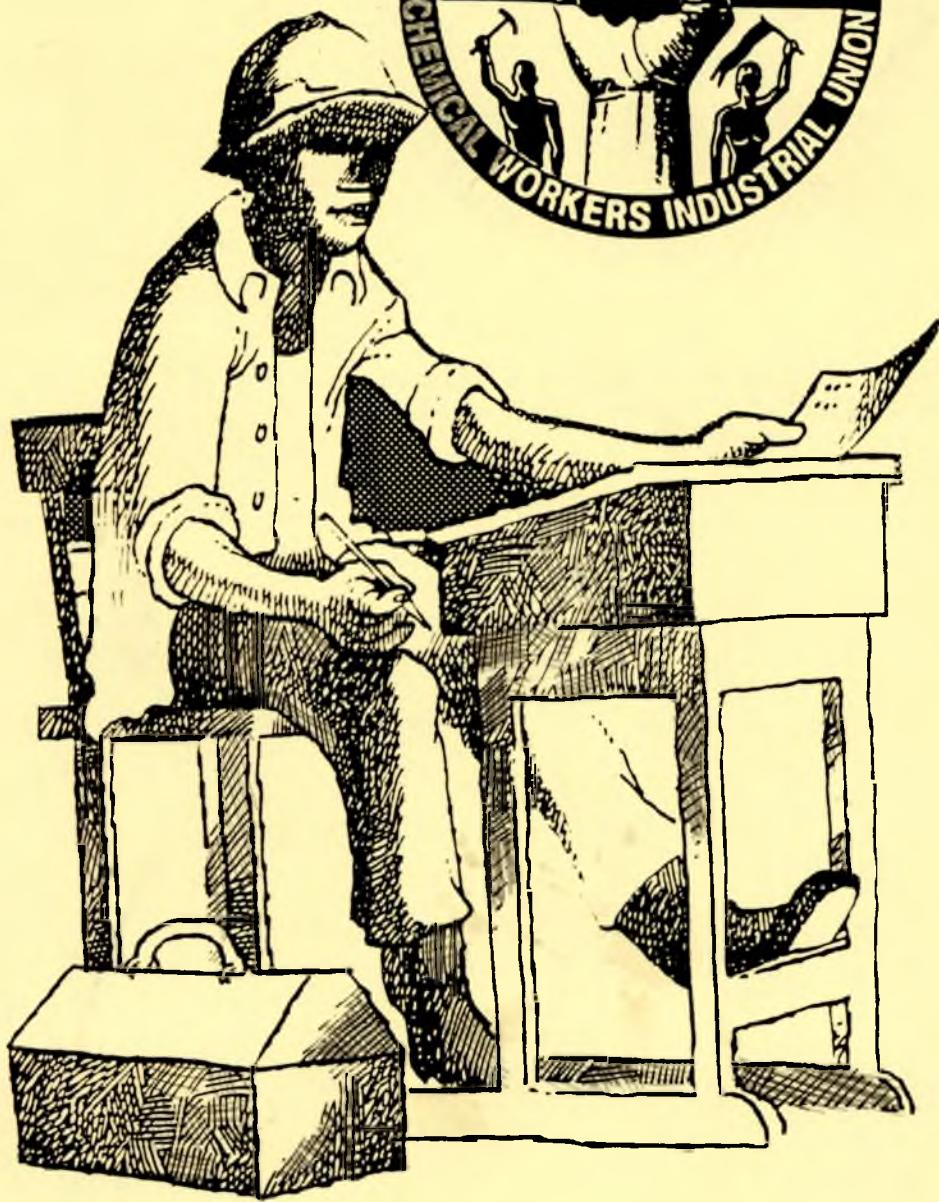
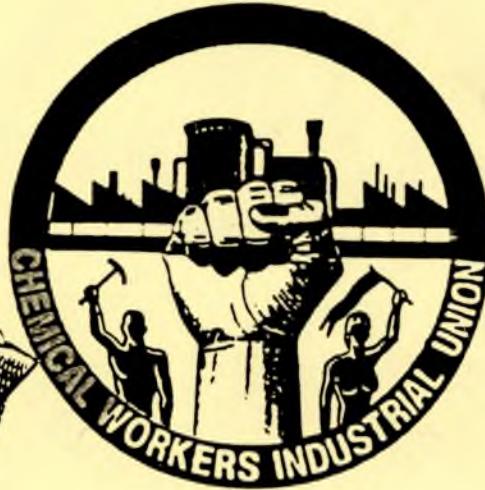


