

Workplace forums: *can they tame management?*

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assesses
the



strengths and weaknesses of
workplace forums, as outlined
in the draft Bill.

Workplace forums could be a breakthrough in the struggle for democracy at work. They could provide unions with the tools to improve the quality of working life and prevent management from unilaterally restructuring the workplace. They also offer the unions an opportunity to intervene in management decision-making and shape decisions to meet workers' interests.

Many of these provisions in the Bill are likely to meet stiff resistance from

employers. Unless the union movement campaigns vigorously in support of them, NED-LAC may be unable to reach agreement. Then everything will depend on the political will of the ANC and the cabinet, on whether it will be prepared to retain powerful workplace forums in the Bill against the opposition of employers.

However, in discussing the draft Bill, one should distinguish between the *co-determination rights* on the one hand, and on the other hand the *institutional form* of co-determination proposed in the Bill, ie the workplace forums. While co-determination rights are an important step forward, there are some problems and confusions in the way the Bill sets out the role of the forums.

What does the Bill say?

The Bill allows a majority union in any workplace which employs more than 100 people, to trigger the establishment of a workplace forum. The forum represents all employees below the level of senior management, not only union members. However, candidates can only be nominated by registered trade unions, or by a certain percentage of employees signing a petition to nominate candidates.

According to the Bill, the function of the forums is to consult with the employer on a range of workplace and production issues with a view to reaching consensus, to provide for worker participation in the

workplace, and seek to enhance efficiency. To ensure that this is possible, the Bill provides the forums with considerable powers in the form of co-determination rights.

Employers are obliged to disclose information to the forums, to consult with the forums on some issues and enter into joint decision-making on other issues.

The Bill leaves it to NEDLAC to negotiate which matters should be subject to information disclosure, which to consultation and which to joint decision-making. It does, however, suggest a range of issues including: new technology, changes to work organisation, shift systems and overtime, strategic business plans, investment decisions, production planning and scheduling, productivity and quality, product development, retrenchments, guidelines for hiring, firing, promotion, transfer, discipline, education and training, job grading, affirmative action, social benefits and health and safety.

If no agreement is reached on matters which are subject to consultation, the union retains the right to strike after mediation. On matters for joint decision-making there is no right to strike, and the Bill provides for arbitration.

Problems with the Bill

There are some problems with the workplace forums as outlined in the draft Bill. A political problem is that it does not specify which matters should be subject to information disclosure, consultation and joint decision-making, but leaves this to negotiation at NEDLAC. There is a real danger that concerted resistance by employers will water down the powers of the forums to such an extent that they are useless to unions.

Unions will need to discuss and campaign around the issues they want included. They may, for example, prefer consultation on issues where they wish to retain the right to strike, while preferring joint decision-making on issues like work organisation, training and affirmative action.

A more specific problem is that, although the majority union has the sole right to trigger the formation of the forum, and has the right to put up a list of candidates, unions

have no specified right of access to the forum. German legislation confers on union officials the right to attend and speak at such meetings.

The Bill obliges the employer to provide resources for the forum in the form of secretarial and administrative services, meetings during working hours, paid time off for representatives, full-time representatives in big workplaces, and costs for training representatives. It also provides for experts to assist the forum, but fails to provide funds to commission such experts. Employers should be obliged to contribute to a forum fund for such purposes as is the case in Germany. Given the current lack of capacity of the union movement, the failure to provide sufficient resources could doom the forums to failure.

A broader problem is the relation of these forums with co-determination rights, to collective bargaining over wages and conditions. In Germany, Sweden and Italy collective bargaining takes place in national industrial bargaining forums, while co-determination bargaining takes place in the workplace. Thus the more conflictual bargaining over wages and conditions does not interfere with negotiations over production and management issues.

In SA, however, many industries lack centralised bargaining. Even in industries with centralised bargaining, there tends to be workplace collective bargaining as well. The Bill's drafting team envisages two bargaining forums in the workplace — one where unions engage in collective bargaining, another (the workplace forum) where co-determination is negotiated. This could create demarcation conflicts between forums and confusion among workers and managers. Issues could be shunted back and forth between forums for expedient reasons, undermining the quest for new bargaining relationships. It could facilitate factionalism and divisions within unions between shop-stewards in the workplace forum and shop-stewards in the collective bargaining forum.

It is also generally true that stronger forums tend to drive out weaker forums. The

workplace' forums would be stronger because they have more resources, and so marginalise the weaker collective bargaining forums.

It may be preferable to have a single forum dealing with co-determination and collective bargaining issues. This could either take the form of providing co-determination rights to trade unions in existing collective bargaining forums (which would exclude non-unionised employees) as in Sweden, or giving collective bargaining rights to workplace forums (which would include non-union employees and those outside the bargaining unit).

