employers. * Section 36 (2) may accordingly be suitably amended. * References to associations/trade unions/federations of employers or workers under section 36 should be to registered association/trade union/federation. (The reason is that under the Trade Union law proposal has been made for mandatory registration of unions and federations).	

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18.	Industrial Relations Commission	- There shall be a Central Industrial Relations Commi- ssion (IRC) and a State IRC in each State appointed, respectively, by the Central and concer- ned State Govern- ments. Each IRC shall consist of a President and such number of judicial and technical mem- bers from the field of labour and mana- gement as may be decided by the appropriate Govern- ment. The Presi- dent of the Central IRC will be a serving or retired	. The left unions are not in favour of the concept of IRCs. They want the continuance of the existing conciliation and adjudication me- chanisms. . Employers are in favour of IRCs.	* The way the Ramanujam Committee has envis ged the Industrial Relations Commission, there is a combination of executive (enfo cement, conciliation and registration) as well as judicial functions; conceptually this combination of executive and judicia functions is not appropriate. * The existing structures of Labour Courts, Industrial Tribunals and National Tribu- nals have been performing adjudication fu ctions with considerable judicial experti though there is need for evolving rules c practice which will expedite disposal of cases. Therefore, these institutions cou be left intact as they are. * However, Central and State Industrial Rel tions Commissions may be established on t model of Administrative Tribunals under t umbrella of Article 323-B of the Constitu tion (specific reference is to Article 33 B(2)(c)). This will facilitate exclusion the jurisdiction of all Courts except the Supreme Court. This is particulary justi	

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		Supreme Court judge while that of the State IRC will be a serving or retired High Court judge. The judicial members of the Commission shall be persons qualified to be judges of High Courts. The President of the Central IRC shall be appointed by the Central Government on the recommendation of the Chief Justice of India and the Presidents of the State IRCs shall be appointed by by State Governments on the recommendations of the		fied on account of the fact that at present High Courts in the various States are burdened with enormous workload on account of labour matters being taken before them both in terms of appeals/reviews of the decision of the Labour Courts and Industrial Tribunals and in terms of writ jurisdiction. Particular mention in this context should be made of the fact that the public sector corporations are construed as 'State' under Article 12 of the Constitution. * Certain other functions that could be given to the IRCs are:- (i) Tendering advice to the appropriate Government on the appointment of the Presiding Officers of the Labour Courts and Industrial Tribunals. (ii) Review of the decisions of the Industrial Tribunals in regard to grant of prior permission to industrial establishments for effecting retrenchment and closures. * With the above roll and functions, Industrial Relations Commissions at the Central and State levels should be constituted by intr	

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		Chief Justices of the concerned High Courts. Members of IRCs shall be appointed on the basis of recommendations of Selection Committees. For the Central IRC this Committee will consist of the Chief Justice of India or a sitting judge of the Supreme Court nominated by him and the President of the Central IRC. In the case of State IRCs, this Committee will consist of the Chief Justice of the High Court or a sitting		duction of a new section (Section 7 BB) u chapter II of the Act dealing with`authorities under the Act!	

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		judge of the High Court nominated by the Chief Justice and the President of the State IRC. - There may also be benches of IRC. These benches will be set up as per the decisions of respective IRC Presidents. Each bench shall consist of a judicial member (Presiding Officer) and two technical members. - The Central and State IRCs will have original and appellate functions [illegible]rating, respec-			

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		tively, in areas for which the Central and State Governments are appropriate Governments. - The main functions of the IRCs will be: (i) registration and certification of membership of Negotiating Councils. (ii) Conciliation. (iii) Mediation. (iv) Adjudication of industrial disputes. (v) Hearing appeals against awards of concerned Labour Courts. (vi) Enforcement.			

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		- Labour Courts will form part of the IRCs and will be under their administrative control. These Labour Courts will be set up by the Central and State Governments in accordance with the decisions of the Presidents of the concerned IRCs. The Labour Courts will have original powers in respect of establishments employing two hundred fifty or less employees. - The IRCs will have separate Conciliation Wings. Authorities in the lower			

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		rung in the Conciliation Wing will deal with conciliation in establisments employing two hundred fifty or less employees. Authorities in the higher rung in the Conciliation Wing will deal with other conciliation cases. - Work relating to registration and certification of Negotiating Agents will be handled by a separate wing of the IRC in charge of a Registrar of Trade Unions.			