112 293 Trade Union Training box

CHEMICAL WORKERS INDUSTRIAL UNION

# Intermediate shop steward training course



**CHEMICAL WORKERS  
INDUSTRIAL UNION**

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**INTERMEDIATE SHOP STEWARD  
TRAINING COURSE**

April 1992



# Intermediate shop steward training manual

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## FIGHTING DISMISSALS



Dismissal is managements main weapon against workers. The union strives for JOB SECURITY for all workers; companies try to create INSECURITY amongst workers.

Fighting against dismissals is therefore one of the biggest jobs a shop steward faces. A shop steward must be able to handle individual dismissal cases, without having to call in the organiser.

### UNFAIR DISMISSALS - BACKGROUND

In the old days, foremen / managers could fire workers for any small reason, and get away with it. Since 1973 workers have rebuilt unions to fight for their rights. One of the rights workers have fought for is the right to challenge dismissals. Workers have fought for this right in the factories and in the Industrial Court. Through such struggles, progress has been made, and certain rules have developed about what is " fair " and what is " unfair ". Management and the government are always trying to find ways to make dismissals easier. For instance the Labour Relations Act was changed in 1988. In the new Act, it was made easier for management to dismiss workers. However, the Unions fought and struggled to take out these changes to the Act. On May 1 1991 the Labour Relations Act was once again changed - this time more in favour of workers. Now, dismissals have to follow certain strict rules.

### BUT REMEMBER:

THE RULES WON'T SOLVE THE PROBLEM  
YOU WILL NOT WIN EVERY DISMISSAL CASE

RULES PROVIDE A TOOL TO BE USED BY SHOP STEWARDS IN THEIR FIGHT FOR JOB SECURITY FOR ALL WORKERS.

## WHAT MAKES A DISMISSAL UNFAIR ?

Two major areas of "unfairness" have been identified by the Industrial Court:-

### **Reason**

Sometimes the REASON for the dismissal is unfair. This can be because there is no proof that the worker is guilty, or it can mean that the worker is proved innocent. This can also mean that dismissal is too serious a punishment for the offence that was committed.

### **Procedure**

Sometimes the PROCEDURES followed were unfair. Often the companies have their own procedures which they do not follow. Or they have no proper procedure. If the company does not follow its own procedures or the procedures accepted by the Industrial Court, then the dismissal is usually unfair.

We can look at these - Unfair Reason and Unfair Procedure in more detail.

#### **A. Unfair Reason**

A dismissal can be unfair because the reason itself does not justify the loss of a job. Let us look at some examples:

- A1. IF THERE IS SERIOUS DOUBT ABOUT WHAT HAPPENED**, it is up to the management to give proof, not up to the worker to prove his or her innocence. If as a shop steward, you can show that management does not have a good case, and contradicts itself, then they have not been able to prove guilt. The dismissal is then unfair.
- A2. IF SOME WORKERS ARE PUNISHED MORE SEVERELY THAN OTHERS.** In South Africa this often happened in the past where white workers were allowed to do things that black workers were not. Today, racial discrimination like this is not allowed. So if one worker is dismissed for what other workers are given a lesser punishment( for example given only a warning), then the dismissal is unfair.
- A3. IF THE PUNISHMENT OF DISMISSAL IS TOO SERIOUS FOR THE SO CALLED CRIME** that has been committed. The best way to argue this is to refer to similar cases in the past where a less serious punishment has been given. For example, maybe in the past a warning was given, and now suddenly they say the crime is so serious it justifies dismissal. They cannot suddenly change on their own - if they want to make a change, then they must negotiate it with the union.

**A4 IF MITIGATING CIRCUMSTANCES HAVE NOT BEEN HEARD** or taken into account, and alternatives to dismissal not considered. Mitigating circumstances are things that might "excuse" a persons behaviour.

**A5. IF THE DISMISSAL IS LIKELY TO LEAD TO OTHER WORKERS GOING ON STRIKE,** then the dismissal itself is SOMETIMES seen as unfair.

Management often tries to argue that the following reasons are ALWAYS good reasons, to instantly dismiss someone.

