

ARE WORKS COMMITTEES IN OTHER COUNTRIES EFFECTIVE?

1. INTRODUCTION

One important issue is left out of the current debate on trade union rights for african workers. Because attention is given to industrial action by workers and the implications of trade unions they are establishing , little discussion is held on the relationship between workers and employers. The role of the employer and employers' organizations in contributing to an effective relationship between workers and employers is also played down.

The need for a relationship arises out of the fact that workers have to sell their labour for a wage. Unless the wages and working conditions given in exchange are mutually agreed upon, no satisfactory relationship can emerge and continue.

In the early stages of the labour movement in other countries, companies employed on average a small number of workers, the employer was the owner and the whole concept of management had not been formulated. Emerging african trade union leaders, however, have to face sophisticated managerial techniques. Furthermore, blue-collar workers are increasingly employed by companies with a large labour force. Hence it is becoming necessary to define the representational rights and powers of workers in their place of work, besides rights of negotiation of workers on a collective basis and on an industry-wide level.

This article examines certain issues underlying the question of worker representation and aspects of the works council system in Germany and the Netherlands. In both these countries, legislation dealing with the scope and limited of works councils was brought in 20 years ago. Trade unions have existed since the turn of the century and operate on industry-wide level to negotiate improvements in wages and working conditions with employers' associations. But as the activities and decision-making powers of works council affect the members of those unions, they have become involved in the functioning of those organizations. They

not only conduct educational classes for works committee representatives but have made successful representations to improve the legal power of works committees.

2. LEGISLATION IN GERMANY AND THE NETHERLANDS

In the Netherlands all the workers of a factory, including unorganized workers who are not members of trade unions, can elect fellow-workers to the works council. The Chairman is the employer.

The functions and powers of the works council include:

- A. Having a say in hours of work including overtime and arrangement of holiday leave.

Being consulted on working conditions or other matters referred by the main agreement of that industry to the council.

Attending to and controlling administration of pension matters, safety rules, health care, sick pay, other benefit funds, productivity commission, etc.

The management must have the approval of the works council in the above matters before it can decide on them.

- B. Attending to observations, wishes and complaints of workers provided they cannot be handled through normal channels.
- C. Advising and making suggestions on measures that may contribute to technical and economic improvements.
- D. Promotion of training and education of workers.
- E. Rendering advice and being consulted on the personnel policy of the firm.
- F. Being consulted when the establishment is to be closed down, taken over by another firm, moving of the firm to another area.

In Germany the works council also consists of members elected by the union-organized and unorganized workers, including clerical personnel. The Committee elects its own chairman and decisions are conveyed, inter alia, through minutes of meetings, to management or the personnel department. In urgent cases, the chairman will convey the decisions. In factories with a large labour force, the chairman and sometimes one or more works council members are full-time employed to attend the works council affairs. These full-time people receive the wage they would have earned if they had stayed in their particular job.

What are the formal powers arising out of these three rights of consultation, information and co-determination? The following summarised list includes items referred to the works council by the collective wage agreements:

regulation of daily hours of work, breaks, time and place of payment of wages, etc.

preparation of the holiday leave schedule.

administration of welfare and social security services.

carrying out of vocational training.

disciplinary matters arising out of incidents when instructions have not been followed by workers.

determining of job and piece rates for incentive schemes.

approving of transfers re-organization, dismissals and other changes in personnel policy involving substantial disadvantages for workers.

In 1968, there were 180 000 works council representatives. Although 90% of works council members are union members, only about one-third of all german workers belong to unions.

3. TRADE UNION ATTITUDES TOWARDS WORKS COUNCILS

Although the trade unions in Germany and the Netherlands co-operate with the works council system they are critical of its limited powers. The dutch trade unions have said that "works councils offer few real guarantees for an effective influence of the workers' representatives on the operation of enterprise. Decision can only be reached provided that management agrees to co-operate". It is felt that the employer can still take too many decisions without having to seek the co-operation of the works councils.

The german trade unions also maintain that the works councils should have a greater say and add the vital observation, "Experience over a considerable period of time with the existing legislation has shown that in the long run proper functioning of the works councils depends for its effectiveness on the active support of the trade unions".

As these statements show works councils, as a form of workers' participation, are not rejected. However, since the first legislation on works councils was passed, the trade unions have, in terms of experience, indicated that the power of the works council has to be made more effective. And the new 1971 Legislation has incorporated these suggestions from trade unions and further amendments to the revised Legislation are being formulated at present by the trade union co-ordinating bodies.

