



Rebuilding a Strong Workers' Movement

**COSATU Basic Shopstewards'
Manual**



ACKNOWLEDGEMENTS

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A collection of shopsteward Manuals from some of COSATU affiliates, DENOSA, NEHAWU, POPCRU, NUMSA, FAWU; "COSATU's BUILDING OUR LOCALS (A Guide for Cosatu Locals); UNDERSTANDING GENDER", SACTWU just to name a few.

NALEDI was contracted to coordinate and finalise the Manual.

FOREWORD

A COSATU Basic Shopsteward Manual is a tool for empowerment and provides the “first line of defence” to the vulnerable members of our Federation at plant level. It is a vehicle driven by the shopsteward to defend the members’ rights and against exploitation by the employer.

Chapter 2 of this Manual provides the basis for what a shopsteward is (“The Role of Shopstewards”). It gives the ammunition to use in the fight against powerful employers and their system of exploitation to the poor struggling workforce, the working class who only survive from selling their power to those who owns the means of production

As a worker representative of union members in a workplace, a shopsteward has mandate to represent workers taking various roles at different times: e.g an Organiser; Educator; a Gender activist; a Watchdog; a Communicator; a Caretaker; a Listener; a representative and overall Leader at work and in the community.

Chapter one is very important not only to the shopsteward but, to the entire membership. Knowledge about what a trade union is, how did they start, the aims thereof; why do workers need trade unions including the need to organise workers into trade unions. More importantly, is for both the membership and shopstewards to know and understand the origins of their Federation (COSATU) and their Affiliate unions, including generally union organisations. COSATU is turning 34 years (2019) old, Industrial Commercial Union (ICU) is 100 years old. But the origins of trade unions in Europe happened much earlier in the 14-16th century with the advent of waged labour. The power of workers struggles are in the unity of the working class, in their founding slogan: “*Workers of the World Unite, You have nothing to loose but your chains*”

Knowing about the first trade union (ICU) to really organise across the skills and race divide, which was for black workers founded by a Malawian immigrant (Clements Kadalie) in 1919, is an important milestone. Before this time most unions were craft unions and mostly protecting white workers, leaving black workers vulnerable to predator employers! These were white racist unions that were opposed or did not care about black workers. Later after the demise of the ICU then came non-racial unions that organised both white and black workers, like the one formed around 1941, led by the members of the Communist Party of SA (CPSA). Even ICU itself benefitted from the influence of the white communists especially after the 1922 white miners strike!

SACTU (1955) and FOSATU (1979) are two mass-based union Federations that were formed to represent black workers, after the advent of Apartheid in SA. These are the true forebears of COSATU (founded in 1985), following very close in their traditions, even adopting their slogans and posture. Though FOSATU was different for it adopted a “non-political partisan” stance to manage its different ideological streams of its constituencies!

This Manual is to ground a COSATU shopsteward in the Federation's "approach", its policies, leadership from inception to date. A COSATU shopsteward is distinct from other Federation and must understand the character of the federation, its engagement with Alliance partners and how it conducts its mandate from Congress resolutions. All this information the shopsteward is enjoined to distribute and share with membership. It will come handy when you go about your normal daily duties of a shopsteward protecting the interests of the members against predators.

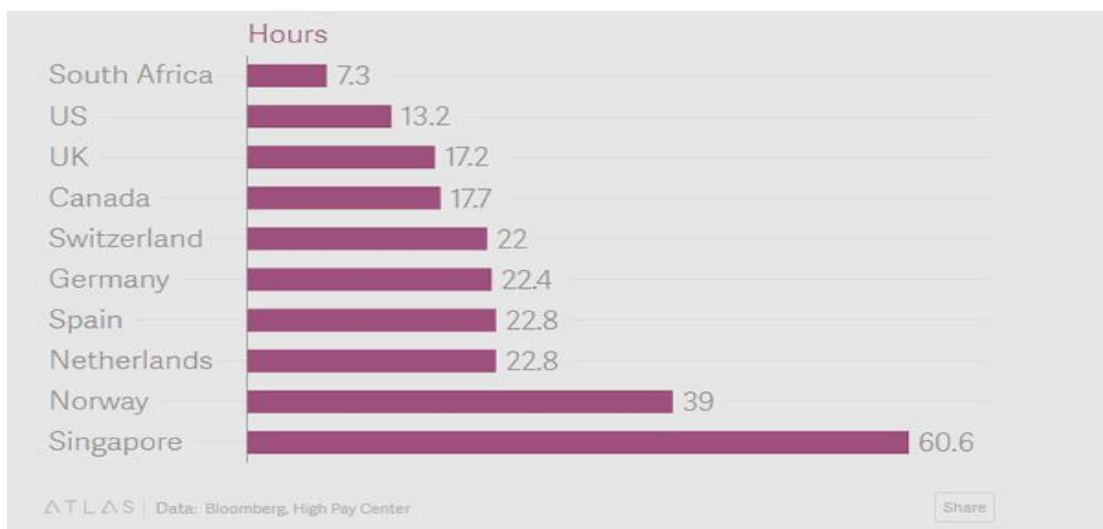
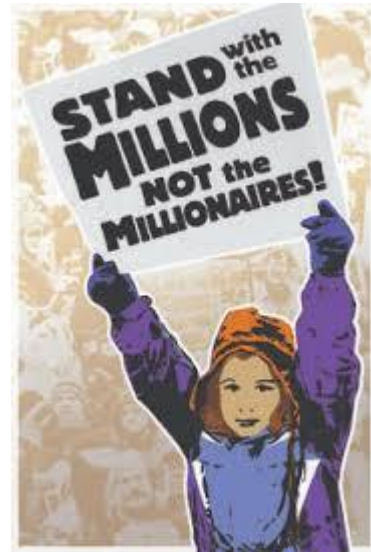
Taking the responsibility of becoming a shopsteward and apply oneself to the best of their ability, is the first step in the broader thrust of leadership from grassroots upwards in society. Congratulations!

Signed off: NOB

INTRODUCTION: REBUILDING A STRONG WORKERS' MOVEMENT

Now more than ever, we need a strong, independent and united global working class movement. We are seeing growing inequality and poverty, as the gap between the rich and poor widens:

- 2017 saw the biggest increase in billionaires in history, one more every two days. This huge increase could have ended global extreme poverty seven times over.
- 82% of the all the wealth created in the last year went to the top 1%, and nothing went to the poorest 50% (half of the world's population)
- Just 42 people own the same amount of wealth as the poorest 50%
- In South Africa, the number of people in long-term unemployment, and those that have given up looking for work, grew from 3,6 million in 2008 to 6,6 million in 2017¹
- About 30 years ago, a CEO in South Africa earned about 50 times what a worker earned, in 2017 a CEO earned 500 times more than a worker (R69 000 per day)²
- In 2017 a CEO was earning on average R2 million per month, while a worker was earning around R4 000
- The graph below shows the number of hours it takes CEOs to earn the same as the average worker's wage, showing that the wage gap is highest in South Africa, and SA CEOs are the fastest earners compared to South African workers
- A CEO in South Africa earns more in 7 hours than an average worker earns in a year.



¹ NALEDI Report on Worker Education for HRDC WEC, 2018

² <https://www.timeslive.co.za/news/south-africa/2017-06-28-r69000-a-day-ceos/>

Source: <https://businesstech.co.za/news/business/149195/south-african-ceos-earn-more-in-7-hours-than-you-do-in-a-year/>

- Women are in the worst work, and almost all the super-rich are men
- Dangerous, poorly paid work for the many is creating extreme wealth for the few³

Top 10 Highest Paid CEOs in South Africa

| | Name | Company | Pay |
|-----|-------------------------|--------------------------|---------------|
| 1. | Alan Clark | SAB Miller | R121 million |
| 2. | Nicandro Durante | British American Tobacco | R118 million |
| 3. | Andrew Stewart McKenzie | BHP Billiton | R89,8 million |
| 4. | Julian Roberts | Old Mutual | R87,2 million |
| 5. | Mark Cutifani | Anglo American | R85 million |
| 6. | Simon Crutchley | AVI | R63,1 million |
| 7. | Ian Hawksworth | CapCo | R63 million |
| 8. | David Constable | SASOL | R53,7 million |
| 9. | Whitey Basson | Shoprite | R50 million |
| 10. | Sifiso Dabengwa | MTN | R48 million |

Source: <https://buzzsouthafrica.com/top-10-highest-paid-ceos-in-south-africa/>

Capitalism is based on inequality. The rich get richer because they exploit the poor. South Africa is one of the most unequal countries in the world, with huge gaps between the rich and the poor.

When the living standards of people are under attack, we can either become demoralised or we can come together to struggle and fight against exploitation and oppression. From our history, and our day-to-day experiences we know that when we are united we are stronger and more able to advance effective struggles.

At this time, we need a strong workers movement, but working class organisations are more fragmented and divided than before. During the anti-Apartheid struggle, COSATU was a leading force, and a model for the trade union movement internationally, with strong and independent shopfloor-based worker organisation. But today COSATU unions are facing many challenges, with job losses, casualisation, membership losses, as well as declining **worker control**, worker participation and internal democracy.

Trade unions must organise to counter the employers' attempts to weaken unions and workers' rights. Employers are constantly organising the workplace to *their* advantage. They continually re-organise the workplace, work processes and even the employment status of workers in



response to how workers and trade unions have organised, laws and regulations, and to compete with other companies. With the implementation of neo-liberal capitalist economic policies in the late 1980s and 1990s, we have witnessed major changes in the workplace. **Sub-contracting, outsourcing, privatisation and labour broking** have reshaped employment relations and shifted power dynamics in the workplace. These are interventions that employers (including the state and

³ <https://www.oxfam.org/en/research/reward-work-not-wealth>

parastatals) have introduced to avoid the minimum conditions and rights that unions and workers have won, and to fragment the workforce, weaken union organisation and outmanoeuvre union strategies⁴.

The biggest challenge we face is to make sure that trade unions get back to basics, to organising workplaces, and building a strong working class movement. Shopstewards have a crucial role to play in building a workers' movement. The basic role of shopstewards is to listen to workers voices, to understand their needs, to represent workers interests, and to organise workers in their workplace. A shopsteward is a representative and an organiser of workers.

The purpose of this manual is to support and guide shopstewards to carry out their role of building strong union organisation.

The Manual is divided into 5 chapters:

1. Chapter One: History of Trade Unionism and COSATU
2. Chapter Two: The Role of Shopstewards
3. Chapter Three: Understanding Class and Capitalism
4. Chapter Four: Labour Law
5. Chapter Five: Understanding Gender

Each chapter is made up of short sections and activities that can be used in study circles, in local meetings and in education workshops.

Chapter One: History of Trade Unionism and COSATU talks about what a trade union is, and why workers need trade unions. It gives a short history of trade unions that formed COSATU, and introduces the union federations that came before COSATU.

Chapter Two: The Role of Shopstewards helps shopstewards to understand the roles that they are expected to play in the union, as well as their responsibilities (meaning their specific tasks and duties).

Chapter Three: Understanding Class and Capitalism explains that classes and the class system is at the centre of the divisions and oppression in our society. We talk about the different class systems that came before capitalism, and that class has not always existed.



Chapter Four: Introduction to Labour Law and Representing Workers gives an introduction to labour laws and basic skills and understanding for representing workers in the workplace hearings.

Chapter Five: Understanding Gender introduces gender and women's oppression. The chapter discusses the ways in which gender inequality plays out in our lives and in our unions.

⁴ This section draws from the IHRG Handbook for Organising: Strengthening Workers' Rights in the Workplace

How to Use this Manual

As a shopsteward, you should be trained and supported by your union and federation so that you can represent workers effectively.

Firstly, when you are elected you should go through Induction offered by your union, where you learn about your union, and your roles and duties as a shopsteward.

Then there is Basic training for shopstewards, which helps you to understand the world around you, the history of trade unionism, and deepen your skills to represent and defend workers. This manual is intended to add to and build upon the basic level shopsteward education offered by your union.

How workers, shopstewards and leaders can use this manual in the union and workplace

⇒ **Use the manual in union workshops and training sessions**

This manual has been designed with activities that can be used in basic shop steward training courses and workshops. The material can also be broken down into smaller sections for a series of training sessions.

⇒ **Learn in groups and study circles**

It is helpful to study this material in groups, so that you can use the ideas presented here to spark debate and learn from each other's experiences. Studying in groups is also a good way to start thinking about creative ways to confront the challenges facing workers. You can set up a study circle in your workplace with the help of your affiliate and your COSATU local.

⇒ **Learn by yourself**

You can use this manual to read about the topics that interest you, and you will find suggestions for further reading if you want to read more.

⇒ **For workplace campaigning and awareness about the union**

You can also use sections of this material to inform workers about the union, about how trade unions were formed, about understanding how capitalism works, about gender and women's liberation, and various other topics that are covered here.



Definitions

| | |
|--------------------------|---|
| CAPITALISM: | An economic and political system in which a country's trade and industry are controlled by private owners for profit, and where workers' labour is exploited for profit (its Capitalism like in the United States of America) |
| COLLECTIVE: | A group of people taking action together or acting as a team based on consensus |
| FEDERATION: | A group of trade unions united in one national body, thus belong to the same umbrella trade union as members or affiliates. COSATU is a Federation launched in 1985. |
| LABOUR-BROKERING: | (Also known as temporary employment services) is a form of outsourcing where companies contract labour brokers to provide them with casual labour as a way of avoiding responsibility for labour laws |
| OUTSOURCING: | Includes privatisation (handing over control of public services to private companies) and subcontracting (where one company hires another to be responsible for a certain part of the internal business such as security and cleaning) and labour brokering (hiring workers from a labour broker) |
| IN-SOURCING: | Where entities private or state owned reclaim back from outsourced service or company, rehires workers with new terms of employment to become part of its permanent labour force. Labour brokers do not have access or get involved in this employment relationship. |
| PRIVATISATION: | The transfer of public services and state owned enterprises (soes) to private ownership and control in the name of making these entities profitable or run them for making a profit! |
| SOCIALISM: | Social ownership and control of the means of production and the country's sources of wealth, not to benefit individuals but shared by all fairly! |
| SUB-CONTRACTING: | One company hires another to be responsible for part of the business or service or to share in the business operation and profits! |
| WORKER CONTROL: | Worker control of trade unions means that workers determine decisions and actions taken by the union through mandates and general meetings, and leaders are accountable to workers. as a Basic Founding Principle of COSATU, it believes that workers must control all the structures and committees of the Federation. |

CHAPTER ONE: HISTORY OF TRADE UNIONISM AND COSATU

1. The Trade Union

Activity 1

Activity: What is a trade union?

Tasks:

- In small groups, discuss the questions below
- Prepare a report-back

Questions for Discussion:

1. What is a trade union?
2. What problems do workers face in your workplace?
3. Why do workers need trade unions?
4. What are the aims of trade unions?

Activity 2

Activity: Reading Circle

Tasks:

- In pairs, read pages 10 - 11 of this manual
 - Think about the questions below as you read
 - Discuss your responses to Activity 1 and 2, and prepare a report back to plenary
1. How did the reading compare to your responses in Activity 1?
 2. Were there new ideas in the reading you had not thought about? What were these?
 3. Did you come up with different ideas that were not in the reading? What were these?
 4. Can you think of examples of workers in your workplace that are outsourced, contract workers or labour broker workers (like those described in Section 1.4)?

1.1.What is a trade union?

A trade union is an organisation of workers that exists for the social and economic interests of its members. It is an independent organisation. Trade unions should be run democratically by workers in the interests of workers.

Trade unions are based on workplace organisation. Trade unions operate at the following levels:

- Workplace (such as factory, mine, hospital, school or shop)
- Company
- Industry
- Nationally
- Internationally (in Global Union Federations)

Since the early years of capitalism, over 200 years ago, workers have come together in struggle to form unions. Trade unions have fought to protect workers' rights and advance workers struggles all over the world.

Trade union independence means that trade unions are independent from bosses (capital) and they are also independent from the State and political parties. This is to ensure that workers' interests are not compromised.

How trade unions started in Britain

Skilled workers in Britain began organising themselves into craft unions in the 1800s. Craft unions were formed to improve wage levels and working conditions. They derived their power from their control over the supply of skilled labour: craft unions organised only "craft" (skilled) workers, with one union for each skill (for example, a union for plumbers, a union for fitters and so on).

The industrial revolution transformed Britain from a rural agricultural society to one based on industrial production in factories, textiles mills and mines.

Trade unions and strike activity grew rapidly with the industrial revolution, as there were more labour disputes due to terrible working conditions and pay. Workers began forming general unions and industrial unions.

The factory owners and the government (which at that time was elected by only 3% of the population – landowning men) acted to repress worker action. They passed Acts of Parliament that prevented strike action and collective bargaining – which was punishable with up to three months imprisonment, or two months hard labour.

But despite these restrictions workers continued to fight for better conditions, and there were widespread protests against strike restrictions.

1.2. Aims of Trade Unions

Trade unions have these aims:

- To organise workers and the working class, and unite them as a powerful force in a strong and democratic trade union
- To provide a collective voice for workers
- To challenge the power of employers through collective action
- To bargain collectively with employers for a living wage and decent conditions of work
- To represent workers in their workplaces on all matters of concern for workers
- To fight against discrimination and unfair treatment of workers
- To educate workers and the community about trade unionism
- To fight for workers' and working class rights in communities and in the country as a whole

1.3. Why do workers need trade unions?

Workers standing on their own against employers can easily be defeated and dismissed. But when workers stand together they have greater power. Workers can fight for higher wages, fight against discrimination, have better job security, and develop their confidence to fight for their rights and act in solidarity with other workers when they are part of a trade union.



1.4. Why do we need to organise *all* workers?

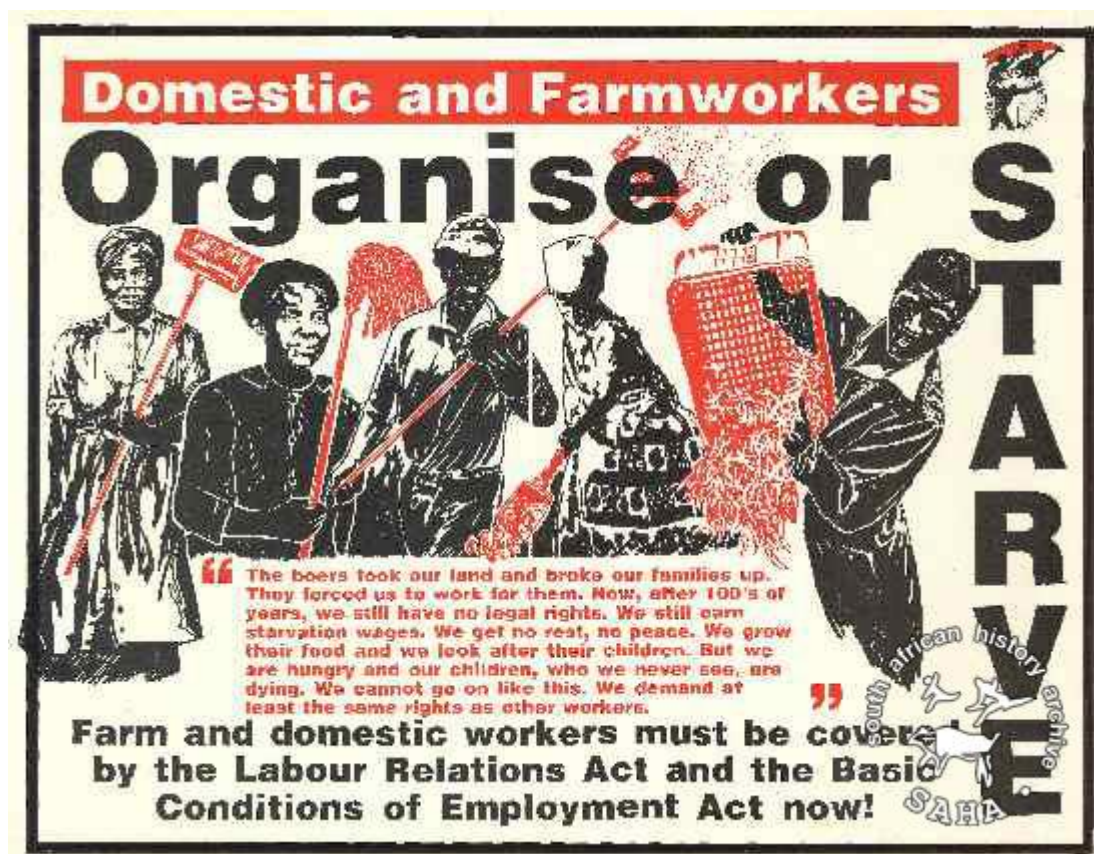
Employers do everything they can to reduce wages, increase profits and avoid trade unions. One employer strategy being used the world over is casualisation. More and more employers are introducing short-term contracts, outsourcing work and contracting labour brokers. This enables them to avoid unions. The only way to defeat this employer strategy is to organise all workers. This is why the craft unions of the old days failed, and why today we try to organise all workers into the same unions, whatever their skills. Craft unions only organised a small number of workers, the skilled, and divided them into different unions, one per skill. It is easy to see how these unions were smashed by the bosses!

Activity 3

In pairs, read the following quote. Discuss your thoughts about it.

“The power of trade unions lies in the collective participation of worker members in the activities and decision-making processes of the union. The union’s strength is not just in numbers. It does not lie in the 50% plus 1 or in securing stop order facilities. The union is the activity of workers meeting to identify their problems, make their demands and take action to change the conditions in which they work and live. The union is alive when workers exert their democratic control of the collective bargaining processes and hear their own voice when leadership is speaking.”

Source: IHRG



2. What is COSATU?

COSATU is a national South African trade union federation. The name COSATU stands for “Congress of South African Trade Unions”. It is a national organisation that brings together various trade unions around common goals. A federation’s members are trade unions that affiliate to it. A trade union’s members are the workers where it organises. COSATU believes in the radical transformation of society, and the building of a socialist society as an alternative to the exploitative, racist and sexist capitalist society that currently dominates the world.