- " gross insubordination "
- theft
- fighting on the premises, called " assault "
- wrongly filling in documents, called " fraud " when you know you're doing it
- " refusal to carry out a legitimate instruction "
- drunkenness / drug taking

However, the union must always look into the specific circumstances of the case. For example, if the company accuses a worker of " assaulting his foreman ", then we must still ask "why?", " was it self defence?", " who started first?" and such questions. If the company accuses the worker of theft, then it is up to the company to prove it.

THE GENERAL RULE IS NO REASON, BY ITSELF, JUSTIFIES INSTANT DISMISSAL. THE PERSON THAT HAS BEEN ACCUSED MUST ALWAYS BE GIVEN A CHANCE TO PUT HIS OR HER SIDE OF THE STORY.

B. *Unfair Procedure*



- B1. THERE MUST BE A HEARING BEFORE A DISMISSAL.**  
Hearings are there to see if the worker is guilty or not. It makes no sense if the worker is already dismissed to hold a hearing.
- B2. MANAGEMENT MUST BE OPEN MINDED AT THE HEARING.**  
If the management has already prepared the worker's pay, then management is clearly not going to the hearing with an open mind. The hearing is thus not a fair hearing, and a new hearing should be demanded.
- B3. MANAGEMENT MUST HOLD A HEARING FOR EVERYONE**  
Even if the accused worker is guilty, a hearing is needed to work out a fair punishment when all the circumstances are taken into account.
- B4. THE WORKER MUST BE GIVEN A CHANCE TO PUT HIS OR HER CASE.**  
If a worker is not given a chance to put his or her case, then the hearing cannot be fair. This is important for two reasons, firstly to see if the worker is really guilty and, secondly, to see if under the circumstances, the dismissal is a fair punishment.
- B5. ANY WORKER HAS THE RIGHT TO BE REPRESENTED BY WHOEVER (HE/SHE) CHOOSES**  
Management does not have the right to stop a member choosing a shop steward to represent him or her. And, further, it is management's job to tell workers that they have this right. It is not good enough if management later tries to argue that the worker did not ASK to be represented.

**B6. THE WORKER MUST BE ABLE TO PREPARE THE CASE.**  
BEFORE a hearing is held, the worker concerned and the shop steward who is helping with the case must be given:

- ***the exact charges***

It is not enough to be told that the charge is "gross insubordination". Management must give the details of the so - called crime. Here is an example of a clear charge:

" Mr Shadrack Moloi, clock number 5180, is accused of assaulting his supervisor, Mr Van Niekerk, at 12.00 p.m in the Paint Shop on Tuesday 12/9/90 after an argument over the safety of the paint spray gun ".

- ***any relevant documents or information***

Sometimes management intend to base their case on the past record of a worker. The union should make sure that it has copies of any records that the company intends to use in the hearing. Other documents might include company 'Terms and Conditions of Employment ' or Company Discipline Procedures and so on.

- ***time***

Dismissal can lead to great suffering. It is important that shop stewards have time to prepare well for such cases.

**B7. THE ACCUSED WORKER SHOULD BE PRESENT THROUGHOUT THE WHOLE HEARING**

- even when management is presenting its case and its witnesses. In this way it is more likely that mistrust and suspicion are avoided.

**B8. THE WORKER SHOULD HAVE THE RIGHT OF APPEAL.**

## PREPARING YOUR CASE



### 1. *Collect Information*

- GET DETAILS OF CHARGES FROM THE COMPANY.
- GET ALL THE DETAILS OF THE CASE FROM ACCUSED WORKER.

The shop steward must be able to answer all these questions:

WHO was involved ?

WHERE did the incident occur ?

WHAT exactly happened ?

WHY did it happen ?

HOW did it happen ?

- GET A FULL STORY FROM ANY OTHER WORKER WHO SAW WHAT HAPPENED.

These workers can be called in the hearing as witnesses.

- GET DETAILS OF THE WORKERS PAST DISCIPLINARY AND WORK RECORD.

If the worker has a good record, then it is easier to argue against dismissal.

- GET FROM THE WORKER ALL HIS OR HER FAMILY DETAILS such as home address.

Full name and clock number

If married or not ( for men, how many wives)

How many people depend on his or her wages to live ?

How many children are supported by worker's money ?

How many debts the worker has e.g rent and loans to pay

You can use this information when you come to the end of the case. Often, even in a weak case, you can appeal to management on the grounds of the amount of suffering that will be caused by the dismissal.