4. TRADE UNION REPRESENTATIVES IN THE WORK SITUATION

But besides the involvement of the trade unions in the process of making works councils more effective and being in a position to exercise more power, other developments have taken place which are of vital importance.

During the last decade, trade union leaders in both countries have expressed the wish that the trade unions should be more active for their members in the actual place of work. It was felt that although trade unions could influence social and economic matters on a national level,

they lacked influence in the factory.

The realisation that trade unions should be active in the factory was brought home by the experience with works councils. Although the works council system is accepted it became apparent that the decision-making process of the council could be manipulated, deliberately or not, by the employer.

The works council representatives constantly have to be reminded that they must safeguard the interest of workers and not take decisions which are only in the interest of the company and its operation.

As a result, both the german and netherlands trade union members in each factory have elected workers to represent the union and safeguard their interests. These elected officials can, but need not, be the same persons who are elected on to the works council.

In Germany, the term "vertrauensleute" or "confidence people" is used to describe these trade union representatives in the factory. In the Netherlands, the term "bondswerk in de industrie" is used to emphasise the need for involvement of the trade unions as a corporate or collective organization in the work place.

The elected trade union members form the link (or "hot line") between what happens to workers in the factory and the trade union leaders.

These elected trade union representatives are not shop stewards in the british trade union sense. Because of the presence of the committee system, these elected union representatives do not have the power of shop stewards. This in itself is of importance to the trade union because the british shop steward system has at times tried to usurp the function of the trade union. That is, they can be a threat to the established trade union arrangement, proper channels of negotiation and harmful to the trade unions' image. In the evidence of the British Trade Union Congress

to the Royal Commission on trade unions, it is stated "Cases have been reported to the General Council (of the TUC) where joint steward bodies have concluded agreements inconsistent with union policies".

Hence trade union constitutions should specify what rights and responsibilities the elected trade union members have and what functions works committees can perform.

One of the three co-ordinating bodies in the Netherlands, the C.N.V., has stated that trade union activity in the establishment offers workers an appropriate framework or structure through which to exercise influence on the social policy in the work place. It is believed that a well-planned programme of factory-based trade union activity improves communication with members and ensures democratisation of the union. The question of democratisation is important because the trade union leaders have been too long out of touch with their members.

The largest union in the Netherlands has stated that trade union activity in the establishment aims to:

counter the power and control which the employer can exert over the workers.

ensure that the interests of the workers are protected.

involve trade unions in the personnel policy of the establishment or factory.

affect changes in the organization of work so that the humanity of the workers is upheld.

It is also said that provided there is effective trade union activity in the work place, the works councils can perform an essential function. The elected trade union members in the work place ensure that the system of workers' participation becomes meaningful and functional. Trade union activity in the factory is not the same as the british shop steward system because of the legal presence of works councils and the support of the trade union for these

councils as a form of workers' participation.

It stands to reason that these new developments have laid a great emphasis on workers' education. Both the elected trade union members in the factory as well as the works council representatives require knowledge in order to know how to carry out their new responsibilities. For example, 1 250 members attended one of the courses given by the educational school for the Typographical Union in Germany last year. The Union has 150 000 members.

5. WHAT ISSUES ARE DISCUSSED AT A TYPICAL WORK COUNCIL MEETING?

What items were discussed by a meeting of a works council? The following brief minutes of a works council meeting in Germany are given:

The firm concerned employs 646 blue-collar workers and 78 white-collar workers, of whom 312 are foreigners.

It is important to add that the Chairman is no longer employed in the factory but spends all his time on works council affairs. He earns what he would have been paid if he had remained in the factory and has an office with necessary facilities. One other member of the Council has the right, if he so thinks necessary, to leave his job and attend to council matters. All the other members are employed in the factory. The council meets during working hours. The Agenda is drawn up by the council and contains items on which a decision is requested by the Personnel Department as well as issues brought to the attention of the council from workers or "vertrauensleute" (confidence people).

Ten of the eleven committee members (one is a foreigner) and one youth representative came to the meeting. Meetings can be held every week. The person absent was attending a week-long course organized by the union, on the structure and function of works councils. He received paid educational leave during that period.

(NOTE: In the metal industry, which employs 5,2 million workers of whom 50% are trade union members, 20 000 of the 80 000 works council members have attended a week-long course on works council. Altogether 65 000 or 81% of work council members are union members).

Meeting

1. The personnel department had requested permission to dismiss two foreign workers who had returned from annual leave three weeks late.

As they had no sick pay certificate, approval was given for their dismissal.