3. A short history of trade unions in South Africa⁵

The next section looks at the trade union organisations that came before COSATU. It is important to understand where we come from so that we can learn from past mistakes, and also appreciate the strong foundations that those that came before us laid. This helps us to remember the very important role that we play as stewards of the workers movement.

“Almost all trade unions that came before COSATU, were supported by workers on the basis of their militancy in forcing employers to meet workers’ demands and improve their working conditions. Common among the reasons that led to the demise of these formations was the inability to strike a balance between their core trade union role and their political role in the national liberation struggle.” **COSATU General Secretary, Bheki Ntshalintshali**

http://www.cosatu.org.za/docs/Shopsteward/2015/jun_jul.pdf

Activity 4

Reading Circles: The History of Trade Unions in South Africa

- Breaking into 5 small groups:
 - Group 1:** Read Section on the ICU (pages 14 - 15)
 - Group 2:** Read the section on SACTU and the box on Vuyisile Mini (page 16)
 - Group 3:** Read the box on the Durban strikes and the end section on SACTU (pages 17 - 18)
 - Group 4:** Read the section on FOSATU (pages 18 -19)
 - Group 5:** Read the section on the birth of COSATU (pages 20 - 25)
- Read the reading, and answer the following questions about the reading:
 - What led to the formation of this organisation?
 - How did the organisation mobilise workers?
 - How did this worker organisation relate to political organisations and why?
 - What stood out for you as the key lesson/s from this organisation/period’s experience of organising workers?

⁵ This section draws on many different writings about our history. These are listed on page 13.

3.1. ICU

The first unions in South Africa were craft unions, usually for whites only. Over time, unions emerged that organised across the lines of skill and race. The first union for black workers was the Industrial Workers of Africa, which was formed in 1917, and active in Cape Town and Johannesburg. Like COSATU today, it wanted to replace capitalism with a fair society.



The next key union was the Industrial and Commercial Workers Union (ICU), formed in Cape Town in 1919 and led by Clements Kadalie, an immigrant from Malawi. Other unions merged into the ICU, including the Industrial Workers of Africa. ICU membership increased rapidly, because it held out hope to black and coloured workers that they could win better working conditions and higher wages. At its peak, the ICU had over 150 000 members. This was

much bigger than the African National Congress (ANC) and South African Communist Party (SACP) in those days. The ICU was the only mass union in South African history to be based mainly in the countryside. At its peak in 1927, the ICU claimed a membership of 100 000 workers.

But the ICU as an organisation largely failed to provide activist leadership. It demanded redistribution of political and economic power, but it had no idea how to achieve it. Democratic structures were weak. ICU leaders failed to mobilise their members for strikes and mass action. When spontaneous strikes took place in Durban and the Witwatersrand in 1927, the organisation did not lend support and failed to provide leadership. Different factions developed in the ICU – one supported militant action and one favoured moderation.

The demise of the ICU came as a result of leadership squabbles and the purging of Communists from its ranks. SACP members had tried to reform the ICU.

"In 1925 ICU adopted a new Constitution, changing its name to Industrial and Commercial Workers Union of South Africa – but was still known as ICU. Jimmy La Guma became General Secretary and moved to the new Headquarters in Johannesburg early in 1926. Jimmy had joined the Communist Party in 1925 and during the course of 1926 became a member of its Central Executive Committee. In March 1926, La Guma came into conflict with Clements Kadalie, the founder and leader of the ICU – feeling that Kadalie was now making the Union a business and was neglecting the members. In December 1926, all Communists were expelled from the ICU, the three most important being James La Guma, General Secretary; EJ Khaile, Financial Secretary; Johnny Gomas, Cape Provincial Secretary".

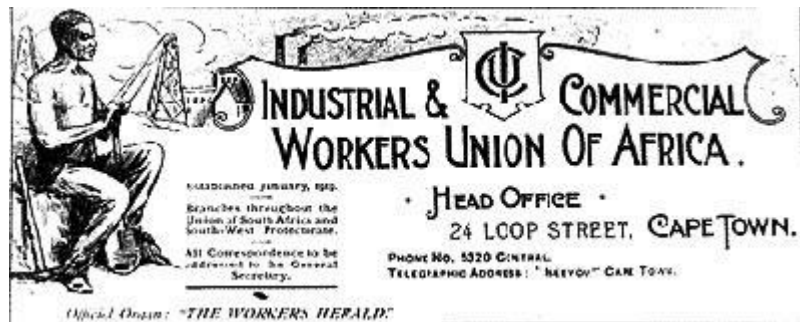
Source: Moses Kotane, A Short Biography by Ian Beddowes.

The ICU lost credibility amongst workers, and the organisation collapsed. It also faced a lot of repression. We must also remember that African workers had no legal rights in those days. Labour laws only gave rights to unionised coloured, Indian and white workers: only these workers had "registered" unions. Unions like the ICU were not illegal, but there was nothing to force bosses to talk to them, no right of access to the workplace, no dues systems at work, no access to bargaining councils or labour courts.

But the ICU played an important role in South African trade union history. It was the first mass black trade union movement, and it helped to make black workers more aware of how they were exploited.

Although the ICU fell apart in the early 1930s, there were other important unions. There were racist white unions that opposed black workers. There were unions that united white and black workers. There were unions that organised mainly black workers. An important union was the Council of Non-European Trade Unions

(CNETU). This was formed in 1941, led by SACP members, and was as big as the old ICU. It was mainly based in towns and factories and mines. The African Mineworkers Union, linked to CNETU, led a massive strike in 1946, but was defeated.



To read more, go to:

<http://www.sahistory.org.za/organisations/industrial-and-commercial-workers-union-icu>



3.2. SACTU

The South African Congress of Trade Unions (SACTU) was founded in 1955 under the declaration “Organise or Starve,” and it built on the radical traditions like CNETU’s. SACTU joined the ANC-led Congress Alliance and took part in the anti-Apartheid resistance campaigns of the 1950s. SACTU had a very successful pound-a-day campaign in 1957, but it later drew a limited response. The ANC then called for an end to

strike action, leading to tensions between the trade union movement and the ANC.

After the Sharpeville Massacre in 1960, the ANC and SACP formed uMkhonto we Sizwe (MK) in 1961. Most of SACTU’s leaders joined the underground military organisation.

By 1959, SACTU had a membership of 46 000 in 35 affiliates. But state repression saw many SACTU leaders and members arrested and by 1965 SACTU was effectively destroyed. MK activities took priority, but MK cadres were jailed or hanged.

This led to intense debates about the relationship between unions and the nationalist liberation movements.

Some believed that SACTU was weakened by its links to the ANC (and banned SACP) in the 1950s, but others thought these links were important.

Vuyisile Mini was a trade unionist who was known as “the organiser of the unorganised” because of his courage and tireless efforts to organise workers. Mini was tasked by SACTU to organise metalworkers. He became the Metal Workers Union Secretary and the Eastern Cape Secretary of SACTU. Mini was one of the first batch of trade union leaders to join Umkhonto we Sizwe. He was the first trade union leader to be executed for MK activities in 1964.

Ben Turok, a previous co-accused of Mini's in the 1956 Treason Trial, was serving a three-year term in Pretoria prison for MK activities at the time of Mini's execution. He recalled the last moments of Mini's (44), Khayinga's (38) and Mkaba's (35) lives in Sechaba, the official ANC journal:

“The last evening was devastatingly sad as the heroic occupants of the death cells communicated to the prison in gentle melancholy song that their end was near... It was late at night when the singing ceased, and the prison fell into uneasy silence. I was already awake when the singing began again in the early morning. Once again the excruciatingly beautiful music floated through the barred windows, echoing round the brick exercise yard, losing itself



in the vast prison yards.

And then, unexpectedly, the voice of Vuyisile Mini came roaring down the hushed passages. Evidently standing on a stool, with his face reaching up to a barred vent in his cell, his unmistakable bass voice was enunciating his final message in Xhosa to the world he was leaving. In a voice charged with emotion but stubbornly defiant he spoke of the struggle waged by the African National Congress and of his absolute conviction of the victory to come.

The 1973 Durban Strikes

The spontaneous wave of strikes that started in Durban in 1973, led to the renewal of union activity in the country. On 9 January 1973, workers at the Coronation Brick and Tile factory, outside Durban, came out on strike. Soon after, workers from small packaging, transport and ship repairs companies also came out on strike. By the end of March 1973, close on 100 000 mainly African workers had come out on strike. South Africa's Apartheid Government and its white capitalist allies were shaken by these strikes. The strikes were triggered by extremely low wages, the humiliation of pass laws, the hardship of migrant labour, forced removals and the denial of the right to organise, the denial of basic human rights and racism. Through songs and marches, Durban workers made their demands heard, for the first time since the political "stay at home" of the 1950s. They exercised the power of factory based mass action.

The Durban strikes marked the first stage of mass action that contributed to the spirit of rebellion in the country. The strikes signalled the growth of militant non-racial trade unionism. They showed the growth of an alliance between workers, the broad united front of progressive organisations and the banned underground liberation organisations. Above all, the strike signalled the central role of working class organisations in the struggle against Apartheid and racial capitalism, which culminated in the fall of the Apartheid regime in the 1990s.

The strike led directly to the formation of a new union movement. During this time three political traditions appeared in labour movement. The first tradition, which became known as so-called "workerists," focused on strong shop floor unions. They wanted trade union independence, and were worried about close links to parties. They believed they could take up political issues, without being aligned to political parties. The second was the national-democratic, so-called "populist," tradition that saw workers struggles and political struggles as closely connected. Its roots lay in the ANC, SACP and SACTU. They argued that trade unions must align with the ANC and SACP in the struggle for workers' rights and against apartheid. The third tradition developed from the Black Consciousness and Africanist movements. This grouping demanded black leadership within the unions, while the other two traditions were non-racial in approach.

Adapted from SA history online <http://www.sahistory.org.za/article/1973-durban-strikes>

There was an unprecedented surge in trade unionism from 1973 to 1985. The launch of the Metal and Allied Workers Union (MAWU) in 1973 was followed in 1974 by the Chemical Workers Industrial Union (CWIU), and the Transport and General Workers Union (TGWU). These unions were later among the founders of COSATU.

The apartheid government did not know what to do. The new unions were soon bigger than SACTU, and they grew despite repression, lockouts, attacks by police and no legal rights. Some got funding from overseas, and many were critical of apartheid.

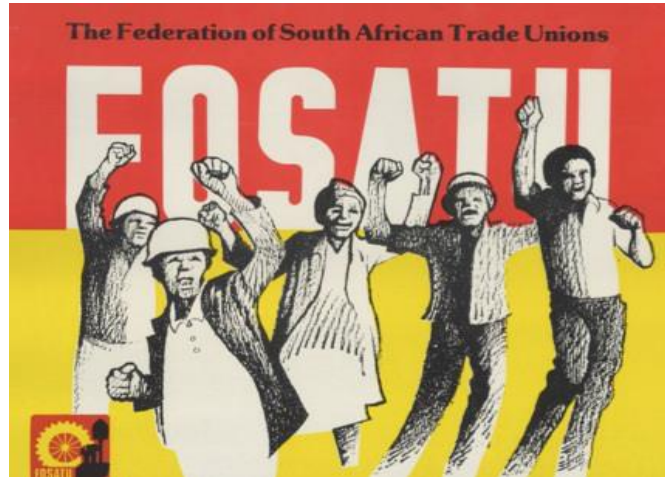
So in 1979, the Wiehahn Commission was set up by the Apartheid State to investigate how to deal with the situation. The Commission warned that Black workers knew that unionism could change the economic and political spheres of South Africa.

The Wiehahn Commission released its initial set of recommendations on 1 May 1979. It argued against banning the unions, believing that would just drive them underground. The Commission recommended that the state should give black African workers the same union rights as other

workers, allowing them to become “registered” unions. The idea was that registration would help control the unions and make them weak and undemocratic, as had happened with most white unions.

3.3. *FOSATU*

The formation of FOSATU (The Federation of South African Trade Unions) in 1979 brought a renewed dimension to the union movement. It was the first countrywide non-racial trade union moment in South Africa since SACTU. It united the most important of the new unions, and was the largest worker-based struggle organisation in the country at the time.



Workers’ democracy and worker control were the core principles on which FOSATU was founded, and it focused on building strong shop-floor structures. It aimed to build a strong layer of shop-stewards, and keep union leaders controlled by strict mandates from the members. For example, the wages of paid leaders were kept at the level of average workers’ wages. It stressed worker education, worker identity and worker culture and built links with progressive intellectuals in the universities.

There were many debates and divisions in the union movement. Since the demise of SACTU, there had been a questioning of the relationship between unions and the liberation movement. So one debate was over whether unions should have direct links with liberation movements. Another was about involvement in community politics. Another was about whether there should be general unions or industrial unions.

A general union is a union for all workers, no matter where they work, their jobs or skills: in South Africa, this usually meant unions for all workers in one township. An industrial union meant a union for all workers in one industry, no matter their jobs or colour.

FOSATU was for industrial unions. FOSATU had one union for metals and cars (MAWU -which later became NUMSA), one for transport (TGWU) one for chemical workers (CWIU) and so on. Its idea of “one union-one industry,” was later adopted by COSATU.

FOSATU clearly believed that unions should be independent of political parties. FOSATU was strongly opposed to the apartheid regime, but it maintained that unions should be politically independent. This was partly because here were high levels of state harassment and repression: it feared that links to banned organisations, like the ANC and SACP, would lead to more attacks. But FOSATU also did not trust the parties. It thought they would place unions under party control, which would go against workers’ control of unions. FOSATU also decided to be “politically non-partisan” (meaning not to align to a particular party) to avoid splitting workers political loyalty to different political tendencies especially between the “Congress Movement” and the “Africanist” strands.

FOSATU thought workers could be political without being directly aligned to political parties. FOSATU did not only deal with issues like wages. For example, FOSATU began to challenge sexism in trade unions and in the workplace. Before FOSATU it was common for unions to expect women delegates to make tea and tidy up afterwards at meetings. A conscious effort by all delegates to share these duties put an end to this practice. FOSATU also focused on the struggle for maternity rights for women workers and fought against sexual harassment at work.

FOSATU embarked on campaigns with the United Democratic Front⁶ (UDF, a coalition of anti-apartheid youth, community, church, township, sports and other bodies, formed 1983). FOSATU supported the call for a mass Stay-away in 1984 alongside community organisations. The two-day Stay-away was the most significant general strike in years, and that demonstrated the power of workers and youth unity. However, FOSATU refused to join the UDF, on the grounds this would weaken workers' control of FOSATU.

The logo consists of three hands holding three implements, an industrial cog and the name FOSATU. FOSATU and the industrial cog is printed in gold, representing wealth and hope for the future. The background colour is red, which symbolises the international struggle of the working class. The three hands signify the unity of workers in industry, as well as their strength in holding the implements with which they work.

To read more about the history of FOSATU, go to:

<http://www.historicalpapers.wits.ac.za/docs/fosatu/fosatu.pdf>

⁶ The UDF was formed by popular mobilisation of the masses mainly opposing the Apartheid Government's Tricameral Parliament introduced in 1983.

The birth of COSATU

In the midst of the turmoil of Apartheid repression and the State of Emergency, many trade unions came together to form a new trade union federation: the Congress of South African Trade Unions (COSATU).

FOSATU had always been committed to broader unity of the labour movement, and led unity talks towards the new federation. This new federation brought together many different political strands – including FOSATU-linked “workerist” industrial unions, ANC-linked “populist” general unions, some of the older “registered” unions, and the National Union of Mineworkers, which had recently moved from the Black Consciousness (CUSA⁷ union) to the ANC tradition.

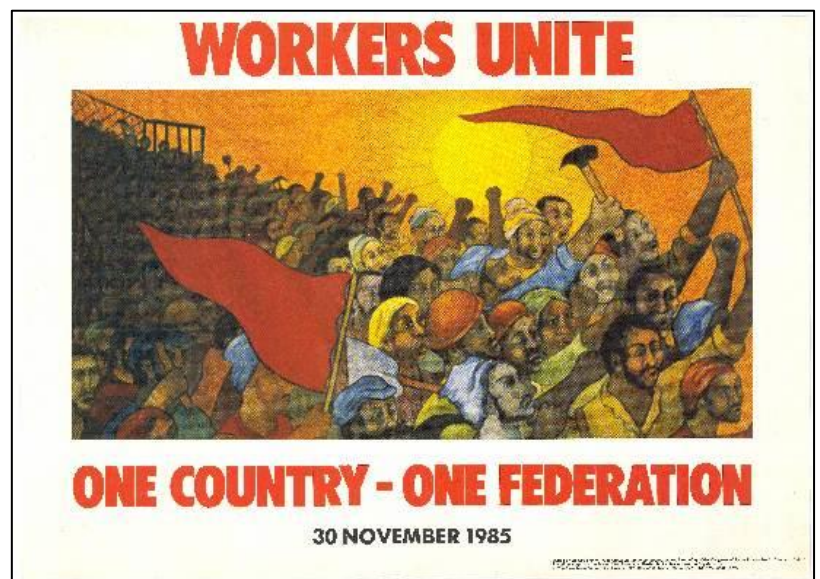
On December 1 1985, after four years of unity talks, COSATU was launched under the slogan: “One Country, One Federation”. It brought together 33 unions representing 450 000 workers, and within three years membership had grown to 700 000 workers.

The unions and federations that formed COSATU were opposed to apartheid and were committed to a non-racial, non-sexist and democratic South Africa. Several resolutions were passed at COSATU’s first Congress defining the aims of the federation and how the federation operates, namely:

- To establish one union for each industry
- To build workers control in unions
- To focus on the exploitation of women workers
- To call for the lifting of the state of emergency, withdrawal of troops from the townships and release of all political prisoners
- To continue the call for international pressure against Apartheid, including disinvestment
- To demand for the right to strike and picket
- To determine a national minimum wage
- To extend the struggle for trade union rights in the homelands.

FOSATU was among the founding federations. It obviously influenced COSATU’s stress on industrial unions and workers control. FOSATU leaders were prominent in the new federation too.

There were huge debates in the newly formed COSATU, about whether unions should be political, but not aligned to political parties (like under FOSATU). In the beginning, COSATU followed the FOSATU approach to politics: that unions



“COSATU is first and foremost a trade union federation... Its roots are on the factory floor. Its starting point is its organisational strength at the point of production...Our political and economic strength lies in building powerful, militant, democratic organisation in the workplace. This strength will guarantee that workers’ aspirations will not be suppressed. Such organisation is also the basis for the real democratisation of production.”

Jay Naidoo, First General Secretary of COSATU

⁷ CUSA – Council of Unions of SA (Black Consciousness linked).

should be political but not allied to political parties. However, in 1987 COSATU adopted the Freedom Charter aligning itself with the African National Congress movement.

FOSATU also included unions with a strong influence from the ANC and the SACP – from the so-called “populist” tradition. Elijah Barayi, COSATU’s first (Founding) president, and Jay Naidoo, the first general-secretary, were from the ANC. In 1987, COSATU adopted the ANC/ SACP Freedom Charter as a guiding document for building a democratic society where workers will have full control over their lives. The Freedom Charter declared that “the people shall share in the country’s wealth” and that “the land shall belong to all who live in it”.

COSATU played a massive role in destroying apartheid. In 1990, the ANC and SACP were unbanned, and COSATU formally allied with the ANC and SACP as the Tripartite Alliance soon after. COSATU played a key role in rebuilding ANC and SACP, in the democratic breakthrough, and COSATU cadres were key leaders in the first democratic government, and beyond.

The COSATU Logo

The wheel represents the economy. The gold colour of the wheel stands for the wealth of the country. The workers are pushing the wheel, showing that it is workers that drive the economy. There is a woman with a baby on her back, who, with the other workers, stands for the triple challenges of economic exploitation, racism and sexism. The figures are black to represent the fight against racial oppression. The red flag is a symbol for the working class.



COSATU’s founding slogan “An injury to one is an injury to all” is about working class solidarity. The slogan comes from the international workers movement. It means that if any worker is harmed it affects all workers, because tomorrow it could be any one of us. It also highlights that we are strong when we stand together as a collective against abuse and exploitation, but when we are divided we become weak.

COSATU’s Vision, Principles and Objectives

Vision

COSATU is committed to a unified democratic South Africa, free of oppression and economic exploitation. We believe that this can only be achieved under the leadership of a united working class.

Our struggle is inspired by the universal slogan of working class solidarity: **“An injury to one is an injury to all.”**

Principles

- **Non-racialism**

COSATU rejects apartheid and racism in all its forms. We believe that all workers, regardless of race, should organise and unite.

- **Worker control**

COSATU believes that workers must control the structures and decisions of the Federation. This keeps the organisation alive and active, and close to the workplace. We want ordinary workers to have a leading voice about their own future in the country and in the economy.

COSATU runs programmes to build worker leadership, especially women worker leadership, in trade unions and the country as a whole. In a country where women have been highly oppressed, we are determined to strive for gender equality and women's leadership.

- **Paid-up membership**

COSATU and its affiliated unions strive for *self-sufficiency*. This means being able to support ourselves through workers subscriptions, not relying on money from funders. COSATU receives some money for projects from sister unions in other countries, but we can make our own decisions without interference from funders. This is not easy, but it is important to be independent.

- **One industry, one union** - one country, one federation

To unite workers across sectors, COSATU has grouped unions into industries. We also remain committed to unity with all unions and federations that are committed to these principles.

- **International worker solidarity**

International solidarity is the lifeblood of trade unionism - particularly in the age of multinational companies. COSATU maintains links with a range of national and international trade union centres (federations). We are committed to building links across the world, especially with unions in the **Global South**. New international conditions open possibilities for a unified global union movement.