All the preparation points should be carefully written down.

---

**Activity: Taking a statement**

**Task: Divide into two groups**

**Group 1: The worker with a problem**

**Read the section called**

**"Worker briefing" and be ready to give a statement.**

**Group 2: The shop steward taking a statement**

**Do not read "Worker Briefing"**

**Read "Shop Steward briefing"**

**and be ready to ask questions and prepare a statement.**

---

**Worker Briefing**

1. You are a worker at Clean Chem. in central Johannesburg.
2. Your name is Samual Tshabalala. You are 35 years old. You are married with three children of your own. You are also looking after your late brother's children aged two, three and six years. Your wife is not working. You recently bought a house and have large bond. The Company gave you a loan for the deposit which you are paying back.
3. You work in the warehouse as a picker. Your supervisor is Mr. Van der Merwe
3. You have been with the company for 10 years and have never been in trouble. You joined the union two years ago.
4. On Friday 25th June Mr. Van Der Merwe called you to his office in the warehouse and instructed you to drive the hyster as the normal worker was off sick. You stated that you were not trained to drive the hyster and therefore it would be unsafe.
5. Mr. Van Der Merwe shouted at you and called you a black baboon. You told him that you would lay a grievance against him for insulting you.
6. Two hours later you were issued with a letter charging you with refusing to obey an instruction and telling you to attend a hearing on 27th June.
7. There was no one else in the office when the incident occurred.

**Shop Steward Briefing**

1. You are a shop steward in the Warehouse of Clean Chem.
2. On 25th June Samual Tshabalala approached you and showed you a letter charging him with refusal to obey an instruction and calling him to a hearing on 27th June.
3. Prepare the questions you need to ask.

## 2. Plan and prepare arguments

After you have got all these details, then together with other shop stewards you need to carefully plan and prepare your case. You need to ask yourself questions like the following:

### REASON

- Was the reason fair ?
- Has the company ever punished other workers in a less harsh way for the same or a similar crime ?
- What facts are in question ? Does the worker have any witnesses to prove his or her story ? If so, you have a good chance, but remember to prepare the witnesses well so that they do not change their story when they see management present at the hearing.

### PROCEDURES

- Did the company follow its own procedures ? Are the procedures followed fair? If the company did not follow its own procedure then you have a good argument to say that the worker should be re-instated with no loss of benefits or pay, until all the procedures have been followed.

### SPECIAL ARGUMENTS (Mitigation)

- If the worker has lots of dependents then clearly they too will suffer if the worker is dismissed.
- If the worker has lots of debts he will suffer a lot if dismissed.
- If the worker has a good discipline or work record, then he or she deserves to be treated less harshly.
- If the worker has been with the company for a long time, then he or she should not be too severely punished for a mistake.

---

### Activity: Preparing your arguments

Task: Read the worker brief on *Samual Tshabalala* on page

Answer the following the questions in preparation for the hearing:

1. what arguments will you take up with management about the procedures?
2. are the reasons for dismissal fair? what arguments will you use?
3. list any mitigating circumstances you could use if Mr.Tshabalala was found guilty.

---

## THE INQUIRY

The inquiry should be carried out in a fair manner. The shop steward should try and ensure the following steps/procedures are carried out :-

### 1. ***Establish the Charges***

The company (or person laying the complaint) must first be able to establish the "charge ". The complaint should be stated and the company witnesses called.

### 2. ***Cross Examine Witnesses***

Shop stewards / accused worker must be able to question (cross examine) all witnesses.

### 3. ***State your case***

The worker and/or shop steward must now put forward his/her case, as you have prepared. You should now be able to call your witnesses to give their evidence.

### 4. ***Summarize your Argument***

You should be given the opportunity to summarize your case.

### 5. ***Judgment***

The chairperson must adjourn the inquiry and formulate the judgment. The judgment should be given to the worker with shop steward present.

NO SENTENCE should be given at this stage.

### 6. ***Argue the Sentence***

You should be allowed to argue a " fair " sentence. You should use your SPECIAL ARGUMENTS (MITIGATING CIRCUMSTANCES) here e.g. length of service, disciplinary record, family circumstances. Also, such factors as sentences in similar cases, provocation by supervisors, can be used to try and lighten the punishment.