NOTE: At another factory, a similar problem had been discussed by the works council. This involved six foreign workers who had sent a doctor's certificate which it was suspected was not valid as the same illness affected all of them and they were all booked back to work on the same date.

The Council ruled, on the principle that the foreign workers need more time to be at home with their family or relatives because of a year's absence, that they not be dismissed. However, that committee undertook to discuss the issue with the workers and give them a final warning as well as let it be known that this tactic could not be tolerated for the future.

2. Permission was requested by the Personnel Department for the promotion of two workers.

The council agreed but did question why a three month probation period was necessary. It was accepted that if the promotion did not materialise a full explanation would have to be given by the Personnel Department to the Committee.

3. The management requested permission to issue identification cards to all employees. Apparently, the security guard did not know all workers, particularly the foreign workers. Some friends of foreign workers came during night shift to have a shower in the factory. If a card was lost, the workers had to pay for a new card.

Considerable discussion was generated by this request. First of all, it was asked why there was a need for an identification card and, secondly, why people should be punished if they lose their card.

As the matter could not be resolved, it was put to the vote. 6 agreed, 2 were against, 1 abstained and the youth representative did not participate.

4. The management asked for permission to withhold the bonus for one day from two employees who had fallen asleep on the job. As a result, part of an order was spoiled because rejects went through, resulting in a considerable claim for damages.

Exhibits were shown to the representatives and the Chairman pointed out that the committee had up to that stage agreed in only one other instance to penalise a worker.

The requested action was regarded as a fair penalty and permission was granted after the amount was reduced.

5. The new rules of the firm's pension fund in regard to payment to widows were approved.
6. The youth committee had requested permission for more time during the hours of work to enable apprentices to study.

Permission was granted although some members felt that the apprentices were treated too leniently.

7. The Chairman asked for nomination of one member to accompany him to Dusseldorf for the quarterly meeting of the co-ordinating works councils belonging to this group of companies in order to approve of the new job classification for all the factories.
8. The company advised it would not pay its usual contribution per worker to cover part of the cost of an excursion. The reason was that some German workers had demanded, because their families would attend, that foreign workers be excluded. The company ruled that either all workers attend or the annual outing be cancelled.

Discussion ensued and it was put forward that certain Departments were too large and would have to split into two sections, each holding its outing on a separate day.

The council agreed to support the company in its stand and ruled that if a Department has to be divided, it be ensured that each section be mixed so that German and foreign workers participate together.

9. The Chairman reported that one german worker had complained that Germans were oppressed because foreign workers were appointed as foremen. "Foreigners send money home and why should he, as a German, have to take orders from a foreigner".

The Chairman said that he rejected racialism and that this was a dangerous trend. He said that this matter should also be discussed at the next meeting of "vertrauensleute" or "confidence people" - (that is, the trade union representatives in the factory elected by the trade union members only and not the unorganized workers).

Considerable informal discussion ensued on this matter. There was a general rejection of the attitude expressed by the german workers, and it was agreed to record that the council was strongly against discrimination and that the matter would be discussed in these terms with the german worker concerned.

10. Under the heading of General, the following matters were raised:

(a) Pollution Problems:

Information was tabled about the petition being distributed by people in the town to ask that action be taken against dust caused by manufacturing companies.

Details about the regional air pollution officer were supplied.

(b) Influenza Immunisation:

The turkish workers had refused to be immunised against influenza because of the Ramadaan Festival.

It was agreed that the immunisation next year be

organized at a different time.

(c) Long Sick Leave:

One worker had lodged a complaint against a fellow-worker who was still on paid sick leave but who had been seen in public bars and other public places.

The Chairman said that if the doctor had booked him off and the worker obeyed doctor's orders, he was entitled to sick pay.

The meeting lasted nearly 2 hours.

NOTE: It is apparent from the above report of what actually transpires at a works council meeting that the power of that organization is not abused and decisions taken are responsible. It is also evident that workers' education is important to ensure that council members know how to exercise their rights.

6. WHY NICODEMUS MAREBA DECIDED TO STAY

When Nicodemus Mareba was fired on the 30th January, 1974, he suspected that this was due to his involvement in the establishment of a works committee. The company he worked for, Van Leer in Springs, alleged that he was dismissed because he did not follow instructions but Mr. Mareba did not accept this explanation and asked the 1 400 strong Engineering and Allied Workers' Union to take up the matter.