Aims

- To organise the unorganised workers and build effective trade unions based on the democratic organisation of workers in the factories, mines, shops, farms and other workplaces
- To organise national industrial trade unions, financed and controlled by their worker members through democratically elected committees

The vision is why the organisation exists and what it is working towards

The principles are the beliefs and values that guide everything the organisation does

The aims are what the organisation wants to achieve

The objectives are how to go about achieving this

The **global south** is made up of Africa, Latin America, developing countries in Asia and the Middle East. The **global north** the United States, Canada, Europe and the developed parts of Asia.

The countries in the global north are richer and more developed, with most citizens having access to food, shelter, education and health care. In the global south the majority do not have access to food and shelter.

- To unite national industrial unions under COSATU's leadership
- To combat divisions amongst the workers of South Africa and unite them into strong and confident working class formations
- To encourage democratic worker organisation and leadership in all spheres of our society together with other progressive sectors of the community
- To reinforce and encourage progressive international worker contact and solidarity to assist one another in our struggles
- To protect and further the interests of all workers

Objectives

To fight for workers' rights by:

- Securing social and economic justice for workers
- Understanding how the economy affects workers and coming up with

SACCAWU workers make demands around child care outside the shops in the streets of Durban.

Photo: New African



clear policies on how the economy should be restructured in the interests of the working class

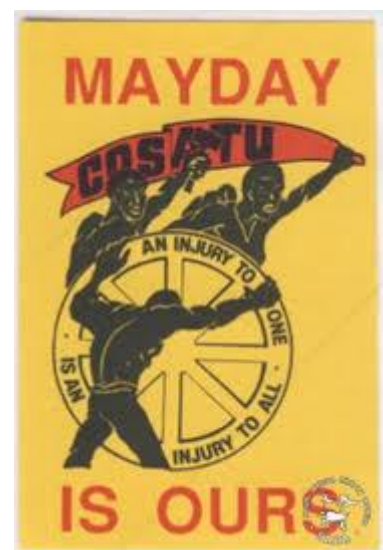
- Restructuring the economy so that the wealth of the country is democratically controlled and shared among the working class
- Striving for just standards of living, social security and decent conditions of work for all
- Facilitating education and training of all workers to advance the interests of the working class
- Conducting research into issues affecting workers

To build solidarity by:

- Encouraging all workers to join progressive and democratic trade unions
- Striving for a united working class movement regardless of race, colour, belief or sex

To encourage industrial unions by:

- Forming unions in all industries
- Assisting unions operating in the same industry to merge into broadly based industrial/sectoral unions



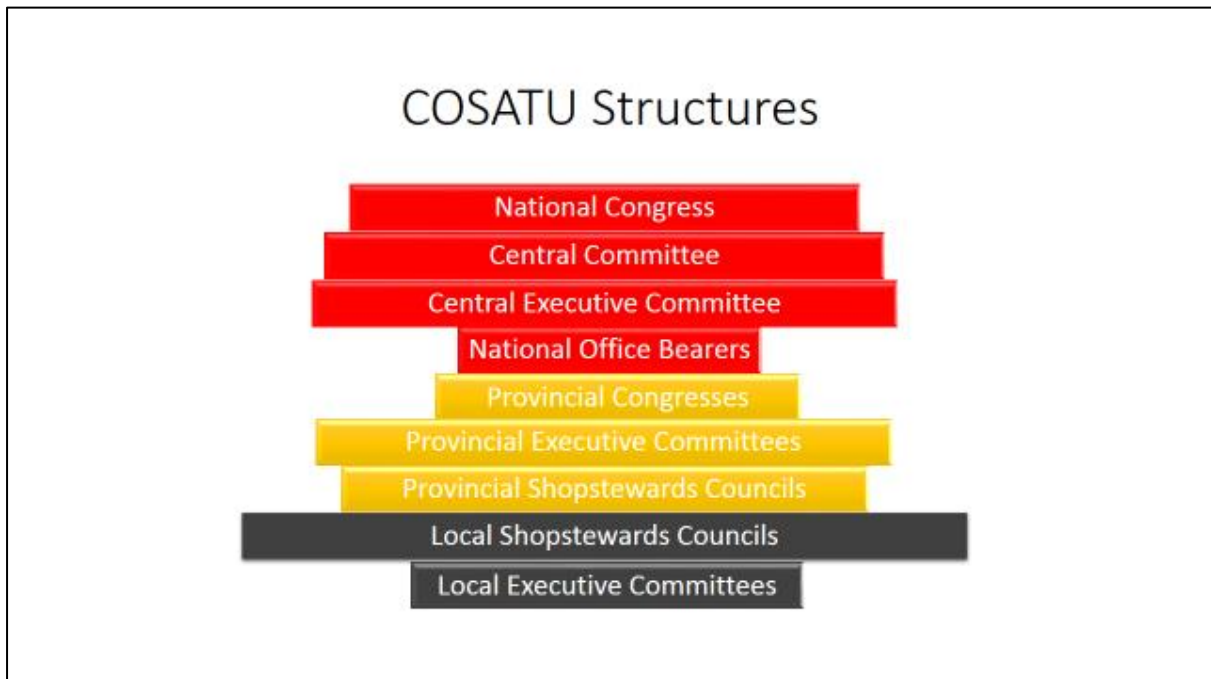
To support affiliates by:

- Encouraging co-operation among affiliates
- Co-ordinating joint activities
- Creating forums to achieve common goals and take joint actions
- Resolving disputes between affiliates and within the Federation
- Instituting or defending legal proceedings affecting affiliates or the Federation

To manage finances and assets by:

- Raising funds through affiliation fees and by any other means to further these aims and objectives
- Purchasing or acquiring any material goods or property that the Federation sees as necessary

COSATU Structures



3.4. COSATU Policies

COSATU has policies on a range of issues including:

- Gender Policy
<http://www.cosatu.org.za/docs/policy/2015/COSATU-Gender-Policy-Review-final-version-adopted-at-Congress-Nov-2015.pdf>
- Policy and Procedure for Handling, Prevention and Elimination of Sexual Harassment
<http://www.cosatu.org.za/docs/policy/2015/sexual-harassment-policy.pdf>
- HIV and AIDS

<http://www.cosatu.org.za/show.php?ID=1475>

- Climate change policy

<http://www.cosatu.org.za/docs/policy/2016/COSATU%20CLIMATE%20CHANGE%20POLICY.pdf>

- International policy

<http://www.cosatu.org.za/docs/policy/2012/internationalpolicy.pdf>

Notes:

1. Activity 1, and the first two sections about trade unions and their aims were drawn from the SACTWU Shopstewards manual and the Workers World Media Productions Shopstewards Manual <http://wwmp.org.za/images/pubs/Basic-Shopstewards-Training-Manual.pdf>
2. The history of trade unions in South Africa, and the formation of COSATU comes from the following sources:
 - SA history online www.sahistory.org.za
 - The Michigan State University's *Overcoming Apartheid* www.overcomingapartheid.msu.edu
 - South African History Archives http://www.saha.org.za/udf/trade_unions.htm
 - COSATU website and COSATU Shopsteward Magazine articles www.cosatu.org.za
 - An editorial by Bheki Ntshalintshali in the Shopsteward magazine Vol xx 2015
3. COSATU's Aims and Principles were drawn from the COSATU Constitution <http://www.cosatu.org.za/docs/policy/2006/consti2006.pdf> and the COSATU website www.cosatu.org.za

CHAPTER TWO:

THE ROLE OF SHOPSTEWARDS

Activity 5

In groups of 3, discuss the following questions:

- What is a Shopsteward?
- Make a list of what you think are the **roles** of a Shopsteward*
- Make a list of what you think are the **responsibilities** of a Shopsteward**
- What do you think that the union and its members can expect of a Shop steward? Make a list of expectations

*The **roles** are the parts that a person plays in the organisation (for example, a leadership role)

The **responsibilities are the specific tasks and duties that a person is assigned in an organisation (for example, representing a member in a hearing)

Activity 6

Activity: Reading Circle

Tasks:

- In pairs, read pages 26-28 of the manual
 - Think about the questions below as you read
 - Discuss your responses and prepare a report back to plenary
1. How did the reading compare to your responses in Activity 1 above?
 2. Were there new areas in the reading you had not thought about? What were these?
 3. Did you identify other issues not mentioned in the reading? What were these?

1. What is a Shopsteward?

A Shopsteward is a worker **representative** of union members in a workplace.

Shopstewards are union members who are **democratically elected** by workers in a workplace who are members of a union. They serve for a particular cycle or term before the next elections.

Shopstewards are **accountable** to the workers who elected them. They do not speak for themselves. They must get **mandates** from the workers they represent and they must **report back** to workers. If a Shopsteward does not act in workers interests they can be replaced before their term ends.

Shopstewards form part of a committee – the Shopstewards’ committee. They do not work alone.

1.1. Who can be a Shopsteward?

Any union member (in good standing) nominated by their constituency can be a Shopsteward.

COSATU encourages women leadership. It is important to elect women as Shopstewards as well as men.

It is important to elect casual and part-time workers as Shopstewards, as one way of making sure that the needs and interests of more vulnerable workers are represented.

2. Roles of Shopstewards

Shopsteward as Organiser

Shopstewards must organise workers in their workplace and in the community. This means recruiting new members, holding regular meetings with members, and developing a spirit of unity amongst members. Shopstewards must organise all workers into the union, not just 50%.

Shopstewards must keep files and records of meetings and other union activities.

Shopsteward as Worker Representative

Shopstewards represent workers to management. This means you must take up grievances of workers with management, like unfair dismissals, unfair treatment of workers and other abuses of management power. Shopstewards represent workers in grievances against management, and in disciplinary hearings.

Shopstewards must negotiate on all issues of concern to workers, such as wages and conditions of employment, recognition agreements and procedures, health and safety. Shopstewards must take the decisions of workers to management. They must report back to workers. Shopstewards should never meet with the employer alone, without workers’ mandate.

Shopstewards also represent the workers’ voice in community and political organisations.

Shopsteward as Watchdog

Shopstewards must make sure that employers stick to agreements and carry out decisions reached in negotiations. Employers will always try to avoid implementing decisions which favour workers unless Shopstewards are vigilant.

Shopsteward as Leader

Shopstewards form the leadership core in the workplace. They make sure that the union exercises democracy and worker control. Shopstewards must be informed about the union and workers' rights.

Shopstewards must keep in close contact with workers, serve all workers with respect and keep your word.

Shopstewards must show by example that you will not be intimidated by the employer and that you expect to be treated with dignity.

Shopsteward as Educator

Shopstewards must talk with workers and build support for the union. Shopstewards must educate members about trade unionism and the workers movement. Workers need to know what is happening in other workplaces, in their union and in COSATU. They must understand and participate in political debates. If workers are not well informed, the union will not be active, united and strong.

Shopsteward as Gender Activist

A Shopsteward must understand the problems that affect women workers. It is important to understand that women have particular experiences at work that are different from men. This means that Shopstewards need to talk to women workers about their experiences to understand what affects them. They must encourage women's participation and leadership in the union. For women to participate, meetings times should be during working hours. If meetings are held after hours, transport and child care must be provided by unions. Male Shopstewards must treat women workers as comrades. They must never use their position as a union leader to have relationships with women workers. They must never offer union services in exchange for sex. Chapter 5 gives examples of gender discrimination in the workplace.

Shopsteward as Listener

Being a Shopsteward and an organiser means knowing how to listen to workers. Shopstewards need to know about the problems that workers face. Encourage workers to come to you with their complaints. Follow up with workers about their troubles.

Even if you can't help workers with all of their problems, you might be able to run a campaign or put forward a new collective bargaining demand about these problems.

Shopsteward as Communicator

Information is power. Shopstewards must communicate information to members to keep them up to date with happenings in the union and in the workplace. Shopstewards must arrange meetings to provide information and to hear workers views so that they can take these views to higher structures. Encourage all workers to express their opinions. When you notice that some workers are quiet in meetings, speak to them outside of meetings and find out what they think.

Shopstewards must give out union and COSATU newsletters and campaign pamphlets to workers.

Activity 7

In groups of 3-4

- Look at the list of roles of Shopstewards that you identified in Activity 5 and the list in this manual
- Discuss and list other Shopsteward roles.
- What challenges might you face in carrying out these roles?
- What support will you need from your union and from COSATU

3. Expectations of Shopstewards

Shopstewards are expected to carry out their roles and duties in a way that builds the union, and shows workers what the union is all about.

- Shopstewards must be accountable to workers
- Shopstewards must listen to workers views and treat workers with respect
- Shopstewards must unite workers
- Shopstewards must be non-racist and non-sexist in their conduct

Activity 8

Shopsteward as Organiser

1. What practical steps will you take to make sure every member in your department/shift is a union member?
2. How often do you hold workplace meetings? Is it enough to facilitate worker participation?
3. How can you mobilise workers and develop the spirit of unity between workers?

Shopsteward as Workers Representative

1. How can you make sure that you get proper mandates from workers?
2. When and how will you report back all issues to workers?
3. What kind of records will you keep as a Shopsteward?

Shopsteward as a Leader

1. How can you lead workers without becoming a dictator?
2. How can you avoid being pushed into decisions by the few who speak loudest in general meetings?
3. How will you deal with a situation where workers feel strongly about something but you know it is against union policy (for example, xenophobia).

Shopsteward as Watchdog

1. What information do you need as a Shopsteward in order to act as watchdog?
2. How will you get that information?
3. What facilities will you need to negotiate with management?

Shopsteward as Educator

1. How will you carry out your job as worker educator?
2. Where will you educate?
3. When will you educate?
4. What material will you use?

Shopsteward as Gender Activist

1. How will you make sure that you understand the different needs and demands of women workers?
2. How will you make sure that the union does not allow sexual harassment of women union members by male union leaders?
3. How will you make sure that women's voices are heard in the union?

Source: This activity is from the SACTWU Basic Shopstewards' Training Manual

4. Responsibilities of a Shopsteward

Here are some of the responsibilities or duties of a Shopsteward:

- Advise and represent members in disputes, grievances and disciplinary hearings
- Build the Shopstewards committee, and other Committees like Employment Equity, Skills Development Committee, etc.
- Know about labour laws and workers rights
- Be accountable to workers and operate within mandates
- Understand and monitor health and safety in the workplace, and report incidents where they arise
- Understand about TB, HIV and AIDS in the workplace
- Understand and advocate for gender issues
- File and manage information

Activity 9: Drawing up a Recruitment Plan

Follow the “5 W’s”

1. **What?** - Agree on the aims and objective of your plan
2. **Who?** - Identify your target group(s)
3. **How?** - Work out how you will set about recruiting

Look into the following:

- why do workers join the union
- what can the union offer workers
- how will you approach workers
- where will you approach them
- what form will your discussions take
- what tools do you need to assist you

4. **Who** - Work out who will do the recruiting and who will coordinate

5. **When** - Decide on when you will recruit and time frames for recruiting

5. The Democratic Shopsteward's Committee

Activity 10: The Shopsteward Committee

Task: discuss in groups:

1. What is a Shopsteward Committee?
2. Why is a Shopsteward Committee important?
3. Why is it important for the Shopstewards to be accountable to the membership? How is it accountable?
4. What ensures that a Shopsteward committee is democratic?

5.1. What is the Shopsteward Committee?

The Shopsteward Committee is a committee formed from the elected Shopstewards in the workplace. The Shopsteward Committee is the body that directs and coordinates the work of all the Shopstewards in the workplace. It is the committee that brings together problems, grievances and demands of workers in the workplace.

5.2. The Importance of the Shopsteward Committee

The Shopsteward Committee unites workers in a workplace

- The Shopsteward committee forms a permanent structure in the workplace through which the views of workers are brought together
- The Shopsteward committee maintains, consolidates and advances this unity

The Shopsteward Committee is the foundation on which workers' and democracy rests.

- Workers exercise their control of the union through their Shopsteward committee
- The Shopsteward committee represents workers in the Union
- The Shopsteward committee brings together the views of workers in the workplace. These views are taken to union forums.
- The Shopsteward committee reports back to workers the decisions, debates and activities of the union

The Shopsteward Committee is the bedrock of the Union's fighting capacity

- The Shopsteward committee forms the line of defence between the workers and employers
- The Shopsteward committee is the planning committee of the workers in their struggle against the divisive tactics and exploitation of the employers
- The Shopsteward committee leads the struggle in the workplaces to extend worker rights and workers' of production

The strength of the Union depends on the strength of its Shopsteward committees. Weak and ineffective Shopsteward committees means a weak union. Strong and dynamic Shopsteward committees mean a strong union.

5.3. How do workers hold Shopstewards accountable?

Another very important and critical forum in the workplace is the General Meeting. This is where workers come together to discuss their problems, to share experiences and to develop common responses to these issues. The General Meeting is also an important forum for reporting back to members on the various issues that the Shopstewards have taken up on members behalf.

Activity 11

Discuss the following questions in groups of four.

The relationship between elected Shopstewards and workers needs to be built on the principle and practice of worker control.

Questions for discussion:

- *As a Shopsteward, do you respect and build the participation of workers in the union's workplace organisation? How do you do this?*
- *Do workers confidently exercise their democratic control by participating and holding Shopstewards accountable? If yes, how? If not, why not?*
- *As a Shopsteward are you familiar with the conditions and problems that workers face; do workers communicate their issues into union structures; and do they organise to challenge management on these issues?*

Notes:

1. This contents for this chapter were drawn extensively from:
 - The SACTWU Shopstewards manual
 - The Workers World Media Productions Shopstewards Manual
<http://wwmp.org.za/images/pubs/Basic-Shopstewards-Training-Manual.pdf>
 - An article on COSATU Shopstewards' Roles and Duties by Alfred Mafuleka, COSATU National Educator, in the Shopsteward magazine (June/July 2015)
http://www.cosatu.org.za/docs/Shopsteward/2015/jun_jul.pdf
 - The COSATU Shopsteward Education Learner Guide Series (Module 3 The Trade Union and the Shopsteward)

CHAPTER THREE: UNDERSTANDING CLASS AND CAPITALISM

Activity 1

In groups of four discuss the following questions:

- What is class?
- What are the main classes under capitalism?
- Do you know of any other class societies existed before capitalism?
- What do you think the quotation by Karl Marx below means?

“The history of all previously existing societies is the history of class struggle.”

Karl Marx

1. The history of class societies⁸

The quotation above means that history is about class struggle. Class and the relations between classes is at the centre of understanding society. Marx and Engels go on to say that throughout the history of class societies, we see the oppressed and oppressor in constant opposition to each other. The fight is sometimes hidden and sometimes out in the open. Each time, the fight ends up in the revolutionary reconstruction of society or the ruin of both classes. This means class conflict drives change in the make-up of societies.

Marx and Engels developed a way of understanding classes and how society has developed from one system to another. They show that class societies have not always existed, and that the earliest human societies were classless, and based on co-operation not oppression and exploitation.

We have had many different economic systems in the history of humankind. Marx and Engels showed that the class conflicts in each system led to its eventual overthrow and the development of a new system of production. The type of society we live in is based on how production is organised. Production is the process of making things for humans to use.

⁸ This section draws from *More than just kings and queens: the Marxist view of history*, by Naomi Byron. Available at <http://www.marxism.org.uk/pack/history.html> and *Building Socialism Now: preparing for the new millennium* by COSATU and SACP (1997).

Early Communalism/Hunter-gatherer societies

We are taught that class has always existed, and that class exploitation is a natural part of human society, but this is not true. The earliest human societies were classless societies, based on co-operation. In early communalist societies there was **shared property**. The tribe shares everything that it has to ensure its survival. These were **hunter-gatherer** societies, where life was a daily struggle for survival.

People used very basic tools made from bones, wood and stone, like bows and arrows and digging sticks. At this stage, people were nomadic – they moved around following wild animals for hunting.

Human society was organised like this for over 100 000 years, until class society began developing around 10 000 years ago.

Everyone was involved in producing what they need to live (finding food and creating shelter) because otherwise the group would starve. There were differences in the work that people did. In some hunter-gatherer societies women may have done more childcare while men tended to do more hunting. But this division of labour was not



rigid, and did not exist everywhere. These differences were created for practical reasons, not to oppress women. It was when class society arose that such differences in the division of labour were used to oppress.

Hunter-gatherer societies worked collectively to ensure their survival, and they made decisions democratically by deciding what is in the best interests of the whole group.

Hunter-gatherers had an in-depth knowledge of their environment, animals and plants, which they transmitted across generations. A hunter-gatherer's skill and knowledge reflected the collective learning of the clan.



This stage ends with the cultivation of plants (agriculture) and the domestication of animals. This eventually led to the development of private property.

The Emergence of Class Societies

With the development of agriculture and the domestication of animals, people began to set up more permanent settlements because they did not have to go out in search of food. They were able to store food and care for animals and crops in one place. This meant that there was a rapid growth in food production, and there was also a growth in the population.

Humans began to develop more tools, including using metal tools in agriculture and pottery for food storage.

As societies became more productive, new skills emerged, such as writing. Societies also developed water irrigation systems. Later, a layer of administrators emerged, their role was to make sure that food and water systems were distributed efficiently.

These administrators were freed from production, and helped to develop society further. But over a long period of time they started to turn into a ruling elite, a new class with different interests to others in society. They tried to make rules to protect their privileged position. This led to conflict and wars, and they began to enslave those that were defeated.