**Activity: Procedure during an Inquiry**

**Task:** *Read the statements below.*

*Decide whether or not the statements indicate the correct procedure during an inquiry.*

*Answer true or false*

TRUE                    FALSE

1. The accused must first present his/her case                   

2. The shop steward can cross examine managements witnesses                   

3. Managements witnesses can be present through the whole inquiry                   

4. The worker must present his/her own case                   

5. Union witnesses must speak only in English                   

6. The Shop Steward argues mitigating circumstances before sentence is passed.

## THE RIGHT TO APPEAL

If the hearing fails to get the dismissal changed, then the worker and his or her shop steward have the right to appeal against the decision.

An appeal is basically the same as a hearing, but in the case of the appeal a decision has already been taken and you are trying to get it changed. An appeal usually involves more senior people from management's side, but not always.

From the union side, if it is a difficult case then the union organiser can be called in, although this should not happen every time.

At an appeal the same rules of fairness apply. So the worker must have a right to prepare the case, be given necessary documents (including a copy of the minutes of the hearing/judgment), a right to representation, to call witnesses and so on.

### SUBSTANTIVE

- 1) Serious doubt about case
  - weak evidence/proof
- 2) Inconsistent Disciplinary Action
  - certain workers punished more than others
- 3) Dismissal not warranted
  - too serious disciplinary measure for the offence
- 4) Mitigating factors
  - uncontrollable factors which might excuse person's behaviour
- 5) Dismissal could lead to strike action

---

**Activity: Preparing for an appeal hearing**  
**Task: Identify the mistakes of the shop steward and worker in the case study below.**  
**Prepare for the appeal hearing on the following areas:**  
**a. the reason for dismissal**  
**b. the procedures**  
**Consult the notes to assist you**

---

#### **Case Study**

On 23 September 1990, Mr. Shandu was dismissed for using an unauthorised weapon and for alleged assault.

#### **The Facts**

1. On the morning of 22 September 1990 Mr. Shandu and 60 fellow workers were demonstrating in front of the administration building. While the workers were demonstrating a customer's car pulled into the entrance gate of the company. The entrance gate was approximately 100 metres from the administration building. The next moment stones were flying in the direction of the customer's car. A departmental manager and the security guard were both standing at the gate.
2. The following morning at 9h15\* Mr. Shandu was informed that he must attend a hearing at 14h00. The charge against him was alleged assault.\* Mr. Shandu was also instructed to leave the premises immediately.
3. Mr. Shandu left and returned to the company ten minutes before the time of the inquiry. The company called the shop steward just as the inquiry was due to begin.\* The shop steward raised no objection to this.
4. The company had\* two witnesses who claimed they saw Mr. Shandu throwing the stones. They were the departmental manager and the security guard mentioned above. The chairperson of the inquiry was the same departmental manager. The disciplinary procedure of the company states that the\* departmental manager must chair a disciplinary inquiry. At the time of the inquiry the factory manager was not available.
5. The\* evidence of the security guard was presented in the form of an unsigned statement. The security guard was not present. The shop steward requested that she be given the opportunity to question the security guard in person. The request was refused by the chairperson on the grounds that the statement was sufficient. The chairperson also\* refused to answer any questions posed by the shop steward on the grounds that he was not the guilty party.

6. After hearing Mr.Shandu's side of what happened, the chairperson ended the inquiry. He pronounced that Mr.Shandu had been found guilty of using an unauthorised weapon and assault. He was therefore dismissed. The chairperson informed Mr.Shandu that he had the right to appeal.
7. Mr.Shandu has been working for the company for 10 years and has never had even a warning. He has two school going children.
8. The departmental manager had worked for the company for only 10 days at the time of the incident. The security guard has one month's service with the company.

#### **IF THE APPEAL STILL FAILS**

If the appeal fails, then the worker can be legally dismissed. But this is not the end of the story by any means. But to take the matter further definitely needs the union organiser. You will need to assess whether the case should be taken further, and if so declare a formal dispute.

Not every case is taken further. Sometimes the members and shop stewards may feel that the case does not deserve to be taken further. This can be because the case itself is weak, or because it might damage the union in the factory. Every case has to be carefully discussed on its own merits.

#### **CONCLUSION**

As we can see, the struggle of workers in the past has won workers today new rights. Your struggle can win rights for the workers of the future. Our ultimate aim must be job security for all.