The firm, at that stage, refused to deal with the African Union, and the Secretary was left no alternative but to seek legal advice. The firm was asked to reinstate Mr. Mareba as it appeared that he was victimised and the Bantu Labour Relations Act provides against dismissal of people who are active in the establishment of a works committee. The Union also advised the International Metal Workers' Federation in Switzerland to which it is affiliated, of the incident as Van Leer is a multinational company.

Mr. Mareba's suspicion that he was dismissed because of his works committee activities was based on the difficulties he and other fellow workers had experienced over the previous

four months in establishing a committee at Van Leer. He had attended a weekend Seminar organized by the Urban Training Project in October, 1973, and this had given him insight into the difference between a works committee and a liaison committee.

When management tried to impose a liaison committee on the workers, he had questioned why consideration was not given to the works committee as an alternative. Management had not responded to his request and tried to impose its plans on the workers. He had taken round a petition amongst workers which asked the company and the Department of Labour to establish a works committee at Van Leer (R.D.M.-18/4/74).

The management of Van Leer refused to consider reinstatement but both Mr. Mareba and the Engineering Workers' Union pressed on with their claim. On the 18th April, 1974, the firm relented and offered Mr. Mareba a choice:

The company said it was prepared to re-engage him, pay back-pay owing to him since the date he had been dismissed and also contribute to his legal expenses, or, as an alternative, pay him R1 000.

Mr. Mareba decided not to accept the money. He is determined to remain with the company (R.D.M.-20/4/74).

Miss Jane Bandes, the Secretary of the Engineering and Allied Workers' Union, in commenting on Mr. Mareba's decision said that she hoped other firms would learn from the experience of Van Leer. She also expressed the hope that a satisfactory relationship would be established between her union and the company.

This, of course, is the crux of trade unionism - to establish a relationship based on equality and mutual respect between workers and employers. A trade union which cannot establish a relationship has little scope to improve the plight of workers. It was in this spirit that Mr. Mareba refused to be enticed by the considerable sum of money offered to him. He had become involved in the issue of works committee and became a member of the trade union not for his own gain but in order to ensure that the workers

have an effective voice and that management recognised the fact that workers have the right to be represented by an independent organization.

7. COMMITTEE LEGISLATION IN SOUTH AFRICA

Although african workers have had the possibility since 1954, in terms of the Bantu Labour (Settlement of Disputes) Act, to form works committees, the procedural requirements were not practical either to them or employers. In fact, employers established many committees which did not comply with the legal requirements of the Act, because they did not want Department of Labour involvement in domestic matters. However, after the Durban strikes, the Act was considerably revised and it is significant that the title was changed from "Settlement of Disputes" to "Labour Relations". Furthermore, the clause regarding victimization was also made more specific.

The Act provided for a choice between two types of committees in a place of work. The works committee consists of representatives elected by the workers, whereas the liaison committee consisted of representatives appointed by the employer as well as representatives elected by the workers.

The Act is still unsatisfactory and has not provided an answer to the question of legal recognition of african trade unions but as at April, 1974, 830 liaison committees and 200 works committees had been established (R.D.M.-4/74).

The upsurge in the establishment of committees cannot be ignored by organizations or people concerned with the development of a labour movement in South Africa. The personnel departments of companies and holding groups are actively promoting some form of committee in the work place. To ignore this development is naive. Hence the action taken by trade unions in other countries who were faced with similar legislation must be taken into account.

8. CONCLUSION

One fact cannot be disputed. Works committees are not trade unions and as the case study of Mr. Mareba and a number of others have shown; works committees on their own cannot protect workers. It is only when workers have access to a trade union that their interest can be safeguarded.

As has been pointed out, works committees cannot give workers membership rights. The leaders of trade unions are directly responsible to their members for their decisions and actions but works committee representatives do not have to report back. The trade union operates independently from the authority of employers and only trade unions can bargain on a collective basis with employers' associations to improve wages and working conditions. A works committee cannot muster the collective strength of workers and adopt a determined stand against an inconsiderate employer. Only the trade union has the financial stability to build up an independent administrative system. Only the trade union can provide legal assistance. Only a trade union can ensure that workers receive effective workers' education.

But works or liaison committees are here to stay. Because they influence the relationship between workers and employers, their possibilities must be utilised and their inability to protect workers' interests must be understood.

This suggests that african trade unions accept and operate with works or liaison committees. It is in the work situation that the dignity of the worker can be endangered. And provided that the elected members of a liaison committee or all the members of a works committee, receive guidance and advice they can ensure protection of workers. The committee structure allows for a relationship to be developed between workers and the employer. The trade union can ensure that the quality of this relationship is effective and protects the dignity of each worker.