Slavery

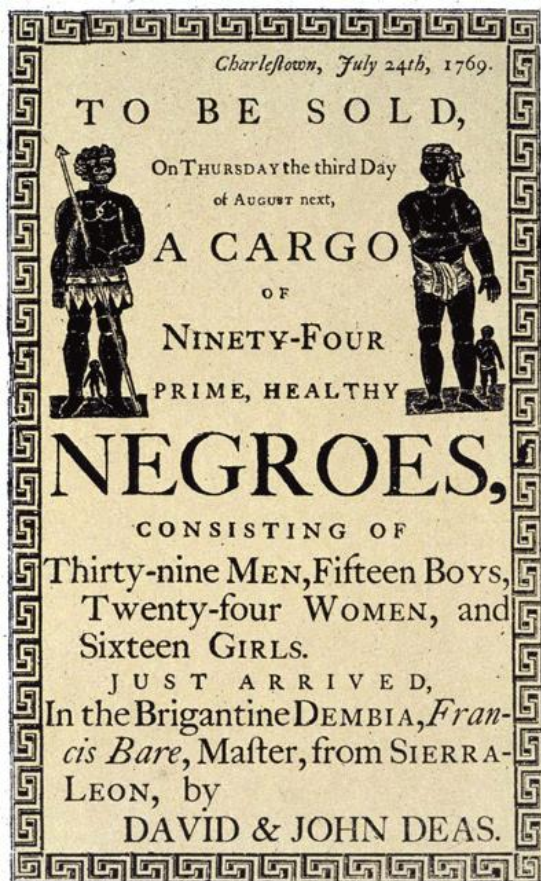
Slavery is one of the earliest forms of class society, where private property and class appears.

There is a **slave-owning class (slave-masters)** and **slaves**. The slave owning class “own” the land and the slaves. Slaves do all the work. They are used to produce goods such as food, oil, wine, pottery and jewellery, and this created wealth. Slaves (and women) do not own any property in this system.

Large-scale Agriculture developed further, and people learned to cultivate (and trade) plants and animals to support large populations. Slave owners made huge amounts of money forcing slaves to do hard manual labour with very basic machinery.

The state developed during this period as a tool to for slave-owners to use and control slaves.

An early example of slavery was in Egypt. It was recorded in the Bible (and elsewhere) that the Pharaohs enslaved the Israelites. In our country, the Dutch, through Jan Van Riebeeck, introduced slavery. Many slaves were brought to the Cape from Indonesia and Malaysia. The Dutch also forced many San and Khoi peoples into slavery.



The lives of slaves were terribly hard. Slaves were kept like prisoners. Whipping and other brutal punishments were common. Runaways were frequently hanged. Families were separated from each other. Children could be bought and sold to different masters.

There were many slave revolts by slaves, where they attempted to fight against their oppressors. But the

conditions of slavery made unity and organisation very difficult. These uprisings were brutally crushed.

There is a difference between ancient slavery (in Biblical times) and modern day slavery during the colonial period (in USA, South Africa, Latin America, the Caribbean and other places around the world). Slavery in North America looked similar to capitalism, and created the basis for the development of capitalism. When slave economies existed in the European and North American colonies, they produced goods for exchange – e.g. cotton, sugar, and tobacco. These commodities were sold for a profit. The workers – slaves – were separated from the means of production. They did not own the land or equipment used in production

The system of slavery died out because the costs of conquering more slaves required maintaining a vast empire.

Feudalism

Feudalism is a peasant economy, with two main classes – **the feudal lords** who owned or controlled the land and the **serfs** or **peasants** who did the work. The peasants worked on a small piece of the land, and owned some of the tools (such as a cart, ox, spade or plough). But they were forced to give a portion of the fruits of their labour (without payment) to the feudal lord (landowner) who owned and controlled the land. They were also often forced to work for free for part of the year. Feudalism was a form of robbery or forced taxation.

Although feudalism did not develop strongly in Africa, there were elements of partly feudal forms of exploitation in the Bantustan system. Many tribal societies were beginning to move from early communalism to toward some form of feudalism controlled by traditional leaders.

White farmers in the Free State and the former Transvaal developed a form of feudalism in which tenants (called '*bywoners*') could keep their own herds of cattle on the farm in exchange for working for free for the farm-owner. These tenants were both white and black.

The machinery used under slavery and feudalism was very basic, but in different parts of the world a new system of production was beginning to develop that would bring with it radical changes to production and society.

The transition from feudalism took place over a hundred years. Some historians say that capitalist merchants started to push for change so that they could make more money through trade, and they began to take up struggles against the aristocracy.

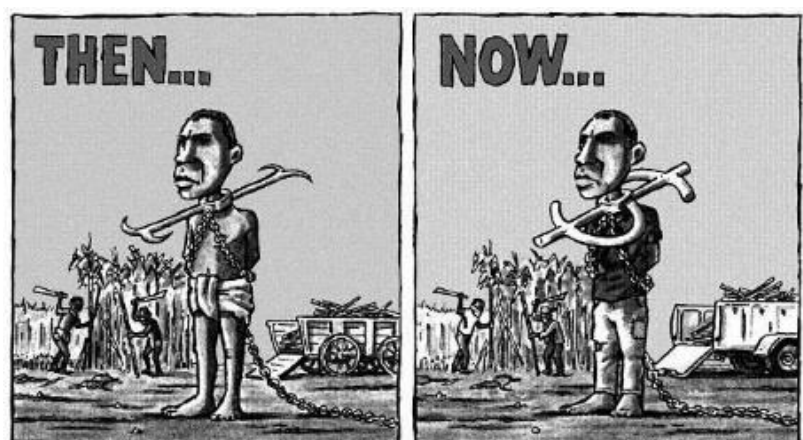
The new system that emerged in Europe with the breakdown of the feudal system was the capitalist system.

Capitalism

Capitalism is the system that dominates the world today. It is based on private ownership and **exploitation** of the labour of the working class. Capitalism is driven not by the needs of all the people to satisfy their daily needs, but by the needs of the wealthy few for wealth and profits.

Like slavery and feudalism, capitalism involves two main classes – one exploiting the other. In capitalism it is the **bourgeoisie** (the owning class) that exploits the **working class** (proletariat).

Under capitalism, as with other systems, workers do not own the means of production – the factories, mines, machinery, banks and shops. They are owned and controlled by the owning class.



But, unlike slavery, the workers are not sold themselves under capitalism. Their labour power is sold – workers sell their labour power in exchange for a wage. But, even though most workers are not held prisoner by their bosses under capitalism, they are not really “free”. Hunger, mass unemployment and the need to earn money, force workers to sell their labour.

Unlike feudalism, where the serfs worked for the landowners with their own tools on a piece of land with their family; under capitalism, workers work in their hundreds and thousands in factories, farms, mines, shops, banks and in the public sector. Capitalism brings together many thousands of workers in production, and in this way, capitalism itself begins to organise workers.

As Marx and Engels said, “The bourgeoisie gives birth to its own gravediggers.” This means that the bourgeoisie creates the working class to exploit them and to enrich themselves; but at the same time they are creating the class that will eventually overthrow capitalism.

When Marx argues that the employed proletariat is a revolutionary class force, it is not necessarily because workers are the poorest of the poor. This is often not the case. What makes employed workers a potential revolutionary class is that they are exploited by capitalism and occupy a critical strategic place in the production process. An organised and united working class has tremendous power which can be turned against capitalism and towards radical transformation.

Activity 2

Reading Circle: Class Societies

Divide into 4 groups, and read the following sections:

Group 1: Early Communalism/Hunter-gatherer societies and The Emergence of Class Societies (pages 34-36)

Group 2: Slavery (pages 36-37)

Group 3: Feudalism (page 38)

Group 4: Capitalism (pages 38 *bottom*-39)

Answer the following questions about your section:

- Who are the main classes in this society?
- What does the society produce and how?
- Why did the system end?

2. How Capitalism Works⁹

Capitalism is an economic system in which goods and services (commodities) are produced for **exchange** in order to earn **profits**.

Goods and services can be produced for *exchange* or *use*. For example, a meal prepared and eaten at home represents production for use. Similarly, growing food for direct consumption, building a house for one's family (or community), or having the government supply goods that meet basic needs can represent production for use.

In contrast, cars produced by Toyota SA to sell to others around the world represents production for exchange. In South Africa, private industries – the gold mines, the garment factories, and banking services – produce for exchange. Some companies – for example, Pick 'n' Pay – focus exclusively on exchanging goods produced by others.

Goods and services produced for exchange are often called **commodities**. Commodities are bought and sold in **markets**.

Profits represent the money earned from exchange over and above the costs of production and selling goods.

In a capitalist system workers do not own the means of production. Capitalists own the means of production.



Means of Production

Means of production = the land, factories, equipment, and property used to produce commodities and earn profits.

How economies function

Imagine a very simple economy that only produces mielies. Let's call it KwaMielie. Everyone eats mielies to survive. Everything that people need can be produced from mielies. (For example, clothes and houses can be produced from the leaves and cobs.)

This is an unrealistic example, but we will use it to show how an economy works.

After one season, the economy produces a large amount of mielies. The most important task is to ensure that the economy can continue to produce for the next season.

The pile of mielies is divided into three parts.

A portion of the mielies goes to feed everyone in the economy, including all the workers. The workers are paid in mielies.

⁹ This section uses course materials from COSATU Gender Studies Block on political economy. Course materials were developed by James Heintz (Professor in political economy at PERI) in 2004. This section also makes use of A Resource Book called *Understanding Our Economy and Society*, written by Bobbie Marie for the Diakonia Council of Churches (2004).

A portion of mielies must be set aside for the next season.

A portion of the mielies remains. We call this portion the *surplus*.

If this economy is a capitalist economy, who keeps the surplus?

In a capitalist economy, the capitalists keep the surplus. In a capitalist economy the surplus is known as profit.

What would they do with the surplus?

> The capitalists would consume this surplus. They would take for themselves a larger share than the workers. This is why there is such a difference in the standard of living and lifestyle of the capitalist class and the working class.

> They would invest it. They could keep more mielies aside as seed and plant even more the next season in order to enjoy an even larger surplus. We call this accumulation and it represents the source of growth in the capitalist economy.

> They could use it to secure power or influence. For example, the capitalists could create a private security force to keep themselves safe and protect the extra mielies they have kept. They could also give extra mielies to certain workers to be managers and supervisors.

This simple example, shows us how ownership of the means of production and command over the surplus concentrates power in the hands of the capitalists.

3. What is Socialism?

Socialism is a social and economic system that is based on **common ownership** rather than private ownership. Common ownership means that everyone would have the right to participate in decisions on how resources are used for the benefit of the whole society. It means that nobody would be able to take personal control of common resources.

Democratic control is essential to socialism. Everyone would have the right to participate in social decisions that affect them.

Production under socialism would be for social use, and to meet human needs, rather than for private profit, as it is under capitalism.

There are lessons to be learned from experiences of socialism in the last century. We have learned that socialism cannot simply be about state control of resources – democratic participation of citizens in decisions is essential.

A socialist system would involve **socialisation of the economy**, this means ownership and control of wealth and resources by the society as a whole, and not by individuals.

A socialist society would include the following:

- Public ownership
- Social control over economic ownership

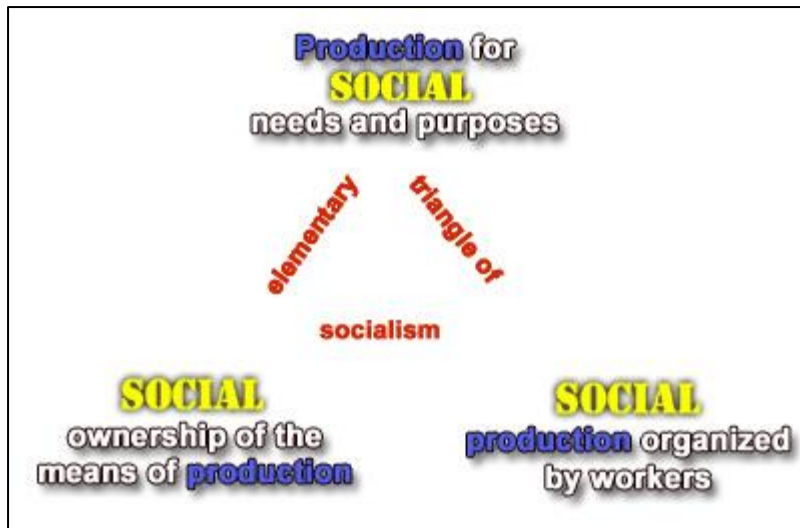
- Social control over allocation of the society's resources
- Democratic work organisation and decision making
- Public services owned and controlled by the state with democratic participation by trade unions and people
- Socialisation of reproductive labour (making household and rearing children a societal responsibility rather than a family responsibility, through childcare facilities, laundries, etc)
- Co-operatives

“Karl Marx had a very clear vision. It was a vision of a society which would permit the full development of human beings – a society which allowed everyone to develop their potential. And, that would occur not because of gifts from above but, rather, as a result of the activity of human beings. This was his concept of revolutionary practice – the simultaneous changing of circumstances and human activity or self-change. Human development and practice – this “key link” in Marx reminds us that there are always two products as the result of our activity, the change in circumstances and the change in people themselves. It reminds us that what Karl Marx called rich human beings, socialist human beings, produce themselves only through their own activity.”¹⁰

The Bolivarian Constitution of Venezuela stresses that the goal of society must be the full development of every human being and that participation and action is “the necessary way of achieving the involvement to ensure their complete development, both individual and collective.” In 2007, President Chavez of Venezuela reinforced this vision by introducing what he called “**the elementary triangle of socialism.**” Social ownership of the means of production, social production organised by workers and production for social needs and purposes make up this triangle.

Firstly, social ownership of the means of production is the way to ensure that our communal, social productivity is directed to the free development of all rather than used to satisfy the private goals of capitalists, groups of producers, or state bureaucrats. Secondly, social production organized by workers permits workers to develop their capacities by combining thinking and doing in the workplace and, thus, to produce not only things but also themselves as self-conscious collective producers. Thirdly, satisfaction of social needs and purposes is the necessary goal of productive activity in the new society because it substitutes for the focus upon self-interest and selfishness an orientation to the needs of others and relations based upon solidarity.

¹⁰ Lebowitz (2010) Socialism: The Goal, the Paths and the Compass.



The Elementary Triangle of Socialism

Socialism would build the basis for a transition to **Communism**, which is a completely classless society: “From each according to their ability, to each according to their need.” Karl Marx.

CHAPTER FOUR (4):

AN INTRODUCTION TO LABOUR LAW
AND REPRESENTING WORKERS

OBJECTIVES OF THIS CHAPTER

- To introduce workers' rights covered in the South African Constitution and the different pieces of legislation.
- To discuss the flow of rights and/or the hierarchy of South African labour laws which are the sources of workers' rights.
- To induct shop steward into practical skills of handling disciplinary and grievance enquiries.
- To finally discuss using labour law to build union organisation in the workplace through, among others, acquiring union recognition or organisational rights from which the rights and duties of shop stewards are derived.
- To develop an understanding of labour law as an 'organising tool'
- To ensure that labour law knowledge is used to develop practical skills which enable shop stewards to tackle union/workers' everyday challenges in workplaces.

Activity 1: Using the Law to Revive the Labour Movement

Aims of Activity

- To generate discussion about the importance of linking union labour law education to help build union organisation

Task 1: Individually and Small Groups

- (a) Identify 4 important learnings from Information Sheet 1 about how law can be used, not only to skill union stewards, but to build union structures in your workplace – both private and public sector.
- (b) Identify constraining factors which might be useful for union stewards to take into account to help rebuild the movement in the workplace.

Task 2: Alone and then groups

- (a) Reflecting on earlier activities where the tasks/roles of shop stewards were discussed, identify those discussed in the Information Sheet below.
- (b) Have you been consistent in carrying out these duties?
- (c) Are these legislated duties different from the ones found in the union constitution?

INFORMATION SHEET 1: USING LAW TO REVIVE THE LABOUR MOVEMENT

Union stewards and workplace organisations (union structures) have an important role for the revival of the labour movement as a whole. This is not only for affiliates to organise new members into COSATU but for the trade union federation to forge solidarity with workers and communities. The return to the workplace means building the capacity of union stewards in the workplace and ensuring that unions grapple with challenges they face. Handling workers grievances and concerns about working conditions and disciplinary cases forms the larger part of the duties of shop stewards. The Labour Relations Act (LRA, 66, 1995) summarise powers and duties of union stewards in the workplace as follows:

- Workplace union stewards are expected to **represent workers** and members of a trade union in disciplinary hearings, grievance processes and collective bargaining where wages and work conditions are being negotiated;
- They must always **monitor employer compliance** with the law and collective agreements the employer reached with unions on anything including conditions of employment;
- Workplace union stewards have a **duty to report** when they discover that the employer breaks the law and violate the collective agreements. Most union policies and workplace union compel union stewards to report complaints about non-compliance to union structures first and then the union takes them up with the relevant authorities. These would finally be reported to the Department of Labour inspectorate. This reporting duty and monitoring non-compliance has also been extended to whistle-blowing against corruption and clear acts of criminality in terms of Protected Disclosures Act.

The Labour Relations Act and other laws give powers and duties only to workplace union stewards. The following are worth mentioning:

Workplace union stewards are leaders with legal, political and organisational responsibilities. Union constitutions further clarify their political and organisational responsibilities which include to:

- recruit and service workers,
- develop a link between union structures (union locals/branches) and union workplace structures (shop/site/shaft stewards committees),
- holding regular union meetings to report back to workers and take mandates from members;
- monitor implementation of union policies, collective agreements and labour legislation in the workplace.
- represent members and better their working conditions.

It is for this reason that disciplinary actions taken against workplace union stewards are treated differently. Before employers take action against the union steward, the union must be consulted and the union steward is usually represented by a union/federation office bearer (where this is applicable in the disciplinary policies).

Finally, handling cases effectively in the workplace has many benefits for trade unions and the labour movement as a whole. Some of the benefits are as follows:

- Trade unions gain workers trust when they represent them effectively. They therefore bargain with employers from a position of strength.
- Unions become a solid voice of the working class in society. This prevents other undesirable commercial companies from gaining space where unions should be the dominant force.
- The control and power of management is effectively challenged as they will think carefully before they take on the union and dismiss workers.
- Trade unions become true 'laboratories of democracy' as their strength is concentrated within the workplace where union stewards are elected through democratic means, recalled when they do not do their work; and their performance in how they carry out their legal duties is supervised and monitored by members.

It is through organising workers, servicing members by winning cases that a union steward in the workplace develop their skills and confidence to lead their union. It is also through effective interaction with workers that they develop a deeper sense of alternative ways to contain the power of management. Handling cases should not be seen as a technical process that turns union stewards into para-legal or industrial relations specialists but conscious union activists whose responsibility is to build and revive the labour movement.

Activity 2: Worker Rights in the South African Constitution

Aims of Activity

- To develop an understanding of workers' rights in the South African Constitution and whether these have been realised in the period of democracy.

Task In your groups

1. List rights that you think have been important in your lives as workers in the period of democracy. Explain why these rights have been important.
2. List the rights that have been difficult to realise and state factors that have made these difficult to realise.
3. What do you think about the right to bargain collectively and the right to strike?

INFORMATION SHEET 2: WORKER RIGHTS IN THE SOUTH AFRICAN CONSTITUTION

The Constitution is known to be the 'supreme law' of the land. In other words, no labour legislation and/or labour policies is more important and may contradict it. It is for this reason that in Chapter 2 it contains the Bill of Rights that sets out a broad framework and stipulates the rights of citizens and workers. It also provides for the rights of employers which must be read together with property clause. The Constitution draws a lot from the South Africa's obligations to the United Nations and its organ the International Labour Organisation (ILO) as the purposes of each of the labour legislation. This body is made up of the labour movement (all national union federations), employers/business organisations and governments.

Bill of Rights: Labour relations

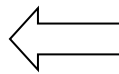
23. (1) *Everyone has the right to fair labour practices.*

(2) *Every worker has the right—*

(a) *to form and join a trade union;*

(b) *to participate in the activities and programmes of a trade union; and*

(c) *to strike.*



There is no right to lockout in the Constitution. The right to strike is not equal/exchangeable to the bosses' right to lock out in the LRA.

(4) *Every trade union and every employers' organisation has the right —*

(a) *to determine its own administration, programmes and activities;*

(b) *to organise; and*

(c) *to form and join a federation.*

(5) *Every trade union, employers' organisation and employer has the right to engage in collective bargaining. National legislation may be enacted to regulate collective bargaining. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1).*

(6) *National legislation may recognise union security arrangements contained in collective agreements. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1).*

[Source: Constitution of the Republic of South Africa]

While the section 23 Bill of Rights covers specific rights of workers and employers. Workers as citizens are also entitled to other rights generally referred to as 'socioeconomic rights'. For example, these are: right to clean environment, right to education and training, right to housing and shelter etc. covered in

other provisions of the constitution. At the same time, employers/business have their rights covered largely in the 'property rights clause' as discussed below.

The Constitution in the Bill of Rights and labour legislation sometime provide for contradictory rights. This is because they are trying to please the two classes. For example, 'the provisions of the right to strike', on the one hand, and considered against the provisions of the 'the right to lock out' and 'the right to private property' on the other. However, the right to strike is considered supreme. The right to lockout is a right covered in the LRA only. However, it must be noted that the right to private property or private ownership of the means of production: land, mines and factories is also in section 24 of the Constitution. Thus it has been argued that rights under the Constitution in a capitalist social and legal order are empty because property rights determine whether other rights under the law can be realised and accessed.

Activity 3: Workers' Rights in Labour Legislation

Aims of Activity

- To further deepen workers' rights in the Constitution and compare how they are covered in the labour legislation.
- To develop an understanding of labour legislations and how they can be used to solve daily problems in the workplace.

Task In Groups (Looking at Summaries and Scenarios)

1. List 10 key rights that are important for union members in your workplace.
2. Identify 2 core rights which you have directly been involved defending in the past month in the workplace. Share your experiences. The legislation is summarised in Information Sheet 3. It is also available online – you are encouraged to read through and identify the relevant provisions.

Information Sheet 3: Summary of Labour Laws

All 7 labour laws provide for rights of workers. The purpose of this part of the Chapter is to introduce workers' rights, trade union rights and systems and procedures in the laws.