## HANDLING DISPUTES INTRODUCTION

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**Activity:** *Reasons for disputes and resolving disputes*

**Task:** *Break into small groups*  
*Discuss the questions below*  
*Prepare a report back*

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1. Is it true that there will always be disputes between workers and their bosses. Make a list of the reasons why you think this is true or untrue.
2. Describe some of the ways we use in trying to resolve disputes.

---

## WHY DO WE HAVE DISPUTES?

Bosses own the land, factories, mines and shops. Workers own nothing but their ability to work. In return for their labour they receive a wage. Because of this, management and workers have different interests and concerns. The bosses take the wealth of the factory as profits. The bosses always try to increase their profits - usually at the expense of workers. Workers on the other hand always strive to get a living wage and decent conditions. They fight to get these things. The bosses resist because HIGHER WAGES FOR WORKERS means LOWER PROFITS FOR BOSSSES. This is the basic conflict. As long as there are bosses/capitalists the conflict will always be there. This basic conflict leads to many day to day conflicts in the factory.



## WHAT IS A DISPUTE?

When there are conflicts or differences which cannot be resolved then we say that a dispute exists between the workers and management. There are many causes of disputes. Many disputes arise from wage negotiations. Others arise from unfair disciplinary action, retrenchment.

## WHAT HAPPENS WHEN WE ARE IN DISPUTE WITH MANAGEMENT?

In most cases we try to settle the dispute internally , that is through factory negotiations.

The following steps are usually followed and form part of the DISPUTES PROCEDURE. A dispute procedure may be in writing and form part of a recognition agreement. It may also be an unwritten agreement.

### 1. *Declare a dispute in writing*

A dispute must be declared in writing to the Company. The letter is sent from the office. We must state the nature of the dispute and what we need to settle the dispute.

### 2. *Hold a dispute meeting*

A meeting is held with the Company to try and settle the dispute.

### 3. *Refer to outside methods*

Should no settlement be reached in a disputes meeting, then the dispute is referred for settlement outside the Company. The Union and the Company may agree to try and settle by a particular method such as mediation or arbitration. If there is no agreement as to the method then either party may use the provisions of the Labour Relations Act.

### 4. *Strike*

If the disputes procedure has been followed and all the steps under the Labour Relations Act have been taken, then workers are entitled to go on a legal strike.

#### **SUMMARY**

Disputes can be solved through:

- \* use of internal disputes procedures
- \* use of outside methods such as mediation or arbitration
- \* use of the procedures in the Labour Relations Act
- \* industrial actions e.g. strikes, stoppages, overtime bans etc.
- \* by a combination of the above methods.



## HANDLING DISPUTES MEDIATION AND ARBITRATION

### MEDIATION

When there is a dispute the Union and the Company can decide to try and solve the dispute through mediation.

#### **What is mediation?**

Mediation is where the two parties in dispute bring in a neutral third party to try and help them resolve the dispute through negotiation.

#### **What is the job of a mediator?**

- \* The job of the mediator is to bring the two parties together to talk about their differences with a view to negotiating a settlement.
- \* The mediator does not act as a judge. He has no decision making power. He tries to ease the discussions and bring about a solution.
- \* The mediator can only make recommendations. At the end, however the final decision lies with the two parties concerned.

Mediation has its advantages and disadvantages.

The **advantages of mediation** are :

- a third party may bring fresh light on the subject. This may assist in resolving the dispute.
- it may be used when workers are not strong enough to strike but do not want to settle.
- mediation is not a dead end, because the parties can still use other procedures of resolving the dispute if they so wish. So it can be used as a further pressure on management.

The **disadvantages of mediation** are :

- it is usually time consuming
- it can dampen the motivation of workers.
- it can be expensive.

**What happens if there is no settlement after mediation?**

The Union can take the dispute further through various other channels. The course of action to take will depend on the circumstances. Sometimes mediation is used before using the Labour Relations Act; sometimes it is used after a conciliation board but before a strike; sometimes it is used during a strike. Shop stewards and organisers must decide when mediation is an appropriate tactic, and what to do after the mediation.

## **ARBITRATION**

### **What is arbitration?**

Arbitration is like a private court case. When parties are in dispute they take the case to an arbitrator who makes a judgement on the case.

### **When is arbitration used?**

Arbitration takes place when the union and the employers have a dispute and a firm decision is needed to resolve the dispute. Arbitration is therefore used more often in disputes which could be referred to the Industrial Court for a clear judgement. For example, it is often used in dismissal cases, or in cases where there is a dispute over the interpretation of an agreement. It is not used very often in cases where there are no clear rights and there is a conflict of interest e.g. wage levels.