A single workplace forum makes it impossible to separate co-determination and collective bargaining. But it can be argued that they can only be separated if there is a strict centralised bargaining system. Even with centralised bargaining there is an increasing trend towards negotiating performance or productivity linked wage supplements at plant or company level. Frameworks may be negotiated at industry level where bargaining forums exist, but where will the plant level agreement be negotiated — in the workplace forum or in a separate collective bargaining forum? These questions point to a blurring of the distinction between co-determination and collective bargaining, which the Bill does not appear to cater for.

There is a further problem in the location of the forum. Many big companies have more than one plant, and a number of the restructuring decisions to be discussed in the forums are made at company or divisional level. This problem is worse in the retail and other service sectors where a major company employs thousands of workers, but where very few workplaces have more than 100 employees. It makes no sense to exclude such companies from co-determination. The parties should consider mechanisms for establishing co-determination in *company forums*, and their relation to workplace forums.

What do forums mean for unions?

If the above problems are reduced, it is clear



Workplace forums: an opportunity to improve working life?

that co-determination (whether in the form of workplace forums or some other form) could confer important powers on unions to participate and shape decision-making in the workplace. It would mean an end to unilateral restructuring, and an end to sham and powerless forms of participatory management. Co-determination provides unions with the power and the means to democratise the workplace and improve the quality of working life. In a very real way it allows unions to tame and civilise the employers.

The workplace forums could provide the focus, the powers and the resources to revitalise union organisation in the workplace. The forums also provide unions with a firm and stable base to engage in issues of production, efficiency and quality without always submitting to management's agenda.

However, the forums will undoubtedly raise a number of concerns for unions, some practical and some principled.

☐ *Will the forums marginalise unions in the workplace?* If the issues raised above under 'Problems' are resolved, it is difficult to see how a union could be margin-

alised. The national union would have to strengthen its ability to advise the forums. If a union is so weak that it cannot prevent the forum becoming an alternative power centre it is probably too weak to have much impact on the workplace anyway.

- ☐ *Will the unions have the capacity to cope with forums?* The forums provide unions with the opportunity to increase capacity through rights to training, paid time off, full-time representatives, administrative facilities and hopefully finances to commission experts. Unions are unlikely to develop this capacity on their own without forums. Also, unions need not negotiate every issue that comes to the forum, but could choose those issues of most concern to members.
- ☐ *Will forums co-opt unions?* Unions have been built around strategies of militant resistance. Forums will entail a greater emphasis on co-operation. But it must be stressed that this co-operation does not mean the end of conflict and struggle. Management and unions have very different interests in production, and the forums provide unions with the power to negotiate their interests. Through co-determination, trade unions exchange power based solely on direct action for significant institutional power. This opens up new opportunities for achieving their goals. Unions will be co-opted if they fail to maintain their independence and clear ideas about their goals and interests.
- ☐ *Will unions accommodate themselves to capitalism?* Involvement in workplace forums could increase workers' identification with the interests of the enterprise and its productivity and competitive position, and so undermine class solidarity. However, unions which organise in capitalist society always experience such pressures and already do so in SA. Unions can limit these pressures to the extent that they maintain independent democratic goals in the workplace, and continue to campaign around national

collective bargaining, industrial and restructuring issues.

Forums and transformation

One of the fears of trade unionists is that by locking themselves into co-determination the trade unions will lose their potential for radical change in society.

My own view is that co-determination is a major breakthrough in the struggle for democracy at work, and for workers' influence in production. By building unions' institutional power in the workplace, and developing workers' experience in production issues, co-determination provides the possibility for ongoing efforts to expand workers' control. This would be a long-term, gradual and continuous process, involving elements of co-operation with management, and elements of struggle. Co-determination in other words provides a vehicle for gradual transformation, for continually expanding the realm of democracy at work and in production.

If, however, at some future time SA should experience a general social crisis, with attacks on the working class and popular uprisings against the state and capital, there would be nothing to prevent trade unions and workplace forums playing an active role in the struggle for popular democracy and public control of production. Indeed, the powers, experiences and skills joined through co-determination would be a crucial resource for the working class.

It could be argued that an alternative trade union strategy of militant resistance in defence of worker interests would hasten the arrival of such a social crisis, although I find that argument unconvincing. However, should such a day dawn, the working class would find itself considerably weaker with a trade union movement lacking in experience and capacities for managing production.

In this draft legislation the ANC government has provided an opportunity for the labour movement to considerably expand its democratic capabilities. It should seize the opportunity and campaign vigorously to realise its potential. ☆