LABOUR RELATIONS ACT (LRA)

1. The Act helps to:

- Promote social justice, worker participation, economic development, values of the South African Constitution.
- Clarify who an employee is and who an independent contractor (self-employed individual) is.
- Guarantee workers the right to form and join trade unions and participate in its activities
- Provide for a strike against retrenchments and against slave wages provided it follows the procedure laid down in law to protect the strike.
- Protect workers against unfair dismissals – the Act explains fair procedures (steps to be followed) and criteria for fair/valid reasons before a dismissal as defined in this law occurs.
- Identify automatically unfair dismissal based on the following grounds: race, gender, sexual orientation, union membership, political affiliation, religion and any other similar arbitrary grounds.
- Classify grounds for dismissal: misconduct, incapacity and operational requirements of the employer (generally called retrenchments).
- Clarify rights and employment status of workers who are employed through the Temporary Employment Services (labour brokers) and workers who subsequently outsourced or insourced to new companies.
- Refer a case about a workplace dispute to a bargaining council or Commission for Conciliation Mediation and Arbitration (CCMA) within 30 days.

BASIC CONDITIONS OF EMPLOYMENT ACT (BCEA)

2. The Act helps to:

- Guarantee right to written contract when a worker starts working and the 'certificate of service' (not really a reference letter) when a worker resigns, is dismissed and retrenched from work.
- Entitle workers to different kinds of leave: annual, family responsibility, sick leave, maternity and paternity.
- Affords pregnant women 4 months maternity leave and 3 days paternity leave.
- Bans child labour and slavery (forced) in employment relations.
- Limit over time to 10 hours weekly and the additional hours will be over time and which the employer must agree with the worker.
- Call for compulsory hours of work: maximum 45 hours per week and 9 hours per day.
- Commit employers to severance pay when retrenching workers. Severance pay is one week for every year completed.
- Facilitate the adjustment of hours of work by increasing (compressing) them or decreasing (averaging) them within the limit of compulsory hours of work.
- Entitles to report non-compliance to the Department of Labour (DOL) who will inspect the workplace. If the employer violates the Act such as not paying workers their wages, the DOL inspectors can issue a "Compliance Order".

- Bans deductions from workers' wages other than those permitted by law such as the Unemployment Insurance Fund (UIF) and tax.
- Establish sectoral determinations – orders by the Minister of Labour – to force employers to pay minimum wages for farm workers, domestic workers, cleaning and security workers.

EMPLOYMENT EQUITY ACT (EEA)

3. The Act helps to:

- Define 'fair' discrimination and 'unfair' discrimination.
- Address the objectives of eliminating unfair discrimination in the workplace and promote affirmative action for employees classified as designated groups – black people (including Africans, coloured people and , women, persons living with disability. These must be South African citizens by birth or descent; or they became citizens by naturalisation before 1994, or after 1994, where they would have been prevented from becoming SA citizens due to apartheid policies.
- Create an understanding of Code of Good Practice: Handling HIV-AIDS in the workplace.
- Encourage idea of 'reasonable accommodation' where the employer is expected to create favourable conditions for persons from designated group to work productively without encountering discrimination and organisational culture that seeks to exclude them.
- Establish employment equity committees where trade unions employer representatives and other stakeholders represented to engage in participatory and joint decision-making.
- Identify the role of shopstewards in monitoring compliance with the Act.
- Develop an understanding that in terms of latest amendments labour disputes arising from the Act are now referred to the CCMA for conciliation and arbitration and no longer conciliation at CCMA and later Labour Court for court trial.

OCCUPATIONAL HEALTH & SAFETY ACT (OHSA)

4. The Act helps to:

- Give workers the right to refuse (doing) dangerous work and protect them against insubordination.
- Entitle workers to personal protective clothing (PPCs) and personal protective equipment (PPEs).
- Establish the health and safety (H&S) committees and facilitate the election of health and safety stewards.
- List the general duties of employers under the Act to promote health and safety in the workplace.
- Makes health and safety in the workplace joint responsibility by making it a dismissible offence not to wear personal protective clothing (PPCs) and personal protective equipment (PPEs).
- Force employer to accommodate workers who are injured at work or sick from substances to shift workers to appropriate or lighter duties as a means to avoid a dismissal on the basis of medical incapacity.
- Defines 'listed work' which are operations of the employer that are inherently hazardous/dangerous to workers and compels employers (and workers) to take extra cautionary measures to avoid accidents and work-related diseases.
- Report non-compliance to the DOL inspectors who would be expected to issue a "Compliance Order" if the employer continues to violate the Act.

- Separate the mining industry from other affected general industry because of the Mine Health & Safety Act, but, the compensation system and laws are the same.

COMPENSATION FOR INJURIES & DISEASES ACT (COIDA)

5. The Act helps to:

- Define an 'employee' broader than defined in the LRA and the BCEA and includes casual workers, workers employed through labour brokers (Temporary Employment Services) seasonal/contract workers, workers who died due to injuries and ill-health as well as their dependents; and for its purposes senior managers of companies.
- Classify occupational injuries and diseases into either short term or long term for purposes of determining the correct rate for compensation.
- Force employers to make legal contribution for each worker to the statutory Compensation Fund from which workers who are either injured or sick due to their work situation are compensated.
- Award compensation for accidents that take place outside the country i.e. cross border drivers, treats it as though the accident took place in South Africa. The cover does apply only if a worker has been outside the country for a period of more than 12 months.
- Establishes the office of Director General or Compensation Commissioner who monitor legal duties of employers under the Act; helps to resolve disputes that arise from compensation claims from workers;

SKILLS DEVELOPMENT ACT (SDA)

6. The Act helps to:

- Develop skills of workers in the workplace through the workplace-based skills development committees on which shopstewards sit on behalf of unions.
- Enhance opportunities for workers and people historically excluded by apartheid policies in the workplace thus promote affirmative action as provided for in the EEA.
- Establish sector education, training authorities (SETAs) which responsible for developing sector-wide strategies for education, training and development in individual sectors.
- Develop 'learnerships' through which young people are made to be part of programmes that enable them acquire skills and experience. These learners are covered by other legislation such COIDA as discussed above.
- Refer disputes about learnership to the CCMA for conciliation and finally the arbitration.

PENSION FUND ACT (PFA)

7. The Act helps to:

- Create pension funds and provident funds responsible for life-long savings of workers/contributors they would usually access after retirement.
- Establish boards made up of employers and representatives of members of the fund on an equal basis to decide the investment options and management of fund.
- Empower the pension fund to develop its own rules about how it would regulate decision-making regarding investments and accrual of benefits.
- Specify 'fiduciary duties' which are obligations of the board members 50% of which are representing members who are workers to act in the best interest of the fund and its

members. This compels the board members representing members to report decisions made and seek mandate on new mandates.

- Understand the tension between accountability to members and union mandates which are secondary to the obligations board members have to the fund.

Information Sheet 4: Flow of Rights and Hierarchies of Labour Laws

There is no law that is above the Constitution. All 8 labour laws should always be consistent (agree) with it. The legislation and national policies (e.g. the Reconstruction and Development Programme RDP or the Growth Employment And Redistribution (GEAR) Strategy are meant to be legal instruments to implement the *letter and the spirit* of the Constitution. If there was a contradiction, the legislation and national policies could be deemed unconstitutional. It is still an open question whether GEAR (the government's macroeconomic policy) was constitutional.

Following is the graphic description of the hierarchy of labour laws and the legislative framework:

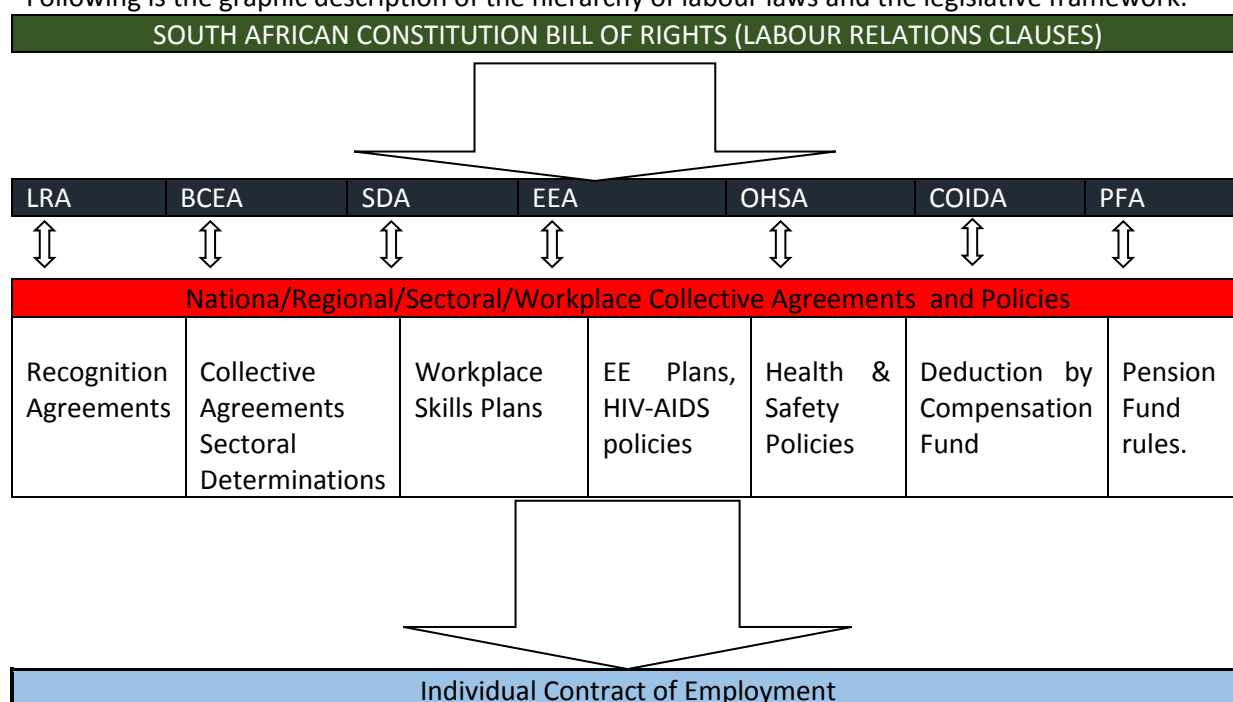


Table 1: Flow of Workers' Rights (Source: DITSELA Labour Law for Administrators)

As seen as above, each of the laws will have the policies and structures that they require to implement the specific legislation. For example, the Occupational Health & Safety Act (OHSA) promotes the adoption of workplace H&S policies and the establishment of H&S committees for compliance; and the example of the Employment Equity Act which also promotes the establishment of EE committees and the adoption of EE plans/policies. These examples are what is considered worker/employee participation in decision-making in how workplaces are governed.

Information Sheet 5: Legal Duties of Shopstewards

The first point to be made is that the LRA uses the word 'trade union representatives' to refer to shopstewards who are in other instances called shaft and site stewards depending on the nature of the workplace. They may well be fulfilling similar but different functions in terms of the constitutions of different unions. However of importance is that shopstewards do have legal duties and these cannot be taken away from them by employers. These duties and rights are presented as follows in the Act:

The rights of the shopstewards

In terms of Section 14 of the LRA trade union representatives (shopstewards) have the right to carry out the following functions in the workplace.

- 1) To assist and represent employees at grievance and disciplinary proceedings, at their request.
- 2) To monitor the manner the employer complies with the LRA and any other laws relating to conditions of employment, as well the responsible authority or agency; and
- 3) To carry out any functions agreed to between the union and the employer as binding collective agreements.
- 4) To report any alleged contravention of work-place provisions of the LRA, or any other laws relating to employment, as well as binding collective agreements to:
 - the employer;
 - the trade union;

Clearly from this shopstewards have more influence than any other person in a trade union. Monitoring the compliance with all the labour laws summarised above is the primary duty of the union steward. For example the discrimination of another worker based on their religion or political affiliation – even if it is not their political affiliation or religion – becomes their duties in the first instance and their rights if management wants to take them away. For example some managers may threaten to victimise a union steward for representing worker. It would be a right to be represented and a right and duty to represent.

The LRA only highlights these as important rights. However there are other roles and responsibilities that the Constitution of a union will also identify. Furthermore the constitution of the federation of the union will have provisions of shopstewards roles which are often cited in the recognition agreement (collective agreement in terms of s.14 ss.4 of the LRA).

Activity 4: Scenarios

Aims of Activity

- To further engage the law as an 'organising tool' for a federation wide campaigns and solidarity actions.
- To start thinking about problems of the workplace by integrating community concerns in how the federation and affiliates deal with issues.

TASK In Groups

1. Alone read all scenarios and have a discussion of what these scenarios mean for the tasks as shop stewards.
2. Identify 4 issues in these scenarios that reflect badly on the federation and affiliates strategy to deal with problems of workers and communities.
3. Reflect on any of the scenarios that have been presented, looking at the legislation, do a mapping exercise of a possible campaign to address the challenge in the chosen scenario – using the law to bolster it.
4. In terms of the task 2 show how the campaign builds the union in the workplace and helps connect with challenges of the community.

| POSSIBLE SCENARIOS FOR WORKPLACE UNION STEWARDS | ACTS | EXPLANATORY NOTES |
|--|-------------|---|
| 1. There has been a general complaint by workers in outsourced services across industries that they work 45 hours per week instead of 40 hours as prescribed in the collective agreement. Employers are also said not to be paying overtime at a prescribed rate. | BCEA | The Act forces employers by agreement to arrange with workers to work overtime. It cannot be worked more than 2 hours daily and more than 10 hours weekly. It is a violation to of the law for workers not be paid over time, wages and any other benefit. Basic Conditions of Employment Act (BCEA). |
| 2. Members of an affiliate approach the Chairperson of the Local Shop Steward Council for advice about pay inequalities between men and women in their workplace. | EEA | Wage inequality and different benefits for workers along race, ethnicity, and religion etc. are not allowed. The wage inequality between men and women in the same position must be paid the same salary and enjoy same benefits. Employment Equity Act (Amendment Act). |
| 3. In the Local Shop Stewards Council of the Federation, Affiliates Reports confirm that teachers in schools and nurses in hospitals are constantly victimised by students and patients respectively. They ask office bearers to intervene. | OHSA | Employers both in the public sector and in the private sector are forced to take reasonable steps to ensure health and safety in the workplace occurs. They must inform workers and unions of incidents, potential incidents and dangerous machines and equipment that may cause harm (also called hazards). Occupational Health & Safety Act (OHSA) s. ... |
| 4. It has been reported in the local community radio that mine workers' pension fund savings will be invested to revive collapsing mines and save/create jobs. Workers arrange meetings in their unions and are asking the Federation for support to address their concerns. | PFA | Pension and provident fund are lifelong savings of workers. In a majority of instances big employers do contribute pension and provident fund. These funds are administered by boards where both unions whose members have invested in the fund and their employers. For any investment decision a resolution should be passed at a board meeting. |
| 5. Workers accuse management of state-owned enterprises (SOEs) for paying huge sums of money for elite degrees such as Master of Business Management (MBA) degree for their managers. Workers do not get to benefit from the skills development programmes of the companies. | SDA | It is common for employers to side-line union representatives in Workplace Skills Committees and/or force them to make decisions that favour them. These Committees are a forum where consultation about current and future skills needed in companies takes place. These management programmes should been agreed before implementation. Skills Development Act (SDA) |

| SCENARIOS FOR WORKPLACE UNION STEWARDS | ACTS | EXPLANATORY NOTES |
|---|--------------|--|
| 6. Shop stewards of Affiliates of the Local report that the local metropolitan municipality due to the water cuts/rationalisation policy working hours of gardening and cleaning services at a local park have been reduced to avoid retrenchments. This measure was taken without any notice and consultation with workers and their unions. | LRA | It is expected that climate change which affect weather patterns causing abnormal rainfalls will have negative effect on workers whose work require the use of water and stable climate. Gardening and cleaning services, agriculture, and big industries such as mining will be affected. Unions must be aware that the abnormal weather patterns are not only about preserving ourselves and our environment but also jobs of union members. Generally employer may, by agreement with unions, may reduce working hours to avoid retrenchments. However this must be agreed with unions. |
| 7. The local community radio reports the outbreak of pneumonia at a local butcher which employs workers from labour brokers and non-South African workers. Some reportedly too sick to continue to work. Their families have come to the Local Shop-steward Council to ask for help. | COIDA | Workers employed through and by labour brokering companies and non-South African workers are workers and are equal before the law. These workers may form and join trade unions and Affiliates should organise them. Workers are entitled to personal protective clothing (PPCs) or PPEs (personal protective equipment) at work. See OHSA s.. Workers injured and got sick at work or work-related cases should be paid for their medical bills and for their personal injuries and being sick at work (compensation). See Compensation for Injuries and Diseases Act (COIDA) . |
| 8. Workers of a local car dealership were who are members of an Affiliate were dismissed after they were on a strike against the privatisation of universities, and industry pension fund. Their employer claims they should not have embarked on the strike because it had nothing to do with their conditions of employment. | LRA | Strikes are a right workers enjoy under the law. However before a strike is protected or complies with the law; unions must apply for the strike to be protected. This includes strike for better working conditions and wages, a strike in solidarity with other workers (sympathy strike). Strikes are also allowed for 'socioeconomic rights' or political and economic issues affecting communities or community issues that affect workers and their families. See the Labour Relations Act (LRA) . |
| SCENARIOS FOR WORKPLACE UNION STEWARDS | ACTS | EXPLANATORY NOTES |

| | | |
|---|--------------|--|
| 9. A group of LGBTI (Lesbian, Gay, Bisexual Transsexual and Intersex) workers are reportedly keen to address the Local Shop Steward Council. The aim is to complain and seek advice about the local government's recruitment which has discriminated against qualifying candidate who is Lesbian and known to be living with HIV-AIDS for City Managers position. | EEA | Nobody should be discriminated against due to their sexual orientation during interviews for a position or in the workplace. Discrimination against workers who live positively with HIV is not allowed in the workplace. The law protects job applicants as though they employees in interviews and selection processes. See LRA s 5, EE s. Constitution s. 23.1, |
| 10. A newly formed union whose leaders split from one of the unions in the Federation has approached the employer for recognition. The employer is asking the Affiliate for representation why it should decline the recognition request. Shop stewards present this challenge to the Federation's Shop stewards Council. | LRA | There has been general reluctance to recognise small and splinter trade unions by employers. The LRA discourages what it refers to as the 'proliferation' of unions. It encourages that strong few unions in the workplace. Since the developments on the platinum mines leading to the crisis in Marikana the LRA amendments do permit the CCMA to recognise small trade unions who may meet the required number. |
| 11. The Federation is approached by families of workers who worked in a construction company that is manufacturing asbestos. Their families, mostly from Lesotho and Zimbabwe, are querying the money they received from the Compensation Fund. | COIDA | The compensation of workers differs depending on the extent of the injury or disease. The extent range from temporary (short term), intermediate (medium) and long term. There are different compensation rates for each of them. These compensation rates are based on medical reports and post-mortem results. |
| 12. The Local Executive Committee receives proposals from different workplaces for the Federation's Collective Bargaining & Organising Conference. One of the proposals is that the skills development levy should be increased from 1% to 3% as a contribution by employers to realise free compulsory tertiary education for all in South Africa | SDLA | The Skills Development Levies Act (SDLA) introduced a compulsory half a percent 0, 5% that was later increased to 1% to contribute to the skills development agenda of the country. The SDLA is the one that makes resources available for programmes that are being developed through Workplace Skills Committees and Sector Education & Training Authorities (SETA) established in terms of the Skills Development Act. |

Grievance Procedures – A Tool for Trade Unions to Deal with Workers Complaints

COSATU and its affiliates exist because workers should be defended. Most of their work in the workplace is to ensure that workers are protected against employers by representing them in disciplinary processes. Part of a union's major responsibilities is to represent members in grievance processes and grievance hearings. Unlike disciplinary hearings where the employer seeks to deal with a problem they have about a worker (union member), with a grievance hearing a worker has a complaint or lodges a grievance about the conduct of the employer or conduct of other workers such as the supervisor or general conditions of employment in the workplace. Thus when a worker has lodged a grievance the employer must protect the aggrieved individual against victimization of those persons she/he is aggrieved about/against. Grievances can be categorized as follows:

- **Collective grievances** are about working condition and the failure of the employer to implement workplace policies, collective agreements and comply with the legislation. For example, when the employer does not implement workplace skills plan by ignoring some workers for skills development. A union can/should lodge a grievance against the employer. Another example is, a group of women can lodge a grievance about sexual harassment in the workplace. This is rare but it would be a useful way of launching a workplace campaign for gender equity.
- **Individual grievances** are about a complaint by a single worker against the employer, fellow worker and conditions of employment. Such a grievance is usually caused by interpersonal differences between/among colleagues leading to misunderstandings or dissatisfaction or any feeling of unfairness about the work situation. It becomes a grievance once brought to the attention of the employer. Unlike a disciplinary hearing where management initiates and action against a worker, in terms of a grievance the worker takes action against management for either ignoring unfairness or making work situation unfavorable (unfair labour practice). Grievance is mainly worker driven action. Sometime if such a grievances is not properly handled they fester and cause a big conflict in the workplace.

Trade union approach to grievance procedures is that it can be a weapon in the hands of union stewards and workers to argue for workplace democracy and needed changes. The 'going to basics' slogan implies that grievance processes is key to ensuring the revival of militant democratic structures in the workplace. In addition, union stewards should insist on collective and organisational approach to grievance handling. Even when a grievance is about a complaint of one or few workers, a union approach compel other workers to pledge support and act in solidarity with them.

Union stewards should be aware that a well-managed grievance process can be key to reviving union structures in the workplace. In the same as workers use disciplinary processes to attack unions by attacking their members, unions should not stop using grievance procedures to “chip off” the power of management in the workplace. A complaint of a worker usually undermined in the workplace can help solve a bigger problem in the workplace. Put differently, a complaint by an individual worker about the quality lighting in one of the departments in the workplace could be taken up as a health and safety campaign thus a collective grievance in the workplace.