### **What is an arbitrator?**

We call a person who is called in as an independent third party to make a ruling in a dispute an ARBITRATOR. An arbitrator is :

1. an independent third party
2. acceptable to the two other parties
3. a person who would make a decision WHICH IS BINDING on the two parties.

If the two parties agree to arbitration, they must know that they are agreeing to accept the decision of the arbitrator as binding on themselves. There can be no further appeal after the arbitrator's decision.

### **What is the difference between an arbitration and a court case?**

An arbitration is a privately run case. It is voluntary, which means that both parties must agree to the arbitration as a way of solving the dispute. There is no need for lawyers to be present in the arbitration (although companies usually want a lawyer).

An arbitration is run with similar rules to a court case. So it is very important to be well prepared for the arbitration.

- \* Collect information - documents, interview witnesses, collect statements from the persons involved.
- \* Analyse the information - what are the issues, what evidence is available, who should give evidence
- \* Prepare for the hearing - prepare your witnesses, have all relevant documents ready, prepare questions to ask your witnesses.

---

**Activity: Using arbitration and mediation**

**Task: Break into small groups**

**Answer the following questions**

**Prepare a report back**

---

1. In what circumstances would we normally consider using :-

- a) arbitration
- b) mediation

Give examples of cases where arbitration or mediation was used.

2. What is the job of :

- a) an arbitrator
- b) a mediator

3. Do you think that arbitration and mediation should be made compulsory in our agreements with the management, as methods of resolving disputes ?





## HANDLING DISPUTES USING THE LRA

### CONCILIATION BOARDS

#### 1. *Introduction*

The methods we have looked at - arbitration and mediation - are private methods of trying to settle a dispute. In other words the company and the union agree to try and settle the dispute without using the channels laid down in the law.

When we use the conciliation board method we are using the dispute settling machinery laid down in the Labour Relations Act. The Labour Relations Act (LRA) is the Act which regulates the relationship between employer and employees. It deals with Unfair Labour Practices and the resolving of Disputes, including strikes.

#### 2. *What is the purpose of a Conciliation board ?*

The purpose of a conciliation board as seen by the authorities is :

- to bring the parties in dispute together so that they can " conciliate ". This means that the parties should "make peace " and settle the matter in dispute by discussion and negotiation.
- to allow the parties in dispute to " cool off ". See below for time limits imposed.
- to allow for a legal strike if the parties cannot settle.

As a union we often use the conciliation board as a tactic so that we can, at the end of the day, strike legally. We use it to put pressure on the managements.

#### 3. *What is a Conciliation Board ?*

A Conciliation Board is a meeting made up of equal number of representatives of management and the union (shop stewards and organisers). The two parties meet at the offices of the Department of Manpower for that area. Officials of the Department of Manpower are present and usually act as chairperson and secretary of the meeting (the parties can choose their own chairperson).

**A CONCILIATION BOARD IS NOT A COURT IT IS A MEETING.**

**4. What procedures must be followed ?**

**1. A dispute must exist between the company and the union.**

A dispute can exist if, for example, the parties have been unable to reach agreement after negotiations.

Or, a dispute can exist if a demand has been put to the employer and he has failed to agree to the demand. For example, in a new company where basic trade union rights are being denied.

**2. A dispute should be declared in writing**

Usually the union and management hold a dispute meeting and try resolve the dispute. Where the union is not recognised, there may be no dispute meeting and therefore the next step can be immediately taken.

Sometimes management declares a dispute with the union.

With the recent changes to the Labour Relations Act, some of the procedures were made simpler. Now, for instance it is not compulsory to declare the dispute in writing. However, it is advisable so that a proper record is kept of the dispute. It may be important if the dispute comes to court.

**3. A Conciliation Board Application is made**

The application for conciliation board can be made as soon as you have informed the company of the dispute. You have 180 days in which to apply for the Conciliation Board where you claim an Unfair Labour Practice has been committed. In other cases, such as wage disputes, there is no laid down time limit.

The application is made on a special form which must be carefully completed. This form is completed by your organiser and signed by the branch or national office bearers or organisers.

- a copy of the application is sent to the employer. This can be done by fax or another method, but proof must be sent to the Department of Manpower.
- a copy is sent to the Department of Manpower. The original should be sent by registered post or by hand.