Workers grievances are generally provided for in the broad concept of “unfair labour practice” in the LRA section 186. Unfair labour practice is defined as:

“Unfair conduct of an employer relating to the promotion, demotion, probation or training of an employee or the provision of benefits”.

Therefore it is important for union stewards to realise that successfully lodging and defending throughout the grievance process is one of the legal duties/rights which is understood to mean ‘assisting employees in the workplace’. When handling workers grievance a union steward extends their organizational responsibilities beyond just being a representative but lends support, guides and sometime is a counsellor to an aggrieved worker. Stewards must develop key skills to take the responsibility going with being frontline defender of workers’ rights. The following are worth considering:

- Statement taking skills – recording the correct facts related to the complaint and the remedy/outcome the worker seeks.
- Legal skills – understanding employer’s policies and relevant legislation which should be used to lodge and defend a grievance. In other words, being able to determine which right of the worker has been violated by the employer?
- Analytical skills – ability to carefully sift through important facts, discarding irrelevant detail and helping the worker to understand their case better.
- Questioning skills – ability to ask the right question and give the right advice to the worker. This also includes probing the workers complaint/grievance and honestly being empathetic.

Dealing with Workers' Complaints¹¹

Activity 1:

Disciplinary or Grievance,
Collective or Individual?

| | Collective Issue | Individual Grievance | Individual Discipline | Individual Collective |
|--|---------------------|-------------------------|--------------------------|--------------------------|
| Improvements of annual bonus | | | | |
| Supervisor swears at a worker | | | | |
| 50 workers are Retrenched | | | | |
| One worker not paid overtime | | | | |
| Woman worker harassed | | | | |
| Worker issued with a warning for coming late | | | | |
| Worker dismissed for being drunk | | | | |
| Steward transferred | | | | |

¹¹ This section is from the NUM Basic SS training materials and the WWMP basic SS manual.

Steps to Solve a Grievance

There are steps you as stewards can take to solve a grievance, even if you do not have a grievance procedure where you work.

When you attempt to solve a grievance, your goal is either to get management to uphold a right, which already exists, or to agree to new rights for workers. Sometimes a grievance may involve both because several issues are covered under one grievance.



The steward must find out all the facts in a grievance case by interviewing the worker carefully

STEP ONE: Study the problem

Find out who is affected by the grievance. Speak to all the workers who are unhappy to find out the cause of their dissatisfaction. Find out the facts where necessary: dates, times, people involved, the place and the reason.

See if it is possible to split up the complaint into different issues. Often several issues are involved in one complaint. It is easier to discuss solutions if you have broken up the complaint into different parts. Sometimes when you do this you find it is not really a grievance and the problem can be solved with a bit of advice. Sometimes the problem is with another worker and the grievance should not go to management.

Example: Workers don't want to work shifts on Saturday.

It may be because of the pay for shift work or maybe it is the lack of transport late on Saturdays or maybe it is both. This shows that sometimes the demand does not reveal the underlying reason for the unhappiness. You must get to the bottom of the problem, if you want to solve it.

Check if management has broken an agreement, and if there are any laws that management has broken. Find certain documents if you think they will help.

STEP TWO: Work out possible solutions

Don't look at just one solution. Discuss different solutions with members, which can solve each of the issues you have identified.

Example: The transport problem for shift workers on Saturday could be solved by the employer arranging transport or changing the shift times on Saturday to a time when

transport is available.

Try and work out the goal you are trying to achieve. This will make it easier to find solutions. If you are fighting to uphold an existing right, your battle is easier because management has a duty to uphold that right.

STEP THREE: Rate your choices

Decide which is the best solution and the less good solution for the problem – rank the possible solutions on each issue from best to worst.

STEP FOUR: State the grievance clearly and prepare carefully

Write down:

- Who has the grievance
- What is the complaint
- What is your BEST proposed solution?

Do not present the grievance as an ultimatum or demand. Rather, present it as a problem with a solution.

STEP FIVE: Present the grievance to management

If the union has signed a grievance procedure with the employer, then you should follow that agreement from here onwards.



If the grievance involves only one member then the steward must make sure the member is present at any meetings with management

If there is no agreed procedure, request a meeting between management and shopstewards. Representatives from the affected department should be present. If you think the issue can be solved at a lower level, such as the department manager, then first request a meeting at this level with fewer shopstewards attending.

If the grievance involves one member only, that member should be present at the meeting.

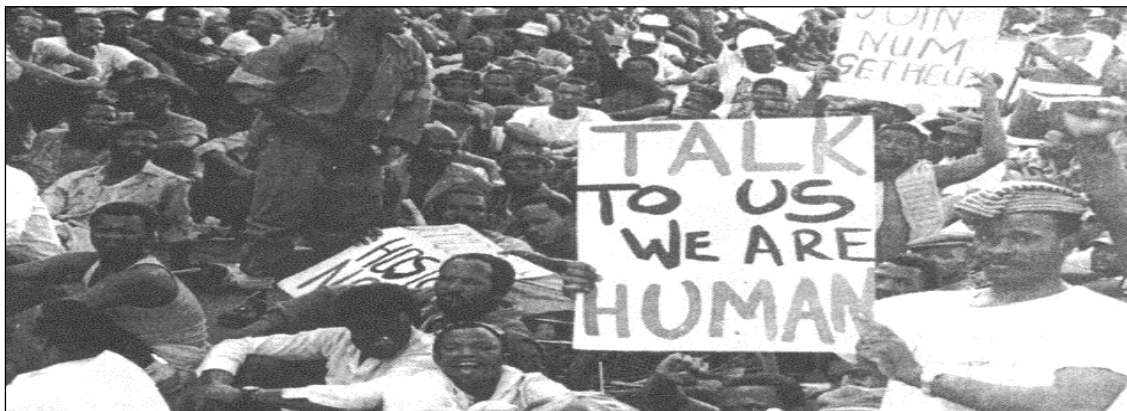
STEP SIX: Getting a first response

1. Ask the manager to respond to the grievance by a particular day. Make it clear you will refer the matter higher up if no satisfactory solution comes out of the meeting. But you must give the manager a reasonable time to try to solve the issue. This is usually anything between three days and two weeks, depending on how urgent, important and complicated the problem is. If you rush management for a response, this can count against you if you finally go to industrial action.
2. If the manager agrees to a meeting, try to negotiate a solution. If management provides a good reason why your first proposed solution cannot work, then discuss your other solutions with management. Make sure management explains properly any rejection of your proposals.

STEP SEVEN: Taking the matter further

If there is no satisfactory response from the first management level, repeat Steps 5 and 6 at the next highest level of management. Go to step 8 if you are still unsuccessful.

At this stage, lunch-time demonstrations by workers help to make management aware that workers are worried about the result of the grievance.



Lunch-time demonstrations are a good way to show the bosses that workers are worried about the outcome of the grievance

STEP EIGHT: Declaring a dispute

If there is an agreed dispute procedure, you should follow it. If not, ask the union organiser to help you to declare a dispute and hold a dispute meeting with the management.

STEP NINE: Tactics to resolve the dispute

Discuss how you will handle the issue, and what your choice of tactics is, with members BEFORE you go into the dispute meeting.

Below are some possibilities:

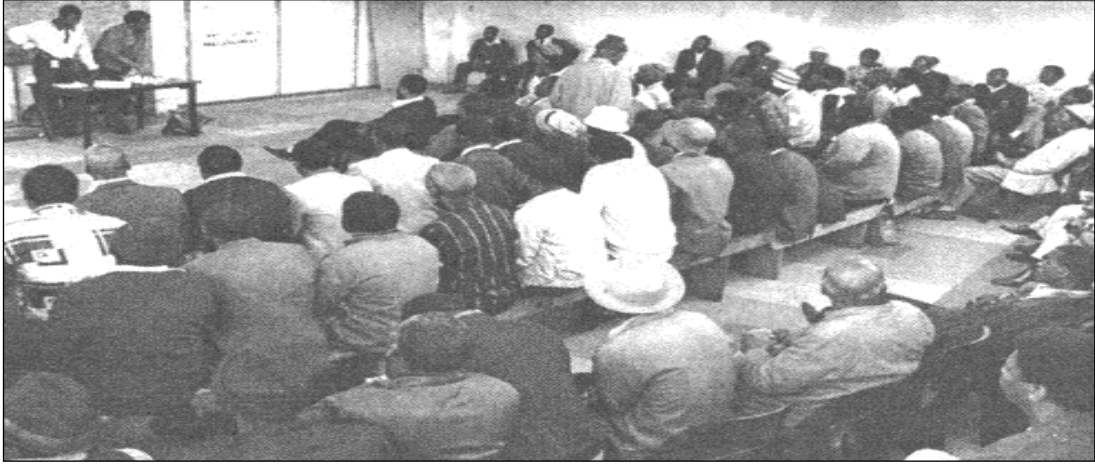
- Postponing this issue to the annual negotiations
- Mediation (a third person who is not involved in the dispute acts as a go-between to help you negotiate a solution)
- Arbitration (a neutral third person decides on a solution for you after listening to you and management)
- Arbitration- mediation (a mixture of the above)
- Industrial court
- Industrial action (make sure workers understand the risks)

STEP TEN: Get it in writing

Any agreement between the union and the employer must be in writing and signed. But BEFORE you sign any agreement, be sure you understand the wording of the document and agree with the wording.

Important Tips when Dealing with Management around Complaints

1. Only take up grievances that members feel strongly about and do not take up complaints that have no chance of success. Sometimes a complaint is part of a longer campaign and you will have to wait before you take up the issue with management.
2. Don't set unreasonable deadlines for management to address the problem.
3. Use a problem-solving approach, and manner – not a threatening approach.
4. Don't be put off by long delays by management.
5. Be open to other solutions, as long as these solutions deal with the real reason for the grievance. Do not only focus on the first solution you proposed. Focus on the problem.
6. Show management you have the support of members. Petitions and demonstrations by workers at the right time can be very useful. **Remember to report back to members at every stage.** This will keep members active and interested and if workers need to take action they will know what is going on.
7. Make a real attempt to negotiate a solution. Don't treat the grievance procedures just as something to go through before workers take action.
8. Make sure that management deals with stewards and not directly with workers, in trying to solve the problem.

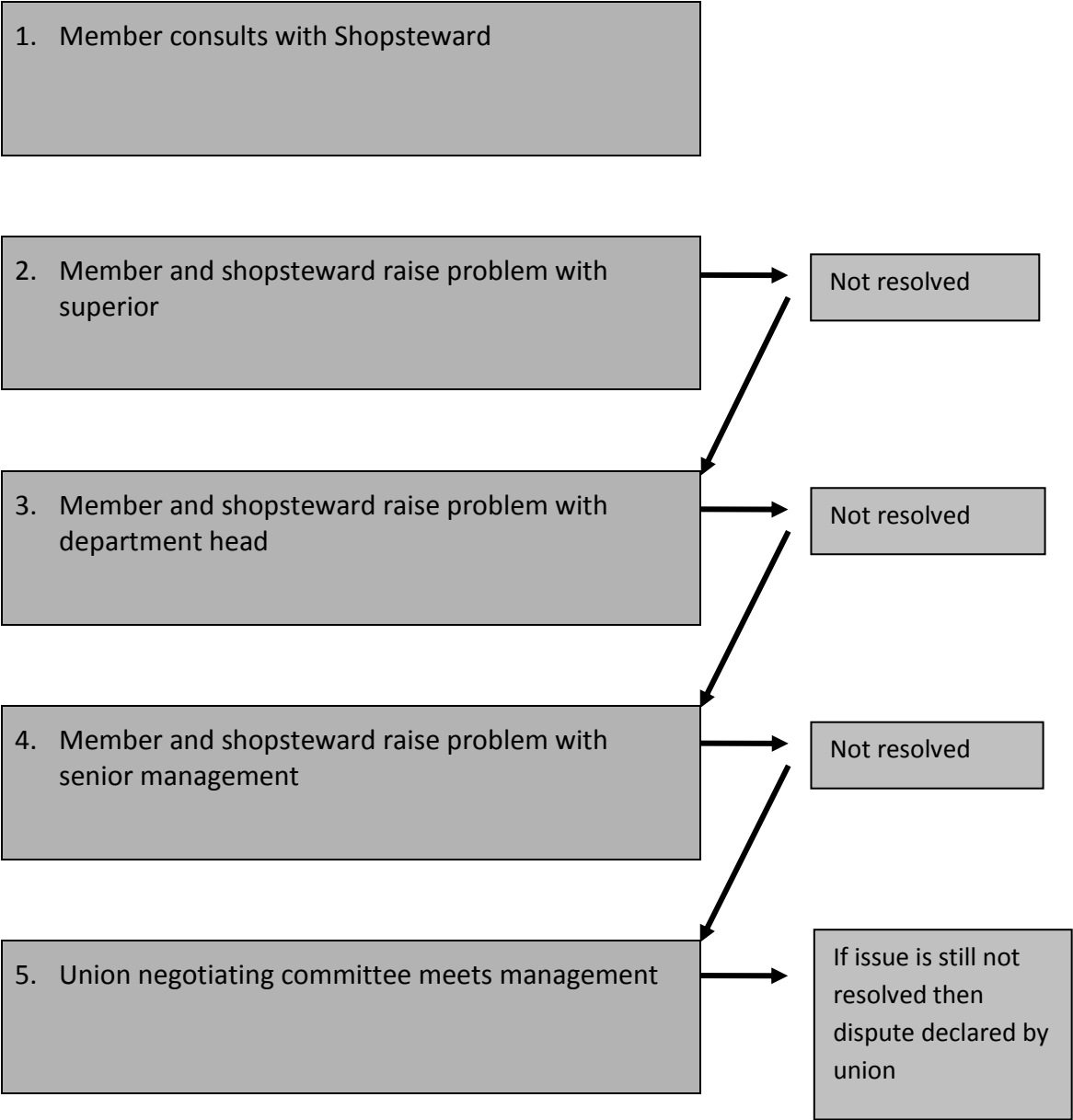


Checklist on Grievance Handling

Shopstewards should use this quick checklist to remind them of the steps to take in handling grievances.

| |
|--|
| GET THE FACTS |
| When |
| Who |
| Where |
| What |
| Why |
| STUDY THE PROBLEM |
| Is it a grievance? |
| Individual or collective? |
| Can you succeed? |
| INVESTIGATE |
| Witnesses |
| Agreements |
| Law |
| Union policy |
| Inspection |
| Documents |
| CONSULT |
| Shopstewards |
| Organiser (if necessary) |
| WORK OUT POSSIBLE SOLUTIONS, PLAN, PRESENT TO MANAGEMENT |
| Formulate grievance clearly |
| Demands |
| Pressure/Arguments |
| Giving evidence |
| MEMBERS |
| Inform at every stage |

Diagram of a Grievance Procedure



Points to Look for in a Grievance Procedure

1. There should be a small number of steps

The bosses try to put in many steps which is a tactic to delay resolving the problem

2. Short time limits

The bosses will take as much time as they want if there are no time limits.

3. Shopstewards must be involved at all stages.

Every grievance is a union issue. There should be no such thing as a 'private' grievance.

4. Involving Branch Committees and union organisers at the later stages of the grievance adds power to the union's case.

5. The final stage in the procedure should always be a dispute.

6. Employers must never be given the right to the final say.

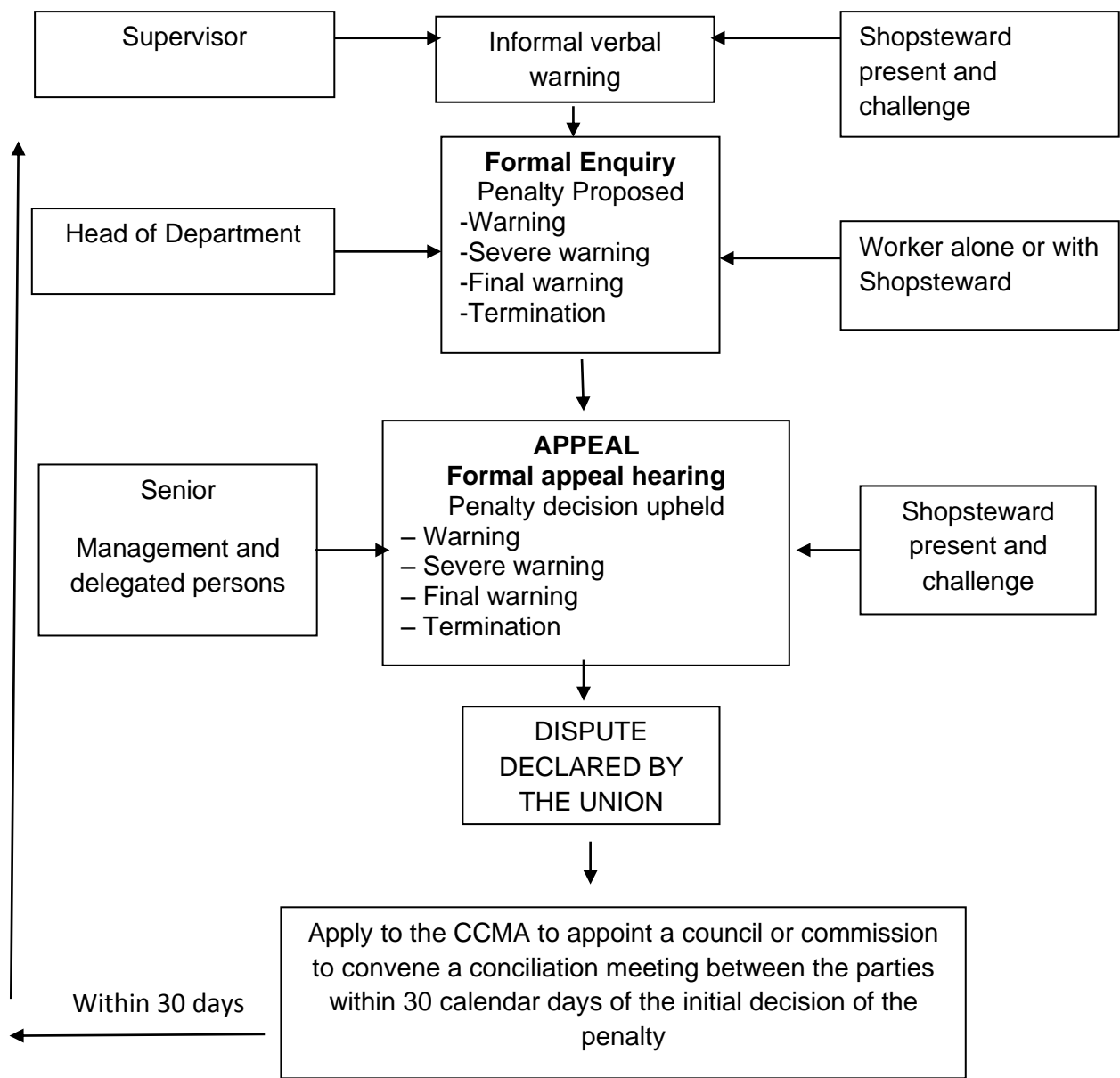
Dealing with Disciplinary Cases¹²

Aims

- To look at the differences between disciplinary and grievance issues
- To discuss disciplinary procedures and what a fair procedure should include
- To learn how to deal with disciplinary hearings by looking at:
 - The employer's obligations
 - How to prepare the 'accused' worker's defence
- To discuss disciplinary cases that stewards have handled in the past and look at problems and successes

¹² This section draws from NUM Basic SS Training Materials and the WWMP Basic Shopstewards Manual

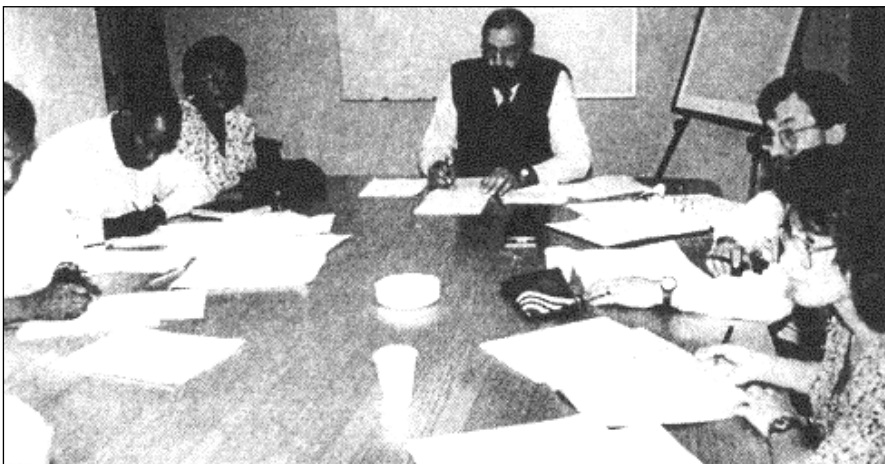
Diagram of General Steps Followed in a Dispute Resolution Procedure



NB. This procedure is followed in instances where there is no collective agreement on a dispute resolution procedure. If there is an agreement on the Dispute Resolution procedure, then follow that agreement.

Points to Look for in a Disciplinary Procedure

1. Disciplinary action should aim to correct, not to punish.
2. Workers must have a hearing at all stages of the disciplinary procedure.
3. Workers have the right to representation at all stages.
4. No-one should be dismissed for a first offence, except in the case of gross misconduct.
5. Management must not give formal warnings before a full investigation.
6. There should be a time limit on warnings, and that warning must be struck (taken out) from the company records when the time limit is over.
7. The worker must have the right to appeal at every stage of the procedure.
8. The worker must know the charges against him/her well before any enquiry.
9. The worker and union representative must have access to all the documents that are important in the case.
10. The worker and union representative must have the right to call any witnesses and to examine them at the enquiry.
11. The company cannot force the worker to sign a warning.
12. The steward must not sign the warning.
13. The final stage of a disciplinary procedure should be the union declaring a dispute.



Workers must have a hearing and the right to representation at all stages of the disciplinary procedure

ROLE OF PARTIES IN THE DISCIPLINARY HEARING

Chairperson/ Presiding Officer

- He or she must be impartial, he must not have interest on the outcome of the case and he must not have knowledge of the facts of the case before the hearing.
- Directs the proceedings
- Not allowed to cross examine the witnesses. Can only ask clarity seeking questions
- Not allowed to provide evidence
- To guide the parties on the procedure during the hearing.
- To protect the parties against each other
- Ensure that proceedings are free and fair
- Take decision of the outcome of the case based on evidence presented before him/her
- Inform the employees about the outcome of the case in writing.

Complainant

- Present evidence on behalf of the company.
- Respond to questions asked by the union representative (be cross examined)
- To examine his/her witnesses and cross examine the employees witnesses

Union representative

- To provide opening statement on behalf of the employee
- To examine employee and his witnesses
- To cross examine the complainant and his her witnesses
- To present closing arguments on behalf of the employee

Witnesses

- Collaborate or support the employee or company evidence
- To be examined and cross examined

Human Resource Management (HR), Industrial Relations (IR)

- To record the proceedings of the hearing
- To ensure that correct procedures are followed.

Interpreter

- If required to translate from one language to the other.

Discipline and the Law

1

Sometimes, Management and the Union have not reached agreement on how to handle disciplinary matters. When this happens, the law can be used as a guide.

2

In the **Labour Relations Act (LRA)** there is a section called "**The Code of Good Practise**". The Code says that workers and management should treat each other with respect. Workers should be treated fairly by management, and in return management can expect good conduct and work performance.*

3

This Code also lists the times when management is fair or has had good reasons for dismissing or disciplining someone. The Code talks about procedural and substantive fairness. These words need explaining.

Procedural fairness is all about whether management followed the correct procedures when disciplining workers. This is like: Did the worker have enough time to prepare the case? Were they allowed to call witnesses?

- ♦ Procedural rules are there to allow workers to have a fair chance to answer charges against them and to defend themselves.

♦ Substantive fairness is something different. Here procedures are not argued for. Instead you look at the substance of the case. Did workers know of the rules? Is the rule reasonable?

Let's look in a little more detail so we can better understand these issues.

* See Schedule 8 of LRA 66 of 1995

Substantive Fairness



Management is said to have been substantively fair when:

All workers know about the rules of the workplace or what is in the Disciplinary Code. These rules must be valid and reasonable.

Workers are able to understand what is written in the Code. The language and how it is written should be understood.

They enforce rules that are in the Code, or that are so well known that they do not have to be written down.

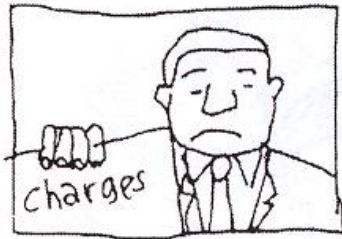
Is the rule broken?

Is the rule consistently applied?

Is the penalty appropriate (fair)?

Discipline is progressive. Discipline is meant to correct how a worker has behaved, and not to punish them. In other words, if a worker has not broken a rule before and commits a minor offence, he should be advised of what he has done wrong and the matter should be discussed with him. Management should only dismiss workers after repeated offences and for serious misconduct, like assault, theft etc.

Procedural Fairness



Did management follow these procedures when disciplining?

Tell the worker of the charge against him/her. This should be done in a language that the worker understands.

Give enough time for the worker to prepare a response to the charge.

Set up a disciplinary enquiry.

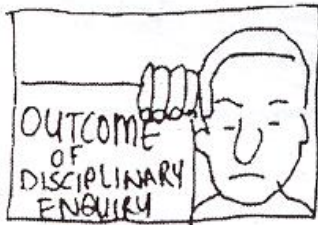
Allow the worker to call a union representative to represent him/her.

Allow the worker to call witnesses, to cross-examine the accusers and their witnesses.

Tell the worker what the outcome of the disciplinary enquiry is, preferably in writing.

Explain why they are going to dismiss a worker, and about how they can appeal this decision.

Consult the union first when a trade union representative or office bearer was to be disciplined.



If management followed all these steps, then he is said to have been procedurally fair.

The Disciplinary Enquiry

Principles of a Fair Enquiry

For an enquiry to be fair, these basic principles must be applied even if you do not have an agreed disciplinary procedure where you work.

- An employer must hold a proper enquiry before dismissing a worker for misconduct, even if it is obvious that a worker was guilty of misconduct.
- The purpose of an enquiry is to give the accused worker a chance to defend him/herself against the charges of misconduct.
- The employer must hold an enquiry to establish two things. Firstly, if the worker is found guilty based on the balance of probabilities on the alleged misconduct. Secondly, after the worker is found guilty, the employer must consider the correct / appropriate sanction.



The purpose of an enquiry is to give accused workers a chance to defend themselves against the charges of misconduct.

The Disciplinary Enquiry

Steps Employers must follow

To give the worker a reasonable chance to conduct his/her defence, the employer must follow certain steps:

- Give the worker enough notice of:
 - The time, date and place of the enquiry.
 - The alleged offence the worker is charged with. This must be in detail and clear so the worker knows which incident is under investigation.
 - The possible corrective measures if management find the worker guilty. For example, dismissal, or a written warning.
- Give the worker enough time to prepare a defence based on the complicity of the case. E.g. if many witnesses and documents are involved, the steward should ask for more time to prepare.
- Allow the worker representation by a co-worker of his/her choice. A worker can ask the steward to assist even if there is no agreed procedure.
 - Provide translation if the worker cannot understand the language of the enquiry.
 - Make available to the worker and his/her representative any documents that the company wishes to use in the enquiry, and any documents requested by the worker, for example, the worker's disciplinary or performance record. If the employer does not provide the documents before the enquiry, the bosses must give the worker and his/her representative enough time to study the documents at the enquiry.
 - Allow the worker or steward the chance to cross-question company witnesses and to call his/her own witnesses.
 - Provide a chairperson who was not involved in the incident under investigation. In small companies, where management staff is small, this is not always possible.
 - The chairperson must conduct the enquiry without bias in favour of the company. The chair must not make the decision before hearing all the evidence.
 - The chairperson must allow the workers or his representative to provide mitigating circumstances.

Preparing the Worker's Defence

Step 1: Read the notice of the enquiry

Step 2: Interview the member

- Get the full story of what happened. Ask the worker about the events before the notice of enquiry was issued. It is important that the member tells the truth, so the steward will not be surprised at the enquiry by totally different facts from management. First allow the member to give his/her story without interruption. Then ask the workers the 5 W's (what, when, where, who and why) and H (how):
 - **What** happened
 - **When** did it happen
 - **Where** did it happen
 - **Who** was involved
 - **Why** did it happen
 - **How** did it happen

Then ask the worker to repeat the story. But this time the steward takes notes and ask him/herself further questions:

- Does the worker's story make sense?
 - Are all the issues in the enquiry notice covered?
 - Did anyone witness the event?
 - Are any documents needed? For example: clock cards, invoices, disciplinary record.
- Ask the member for any details of previous warnings and details of his/her domestic situation.



The steward must interview the worker carefully, get all the facts, and make sure the worker is

Step 3: Conduct own investigation

- Study relevant sections of the law
- Read relevant coy policies, codes, procedures and agreements
- Consult with other shop stewards and B.C
- Check similar or related cases for consistency
- Conduct inspection in loco (if necessary)

Step 4: Analyse the case

The Steward must work out how strong or weak the worker's case is on both the substantive issues and the procedural issues. Many procedural issues can come up at the enquiry itself.

Can the steward provide evidence, such as witnesses or documents, to prove one or more of the following points:

- **Points of procedural fairness**

Did the employer follow all the principles and steps for a fair enquiry (maybe laid out in a disciplinary procedure?)

- **Points of substantive fairness**

The steward prepares the worker's defence on each of the following substantive points and writes each one on a separate page:

1. Your member did not do what he/she is accused of.
2. Your member did not know about the rule he/she is accused of breaking.
3. The rule he/she is accused of breaking is unreasonable. For example, washing your hands before starting work in a coalmine is a silly rule, but it is reasonable in a food packing company.
4. If the steward cannot prove points 1 to 3, maybe the steward can show that other people broke the rule with the knowledge of the employer and without a disciplinary enquiry being held.
5. Maybe the steward can show that the rule is not so important that workers should be dismissed for breaking it.
6. Maybe the member did break the rule, but perhaps the member had a good reason for breaking it.
7. Maybe the member did break the rule and he/she has no good reason for doing so, but perhaps there are other facts or information the steward can bring to show why the member should not be dismissed? For example, a good working history, good disciplinary record, good work record, bad domestic situation.

| |
|--|
| Note: It is important to prepare for all these points in case you lose on some of them. |
|--|



The dismissed worker has a very sick, bed-ridden son at home. The steward should bring facts about the worker's bad home situation to the enquiry to show why the member should not be dismissed

Step 5: Prepare your questions

The steward must think about the questions to ask the member and other witnesses on each of the above points. Before the enquiry the steward must take the member through the questions that he/she will have to answer at the enquiry. Do not try to get a witness to “remember” answers to questions. It is very easy for management to catch a worker out if they are trying to “remember” a story that is not true.

The steward must decide who to call as witnesses. If possible, put questions to the witnesses before the enquiry starts so the witnesses know what the steward will ask them.

Also think about the questions that management will ask the worker and the witnesses. Take the accused worker through the questions management might ask. The steward should write down the important questions for each witness so he/she does not forget them.

Step 6: The steward should make a summary of the points of substantive fairness and procedural fairness to raise at the enquiry



The steward must prepare questions before the enquiry and then take the accused worker through the questions that the steward will ask him or her

Questions on the Disciplinary Enquiry

1. **What would you do at the enquiry if the 'accused' worker fails to attend the enquiry either because he/she could not attend, or did not want to attend?**

Failure to attend the enquiry

A worker may fail to attend an enquiry either because she could not or did not want to attend. Ask the management to postpone the enquiry to give the worker another chance to attend. Tell the worker of the new date.

If the worker fails to attend again, he/she must show that he/she really could not attend because of events beyond his/her control. Otherwise, management will be entitled to hold the enquiry without the worker.

It is better to raise objections at the enquiry itself than to boycott the enquiry. Ask management to record that the worker is attending "under protest" and state the reasons for the objection.

2. **What would you do if management suddenly produces a surprise document (a document you have never seen) at the enquiry?**

Surprise documents

If management pulls out surprise documents during the enquiry, object to it being admitted as evidence.

If the chair rejects your objection, ask the chairperson to record your objection in the minutes or in the written decision of the enquiry. Do the same for any other objections you have to the way an enquiry is conducted.

3. **What should you ask for at the beginning of an enquiry?**

Record of the enquiry

A disciplinary enquiry is not as formal as in a court. But the chairperson must make sure both sides of the story are heard.

Management must follow the disciplinary procedure. If there is no agreed procedure, then the following stages are commonly followed.

Opening

The chairperson should introduce all the people present. The worker must know what the charges against him/her are.

Ask if the company will make an official record of the enquiry that you can photocopy. If the company will not, ask if another steward or member can take notes for you. Management does not have to make a record of the enquiry unless an agreement says so.

4. What is the usual order of events or procedure at the 'Hearing evidence' stage of the enquiry?

Hearing evidence

The evidence at this stage concerns whether the worker committed the misconduct and if so, if he/she had any good reason for doing so.

The chairperson must give the company a chance to prove 'the allegations' (the misconduct that the company says the worker did). The worker must have the same chance to prove the allegations are false or that he/she had a good reason.

Management will usually call their own witnesses for questioning first. After they have questioned a witness, the steward or worker must have a chance to question the witness again.

After management has called its witnesses, then the accused worker can call witnesses. Management may cross-examine and you may re-examine them.

5. What is the next stage of the enquiry after everyone has given evidence and called witnesses?

Hearing argument

The management spokesperson and the steward will normally get a chance to summarise the important points. The steward must argue why the evidence proves the allegations against the worker are not true. You should focus on the important facts that show:

- (a) If the worker is guilty or not, or
- (b) If the worker has shown a good reason for what he/she did. Emphasise all the points of substantive and procedural unfairness that you think have come out clearly in the evidence. Always try to get a short break to prepare what you are going to say.

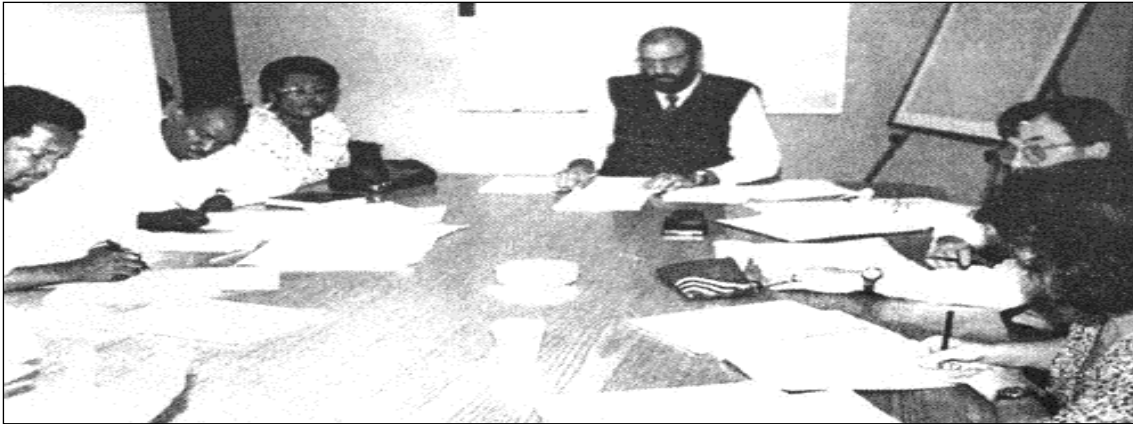
Deciding guilt

The chairperson must decide if the worker is guilty as alleged. The chairperson does not need 'absolute proof' that the worker was guilty. The worker can be found guilty:

- (a) If management's story is proved to be true or
- (b) When the evidence presented suggests that management's story is probably more truthful than the worker's version.

So, it can happen that a worker may be found innocent of a criminal charge of theft in a criminal court of law, but the chairperson of the enquiry at work may find the worker guilty on the same charge. This is because the standard of proof in the criminal court of law is higher than in the disciplinary enquiry.

The bosses will usually call their own witnesses for questioning first. After management have questioned the witness, the steward or worker must have a chance to also question the witness



A disciplinary enquiry is not as formal as a court of law but the chairperson must make sure that he/she hears both sides of the story

6. What does 'hearing evidence in mitigation' mean? And what sort of points should a steward raise in mitigation for a worker?

Hearing evidence 'in mitigation'

If the chairperson finds the worker guilty, the chair must decide on the fair corrective measure, usually the corrective measure cannot be worse than stated in a company disciplinary code.

At this stage, it is important to raise:-

- The worker's disciplinary history.
- The worker's working relationship with superiors and other workers
- Any personal circumstances

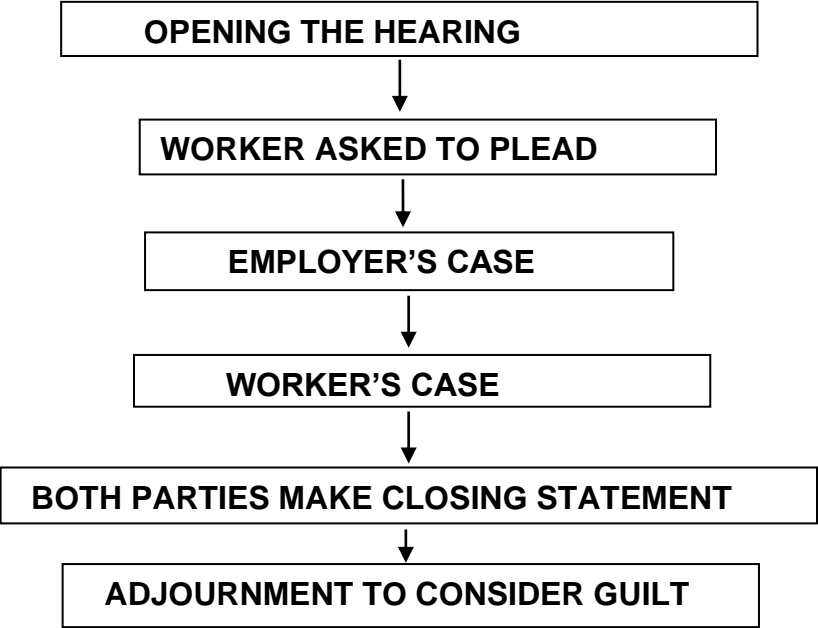
Deciding the penalty

The chairperson decides on whether there is a corrective measure and what is it. The chair must give the decision and reasons for the decision within a reasonable time. If the worker is very unhappy with the decision you may 'lodge' an appeal.

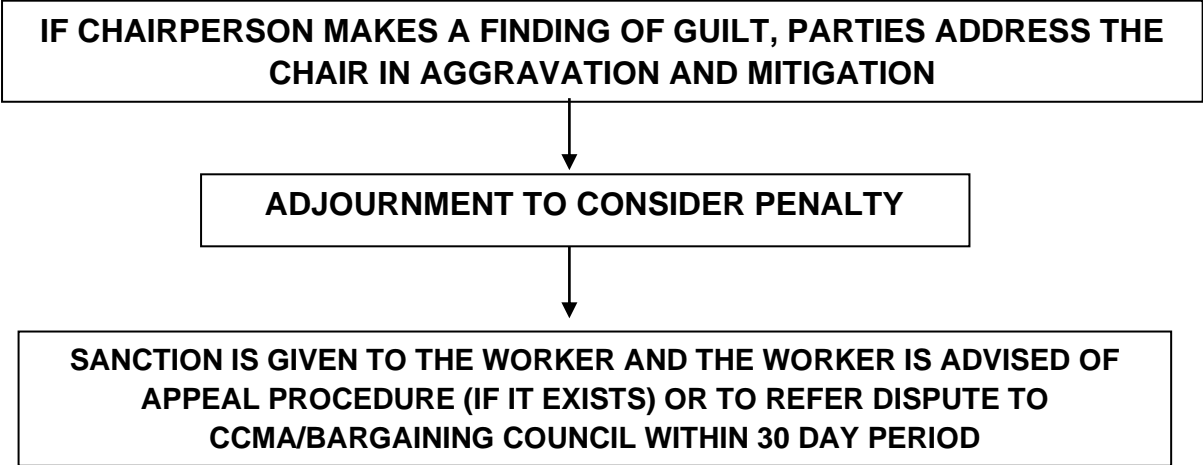
Appeals

Make sure you lodge an appeal soon after you have seen the result of the enquiry. Do not miss the time limits set out in your procedure.

HANDLING DISCIPLINARY HEARING – STAGES OF A DISCIPLINARY ENQUIRY



STAGE TWO



[Table 2: Ditsela, Dismissal and Disputes Course 1999]

EXPLAINING DIFFERENT STEPS OF A FAIR HEARING

| | |
|------------------------------------|--|
| 1. Opening the Hearing | <ul style="list-style-type: none"> • The chairperson introduce himself and asks those present to introduce themselves and their respective roles • The chairperson finds out whether or not an interpreter is needed for the worker or witness • The chairperson advises the worker of his rights during the hearing and finds out if the worker has had enough time to prepare, understands the charge and has consulted with his/her representative • The chairperson explains how the hearing will be run. |
| 2. Worker Is Asked To Plead | <ul style="list-style-type: none"> • The charge is put to the worker and the worker is asked to plead guilty or not guilty. • If the worker pleads guilty the hearing will move directly to stage two without listening to evidence. • If the pleads not guilty the employer will have to prove the worker's guilt. |
| 3. Opening Statement | <ul style="list-style-type: none"> • Both parties give the chairperson a brief outline of their cases and the witnesses they will be calling. • The initiator will begin first. |
| 4. Employer's Case | <ul style="list-style-type: none"> • The company will call their witnesses one at a time. • The witnesses will answer questions put to them by the initiator. • The worker or his/her representative will cross examine the employer's witnesses. • The initiator will clarify certain issues with his witnesses that were raised during cross-examination(re-examination) • The chairperson may ask questions at any time. • After all the employer's witnesses are called the employer's case is closed. |
| 5. Worker's Case | <ul style="list-style-type: none"> • The worker or his/her representative will call his/her witness's one at a time. • The witnesses will answer questions put to them by the worker and/or his/her representative. • The initiator will cross-examine the worker's witnesses |

| | |
|---|--|
| | <ul style="list-style-type: none"> • The worker and/or his/her representatives will clarify certain issues with his/her witnesses that were raised during cross-examination(re-examination) • The chairperson may ask questions at any time. • After all the worker's witnesses are called the worker's case is closed. |
| 6. Closing Statements | <ul style="list-style-type: none"> • Both parties will summarise their cases and try to convince the chairperson why she/he would find in their favour. • The initiator will begin first |
| 7. Adjournment – Guilt | <ul style="list-style-type: none"> • The chairperson will adjourn the hearing to decide the guilt or innocence of the worker. |
| 8. Argument In Mitigation And Aggravation | <ul style="list-style-type: none"> • The chairperson will reconvene the hearing and tell the worker of his/her findings • If the chairperson finds the worker guilty she/he will ask the worker to provide mitigating circumstances. This means that the worker must provide the chairperson with facts and arguments (like his/her personal circumstances and his/her length of service or a good disciplinary record) to convince the chairperson to be lenient and not impose a penalty. • The initiator must provide aggravating circumstances, (e.g. if the worker has been dismissed for theft the employer can no longer trust the worker and the relationship is damaged), and convince the chairperson to impose a particular penalty. |
| 9. Adjournment penalty | <ul style="list-style-type: none"> • The chairperson will adjourn the hearing again to consist a fair penalty. • The chairperson must consider the relevant disciplinary code and procedure document, as well as the Code of Good Practice (LRA). |
| 10. Sanction delivered further steps explained | <ul style="list-style-type: none"> • The chairperson will reconvene the hearing to advise the worker of the penalty and his/her right to take the matter on appeal or to refer it to the CCMA/Bargaining council. |

Table 3: Source DITSELA Dismissal & Disputes Course 1999

What is Collective Bargaining?

Management and workers have different interests. Management wants workers to work as hard as possible for as little pay as possible. Workers want as much pay as possible. They do not want to be forced to work at an uncomfortable pace and in uncomfortable circumstances.

This leads to a struggle between management and workers. If workers stand **ALONE**, they have no power to bargain with to push the wages higher - because they can be replaced by another worker very easily. If workers bargain **TOGETHER** (i.e. collectively) they have more power, because it is not so easy for management to replace all the workers at once. When workers bargain collectively with management they can improve not only their wages but working lives in general.



What matters can be raised in Collective Bargaining?

There are many issues that can be raised in Collective Bargaining. Some are basic things which are negotiated in many workplaces, such as:

- Wages
- Hours of work
- Health and safety
- Union facilities
- Public Holidays
- Shifts
- Maternity
- Bonuses
- Leave
- Shopsteward facilities
- Provident Fund
- Overtime pay

There are also many new and more sophisticated demands we put forward for collective bargaining. Many of these are strongly resisted by management:

- training for all
- literacy
- job security
- no discrimination
- affirmative action
- centralised bargaining

Where can we bargain?

Collective Bargaining can take place at a number of levels.

1. WORKPLACE BARGAINING

The workers and management at one factory or workplace can get together to discuss issues of common interest. They can negotiate wages and working conditions.

2. COMPANY BARGAINING

One company may own more than one factory, e.g. Consol Glass. A national bargaining forum can be established to negotiate on issues that affect all the workplaces.

3. INDUSTRY BARGAINING

Industry bargaining takes place when all workers in an industry come together to bargain with all employers in the industry. The most common forum for industry bargaining is the industrial council.

An industrial council covers workers in an industry or part of an industry. For example the Industrial Council for the Iron and Steel Industry (which also covers workers in the plastics industry). Employer bodies sit together and negotiate with unions on the other side.

There may be more than one union represented in an industrial council. Industrial Councils set minimum wages and conditions for that industry/ area.

4. CORPORATE BARGAINING

Some very large corporations cover many industries

e.g. Barlow World, which owns factories and mines in metal, chemical, food, paper, mining industries. Sometimes company policy can be negotiated with the parent company.

5. NATIONAL NEGOTIATIONS

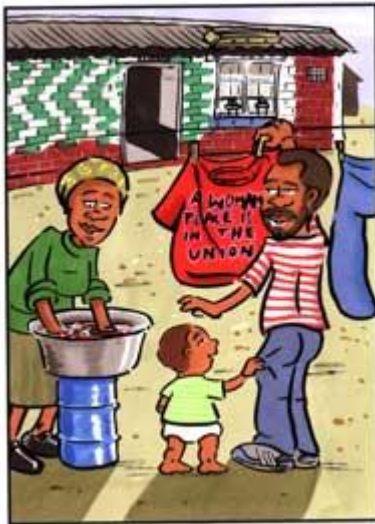
These take place between national employer bodies and trade union federations. An example is the negotiation between Saccola (employers federation) and Cosatu/Nactu on the Labour Relations Act during 1989. Today there is NEDLAC - The National Economic and Development and Labour Council. There is a national tripartite body consisting of government, business and labour. They discuss and negotiate policies mainly pertaining to the economy and labour before these are submitted to parliament.

CHAPTER FIVE (5):

UNDERSTANDING GENDER

Understanding Gender

A STRUGGLE WITHIN THE STRUGGLE¹³



This chapter looks at Understanding Gender. We will discuss:

1. What is gender?
2. Patriarchy, Capitalism and Apartheid
3. Gender and Trade Unions
 - The position of women in trade unions and the workplace
 - Gender and power in unions
 - Barriers to women's full participation in unions

¹³ This chapter is a shortened version of a COSATU Education Booklet "Understanding Gender: A struggle within the struggle" from 2000. It is available on the COSATU Website <http://www.cosatu.org.za/show.php?ID=2168>

1. What is Gender?

People often use the words "gender" and "sex" as if they mean the same thing.

This is not the case.

Sex

Sex refers to the physical differences between men and women – like women can have children and men cannot.

These are the differences that we are born with and which cannot be changed.



Gender

Gender refers to the different roles and identities that we are given depending on whether we are male or female.

Many societies treat boys and girls differently from birth

Among the Turkana people of Northern Kenya, women gather when a child is to be born. If the baby is a boy, the cord is cut with a spear and four goats are slaughtered for the women to have a feast. The spear is later used to kill a bull, which both the woman and her husband eat as a sign that he will now have someone to help care for the animals. But if the baby is a girl, a knife is used to cut the cord, only one goat is slaughtered and there is no feasting.

Turkana song for a girl

*When you grow
May you have a rich and good husband
And remember all of us here at home*

And continue to help us

Turkana song for a boy

*When you grow
You will take care of the home,
the property
And protect your mothers and
sisters*

From very young, boys and girls are encouraged to take on different roles. Girls are taught to do housework while boys are expected to be active outside the home. When we grow up, what we learnt when we were still young shapes what we do as adults.

Women normally become responsible for looking after the home while men are seen as the breadwinners. This is called the **sexual division of labour**.

Culture and class can also influence gender roles. For example, the experiences of a white owning class woman would differ from an urban working class Hindu woman and would also differ from those of a rural Xhosa woman.

Institutions such as the family, education and schools, the church and religion, the economy, the state and laws all reinforce our gender roles.

The gender roles that we learn also create *expectations* of men and women. Men are supposed to be 'natural' leaders, decision-makers and providers whereas women are supposed to be caregivers, supporters and followers of men. This does not have to be the case though. Men and women could be all these things but this would require a major change in gender relations.

The different gender roles we play are not fixed at birth and are what we all learn and finally choose.

The important difference between sex and gender therefore is that gender relations are created by our society and **can** be changed.

Power relations

Gender is not only about roles and expectations but is also about the relationship between women and men.

In most societies, men are given more power than women. They are therefore able to make and take decisions that women are not given. When we talk about gender power relations we are talking about the domination of men over women.

While societies might develop different roles and tasks for people, this should not lead to oppression and subordination. It is therefore important for us to understand and make visible the power relations between women and men in different circumstances and societies so that we can challenge and change these unequal power relations.



Questions for Discussion

1. Read the poem below and discuss what you think and feel about it.
2. Discuss the story about the birth of girls and boys in Kenya, and compare this to the cultural practices that you know about.
3. Think about gender roles and expectations that you have experienced and discuss these.
4. Discuss which situations make you feel powerful and those where you feel you have no power.
5. In what ways would you like to see gender relations changing?
6. What might you need to change about yourself personally to change gender relations/to achieve this?

*For every woman who is tired of acting weak when she knows she is strong;
There is a man who is tired of appearing strong when he feels vulnerable.*

*For every woman who is tired of acting dumb;
There is a man who is burdened with the responsibility of 'knowing everything'.*

*For every woman who is tired of being called an 'emotional female';
There is a man who is denied the right to weep and be gentle.*

*For every woman who is called unfeminine when she competes;
There is a man for whom competition is the only way to prove he is masculine.*

*For every woman who is tired of being a sex object;
There is a man who must worry about his potency.*

*For every woman who feels 'tied down' by her children;
There is a man who is denied the full pleasure of parenthood.*

*For every woman who is denied meaningful employment and equal pay;
There is a man who must bear the financial responsibility for another human being.*

*For every woman who was not taught the intricacies of an automobile;
There is a man who was not taught the satisfaction of cooking.*

*For every woman who takes a step towards her own liberation;
There is a man who finds that the way to freedom has been made a little easier.*

2. Patriarchy, Capitalism and Apartheid

Patriarchy, capitalism and apartheid are connected and each system benefits the other. Let's look at how. To do this, we need to start by finding out what is meant by patriarchy.

What is Patriarchy?

Patriarchy is a Greek word meaning 'rule of the father'. This word refers to the *system* of male domination over women in society.

This domination takes different forms whether through discrimination, disregard, insult, control, exploitation, or violence. This can happen in the family, the workplace and in broader society.

Patriarchy is not natural, it is a system created by our society. Supporting the system of patriarchy is an *ideology* that sees men as superior to women. This ideology says that women are men's property and should be controlled by them.

How are women controlled in a patriarchal system?¹⁴

Women's lives are controlled in different ways in a patriarchal society:

Property and economic resources

- With the ownership of private property under capitalism, women's oppression worsened as property was passed on from father to son
- Women still do not have the legal right to own land in many countries
- According to UN statistics women do 60% of the world's work, yet only get 10% of the world's income and own 1% of the world's property.

Women's labour power

- Women do household and subsistence work and do not get paid for this
- Women are forced to sell their labour at very low wages
- There is a pay gap between men and women
- There is a lack of freely available childcare which affects women's access to work
- Women are more likely to be unemployed or working for their family (for no wage)

Women's reproductive power (the power to have children)

- In many societies women do not have the freedom to decide how many children they want, whether to use contraception or have an abortion
- Individual males (women's partners) and male-dominated institutions like the church or the state control women's reproductive power (e.g. by refusing use of contraceptives)
- Women's reproductive health is often not protected. The World Health Organisation (WHO) estimates that nearly 300 000 women die in childbirth each year.

Women's bodies

- Women's bodies are abused and exploited in various ways.

System: *Patriarchy refers to a system of male domination over women. Because it is a system, this means that it has been created by our society and has not come about by accident. Different parts of society, like schools, churches and workplaces, make sure that this system remains in place. This is supported by a particular **ideology**.*

Ideology is a set of ideas or beliefs. Ideology is often used to justify why some people should be treated as superior to others, like whites to blacks and women to men. Ideology can therefore be used to defend oppression.

¹⁴ This section draws from Kamla Bhasin *What is patriarchy?*

- Women are subjected to violence by their partners – 40% of men assault their partners daily and 3 women in South Africa are killed by their partners daily
- Children are subjected to violence and sexual abuse by their parents and other adults
- Rape is used as a form of power and control over women's bodies
- In wars and armed conflict, women and girls are subjected to rape, and at times forced into sexual slavery by an occupying power
- Sex trafficking is a form of modern slavery that exists worldwide. Sex traffickers use false promises of employment, threats and violence to force women and girls to engage in commercial sex (sex work) against their will
- The pornography industry profits from the exploitation of women's bodies, and promotes sexual violence against women
- The beauty industry (cosmetics, perfume, hair and skin products) profits enormously from sexist and racist beliefs about beauty and unreal standards about how women's bodies should be
- Women are treated as if their bodies are the property of men. For examples, women are sexually harassed at work by their employers, and by union leaders too.
- Sexualised images of women's bodies are used in advertisements to sell products.

Women's sexuality

- Women are expected to provide sex to men.
- There is a sexual double standard applies to women's and men's sexuality. Women are judged far more harshly than men for the same behaviours. Women are not allowed to talk about their sexual needs, while society expects this of men. At the same time women are often blamed for 'attracting men' by the way they dress or behave. If women have many partners they are called names and disrespected, while this is considered normal for men.

Women's right to freedom of movement

- In some cultures women are not allowed out in public places and have to stay at home.
- In other cultures, while women are not forbidden to go out, this happens in practice.
- Women are not safe to move around freely in public places.
- Thus the fear (and reality) of rape restricts where women go.



In a patriarchal system, gender relations lead to women's oppression. This oppression differs depending on race, class, religion, marital status and age.

In South Africa women's oppression has been made worse because of capitalism and apartheid.

Let's look at when women's oppression first started and how it has developed over the years.

Colonialism and Apartheid

Mining was the most important industry in colonial South Africa. In order to increase profits, the mines needed cheap labour. The government introduced laws to make this happen. The first law introduced taxes and forced men in rural areas to migrate to the urban areas to earn cash to pay the taxes. However there was still a shortage of labour as black people managed to subsist off the land.

When did women's oppression first start?

Women's oppression has existed for thousands of years so many people see it as natural. This is not the case. In hunter-gatherer societies there was a sexual division of labour, where men did most of the hunting and women did most of the gathering. But this division of labour was not oppressive in the beginning. The reasons for this were biological – women carried breastfeeding children on their back and this would not have been possible if they were hunters. Despite this, this did not lead to oppressive or unequal relations because everyone had access to the tools they needed for survival.

In agricultural societies

The earliest roots of women's oppression can be seen in agricultural societies where food was produced through growing crops and herding animals. Food production was mainly women's work, while men herded cattle, hunted and traded. Over time people began producing more food than they needed and there was a surplus. Partly because of their role as traders, men came to have more control over the surplus (the wealth) of society. This meant that they started to have more power than women.

Women's Oppression and Capitalism - Understanding the links

Unpaid labour

Under capitalism, society is divided into two classes – owners and workers. Workers are forced to sell their labour, while owners use private property (farms and factories) to exploit workers and to make profits. In order for this society to continue, it has to do two things – produce goods to live on and reproduce labour power.

Women are seen as 'naturally' responsible for the reproductive functions and men are seen as performing essentially productive functions. There is an important difference between this sexual division of labour and that of previous societies. Production in factories is now physically separated from reproduction in the home. Under capitalism the family/household is used to keep women oppressed.

Reproductive functions include caring for the family and work in the home, such as raising children, serving their husbands, cooking in the home and washing the clothes, which is *unpaid labour*. This benefits the capitalists as the labour force is reproduced at no additional cost to them.

While reproductive work is unpaid, undervalued and invisible, our society relies on this for its survival. Even though women's unpaid labour is essential for the reproduction of society and the economy, it is seen as less important than the productive functions that men perform.

Women have since entered waged work but have experienced difficulties as the state also does not take responsibility for providing for the reproduction of society (through providing basic services and infrastructure and child-care). This has meant that women have had to combine waged work with childcare and domestic work. This has intensified the sexual division of labour.

We need to recognise that this hidden unpaid labour has a strong class, and in South Africa, racial dimension to it. Hidden labour in the Sandton household is not the same as in the Khayelitsha household. In Sandton, there are high tech microwaves, dishwashers and washing machines that are operated by the domestic worker. In Khayelitsha, the burden of unpaid labour falls on the shoulders of the mothers and daughters of the household. So the exposure and struggle against hidden

reproductive labour is particularly a working class issue since it is working class women who bear the brunt of it – in their own homes and as domestic workers in other people's homes.

Dividing workers – Different jobs / pay for "different" workers

Even when women do get waged work, their jobs are often similar to those they do at home – like cleaning, nursing and teaching. They are also not highly valued and can be extremely poorly paid. Capitalists argue that they can pay a woman less than a man because he is the head of the household and the breadwinner. At the same time, they take advantage of cheap and vulnerable female labour to undercut the wages that men receive.

Men and women are *also* separated into different types of jobs, in different types of industries with different levels of skill and responsibility. This is referred to as "labour market segmentation". This can happen along race or gender lines. Race and gender divisions often coincide with class divisions. For example, white men dominate the capitalist class, and black women are amongst the poorest. However, class divisions are not the same as race and gender divisions. For example, white workers may act in racist ways to protect their privileged position, and trade unions can maintain a high level of sexism within the rank and file.

By segmenting the workforce, the divisions created among workers make collective action more difficult and weaken the power of labour. Capitalists benefit from patriarchy precisely because the divisions make them stronger and they are able to make better profits. The elimination of women's oppression therefore requires the elimination of capitalism. However, we should not fall into the trap of thinking that by ending capitalism we will automatically end women's oppression. This means that overcoming women's oppression in our society cannot be delayed as if it were a "side-issue". The struggles against the legacy of colonialism and apartheid and the struggle for socialism cannot be consolidated unless we consciously struggle against women's oppression.

Capitalism benefits from unpaid labour because the labour force is reproduced at no additional cost to them...

Questions for Discussion

1. What are typical 'men's jobs' and 'women's jobs' in your industry?
2. What other kinds of work do women do that is invisible?
3. Why is it important to link struggles against capitalism, patriarchy and racism?
4. Can you think of some of the ways in which unions perpetuate sexism?

Gender and trade unions

Barriers to women's full participation in trade unions

"We don't just want to talk about gender issues we want to see women in front of us leading" T&GWU Shopsteward

Society

Men still hold powerful positions in the economy, government and other areas of society despite the struggle for gender equality by the ANC and parliament. Women still experience oppression in different ways, like through domestic violence and abuse, rape and sexual harassment, poverty and workplace discrimination.

According to UNICEF, more women die or get sick from gender violence than from malaria, traffic accidents and war combined. There is also a higher rate of HIV infection among women. This is another example of how women are disempowered in our society, since, despite the risks involved, they find it extremely difficult to insist that men use condoms in their relationships.

Trade unions are part of society and are therefore not free from these attitudes and practices. Unions need to take up the challenge to transform the system they are part of.

The sexual division of labour and unpaid labour

Most women workers do two jobs: one is to earn a living and the other to run a home. This is known as the double shift. The sexual division of labour in the home and the workplace is the main reason why fewer women participate in organisations than men.

The capitalist system that relies on women's unpaid reproductive labour is also central to keeping women from organising. If these women are unemployed, they are left isolated at home. If they are workers though, the situation does not change much. Their jobs are often undervalued, underpaid, unskilled and vulnerable. Organising in these situations is very difficult and could cost you your job.

There is also a sexual division of labour in trade unions, where women are mostly administrators; whereas educators, negotiators, organisers and general secretaries are almost always men.

Men at Home

Often partners of women workers do not want them to attend union meetings. They refuse to look after the children when their wives/ partners go out and make the women feel guilty about leaving their children at home. Many times, men have also used violence to make sure that their wives come straight home after work and stay there.

Even union members place restrictions on their partner's trade union activities. For example, one Shopsteward admitted that although his wife is an active Shopsteward he does not allow her to go to workshops that involve sleeping over because he "knows what goes on there" and he "wants to protect her".

Many women that are in relationships with trade unionists spoke of how their partners speak about gender equality in meetings, but at home they expect them to cook, clean and take care of the children.

A number of women that are active in the unions are not involved in permanent relationships or partnerships. In many cases their relationships broke down because of their trade union activism and because of their growing consciousness. Most of these women have children and are single parents, but this seemed to be less of a barrier to union activism (because of family support) than the restrictions placed on them by their partners.

Union Activities and Meeting Times are often Unsuitable for Women

Union activities are arranged for people who have little or no home responsibilities. Meeting times are often unsuitable for women (late in the evenings, after a full-day's work) as they have to find someone else to care for their children. Safety for women travelling at night with public transport is also a problem. Women also often find that the language used at meetings is difficult to relate to, and the issues that are discussed are not those that affect women most.

Men's Attitudes in the Unions

Unions tend to be male-dominated. Women are not taken seriously and are often given boring and unrewarding jobs. They are also ignored and treated as if they are not there. While everyone claims to support gender issues, there is a general lack of sensitivity to women's particular organisational needs.

Many male representatives tend to ignore women's concerns and these are often regarded as secondary to real union work. Issues that affect women most and men least are given a low priority during collective bargaining. Equally important is that men often do not see women as equals and many women face sexual harassment from their male comrades.



Men also feel threatened by strong women who are assertive and are able to speak their mind.

Men try to undermine these women because they feel that their power is challenged.

Stereotypes about gender roles

Union members (and broader society) often have fixed attitudes about what roles men and women should play.

In many cases members do not see women as 'natural leaders'. They use special criteria to exclude women from the main decision-making structures simply because they are women. According to an office bearer:

Union members often do not see women as "natural leaders"...

"Politics is put as the key criteria but even then it's about who talks loudest and longest. They attach a label and say she won't make it. It's really about not believing that a woman cannot be strong enough to lead, she can only be a treasurer, never a chair and never mind secretary. It's like these positions are male in origin."

As a result, women often do not develop confidence and are not supported and encouraged as worker leaders. Women are also not exposed to union processes and politics in the same way as men are because of their home responsibilities.

Internalised oppression

Often women believe that they are not natural leaders and this should be left to men. This is because they have accepted the lies and stereotypes about themselves as a group. This is referred to as internalised oppression and applies to women's oppression as much as to any other oppression.

Women are often divided, do not support each other, and have no confidence. Seldom do they put themselves forward for leadership positions. This is even the case in factories where there are majority women workers and they elect only male Shopstewards. This is all part of the internalisation of women's oppression. We should struggle against this oppression to promote the unity of women.

One Shopsteward talked of how taking a stand against abuse in her personal life empowered her to take leadership in the union:

"After I left my husband it gave me strength to say that I can fight when things are not OK. I decided I want to be Shopsteward, I want to be something. Most of the workers in our factory were women, and all the Shopstewards were men. There were problems with the provident fund and the sick fund in our factory, and the Shopstewards would undermine us and refuse to take our advice. So one day in a meeting under matters arising I said can we elect a woman, and I said I want to be a Shopsteward. I wanted things to improve in our factory. Then they agreed and later another woman was elected."

Sexual Harassment

Many women do not want to participate in the unions because when they do male comrades treat them as "sex objects".

"Sometimes women don't realise their rights, they don't understand that they don't just have to accept it; but if they object, male comrades say 'it's not meant that way, take it in a comradely spirit'."

In many cases women do not report cases of sexual harassment because they are usually blamed or not taken seriously. There is also a problem of 'sexual politics' in unions, where male leaders have affairs with many women. This causes tensions between the women and affects their participation. The following is an example of how men may abuse their power in unions:

"An office bearer will fight for a female comrade to be a Shopsteward and an REC delegate so that when there are meetings she will be there for his needs. But when the affair is over he won't fight for time-off for her anymore."

COSATU has adopted a Policy to eliminate Sexual Harassment. However not all members know about this. It needs to become a living, working document. The document provides a good basis to make sexual harassment an organisational issue rather than a private matter.

Questions for Discussion

1. Why is it important to organise women into trade unions?
2. What are some examples of gender discrimination in the workplace?
3. What are some of the problems women face in your union? How is your union addressing these problems?