## Example of a Conciliation Board Application Form

### "ANNEXURE LR 23

[Regulation 6 (1) (a)]

LABOUR RELATIONS ACT, 1956

### APPLICATION FOR THE ESTABLISHMENT OF A CONCILIATION BOARD

The Regional Director  
Department of Manpower  
P.O. Box/Private Bag .....

.....  
Sir

(1) I/we, the undersigned, hereby apply for the establishment of a conciliation board to consider and settle a dispute which exists in the .....

.....  
.....  
(Fill in nature of undertaking, industry, trade or occupation.)

between

.....  
(Fill in name and address of applicant trade union(s), employee(s), employers' organisation(s) or employer(s). If available, also provide telephone number, telex and/or telefax number or telegraphic address.)

(of the one part) and

.....  
(Fill in name and address of respondent trade union(s), employee(s), employers' organisation(s) or employer(s). If available, also provide telephone number, telex and/or telefax number or telegraphic address.)

(of the other part) concerning the .....

.....  
(Fill in nature of dispute.)

(2) The proposed terms of reference for the conciliation board are as follows:

"To consider and determine a dispute/a dispute involving an unfair labour practice" between.....

.....  
(Fill in name of applicant.)

(of the one part) and .....

.....  
(Fill in name of respondent.)

(of the other part), in the Magisterial District(s) of .....

.....  
(Fill in name of Magisterial District(s).)

.....  
concerning/answering from.....

.....  
(Fill in full details regarding dispute.)

#### 4. The Conciliation Board is appointed

Provided there are no mistakes in the application, and provided you have sent the application in time, then a Conciliation Board will be appointed and will meet to try and resolve the dispute within 30 days of the application.

#### 5. The Legal Strike

After 30 days from the date of your CB application, if the dispute is not settled, and if the two parties have not agreed to extend the time period, then workers can go on a legal strike. Before the strike a strike ballot must be held and 50% + 1 of workers vote for the strike.

#### Example of a strike ballot paper

STRIKE BALLOT	
In terms of section 65 of the Labour Relations Act the CWIU is in dispute with Dunlop Industrial Products.	
The issue in dispute concerns the failure/refusal of Dunlop Industrial Products to accede to the demand of the CWIU in respect of wages and conditions of employment.	
Do you wish to take strike action to compel Dunlop Industrial Products agree to the CWIU demands?	
YES	<input type="checkbox"/>
NO	<input type="checkbox"/>

#### INDUSTRIAL COUNCIL DISPUTES PROCEDURE

1. Where and employer is covered by the scope of an Industrial Council, any dispute must be referred to the Council and not to the Minister of Manpower. A letter of dispute must be sent to the Council and a copy of this letter to the employer.
2. The Council must convene a dispute meeting ( similar to a Conciliation Board), to try and settle the dispute.
3. The effect is the same as a Conciliation Board : if the Council does not resolve the dispute, then workers can strike legally - provided they hold a strike ballot.

## INDUSTRIAL COURT



### ***Using the Industrial Court as a Weapon***

In some instances the dispute will end up in the Industrial Court. This is where the union ( or the Company) alleged that there has been an Unfair Labour Practice. The most common case is unfair dismissal.

However workers should not be too quick to use the Industrial Court. It is not wise to rely on the Courts. The Industrial Court is weapon to be used carefully. Therefore, any decision to take the matter to court should be carefully considered by the union. Although the Unions have made some progress through Court decisions, most decisions of the Industrial Court tend to favour management. Management itself is more and more taking the union to Court. Using the courts can also reduce the militancy and fighting spirit of workers.

### ***What procedures have to be followed***

There are three main ways in which the Industrial Court is used:

- \* To go to Court very quickly and obtain a Status Quo order known as a Section 43.
- \* To go to court after the failure of a Conciliation Board or Industrial Council Dispute meeting.
- \* To obtain an urgent interdict

#### **a. Procedure for a S.43 (Status Quo) order**

There is a special provision in the LRA for the granting of a Status Quo order. This is an order of the court which says that things must stay as they are until the court can make a final decision.

#### **Example:**

A worker is dismissed. The union decides to try and take his case to court. This will take several months to come to trial. So, in the interim, the union can apply to the court for a temporary reinstatement of the worker (status quo). The procedure is as follows :

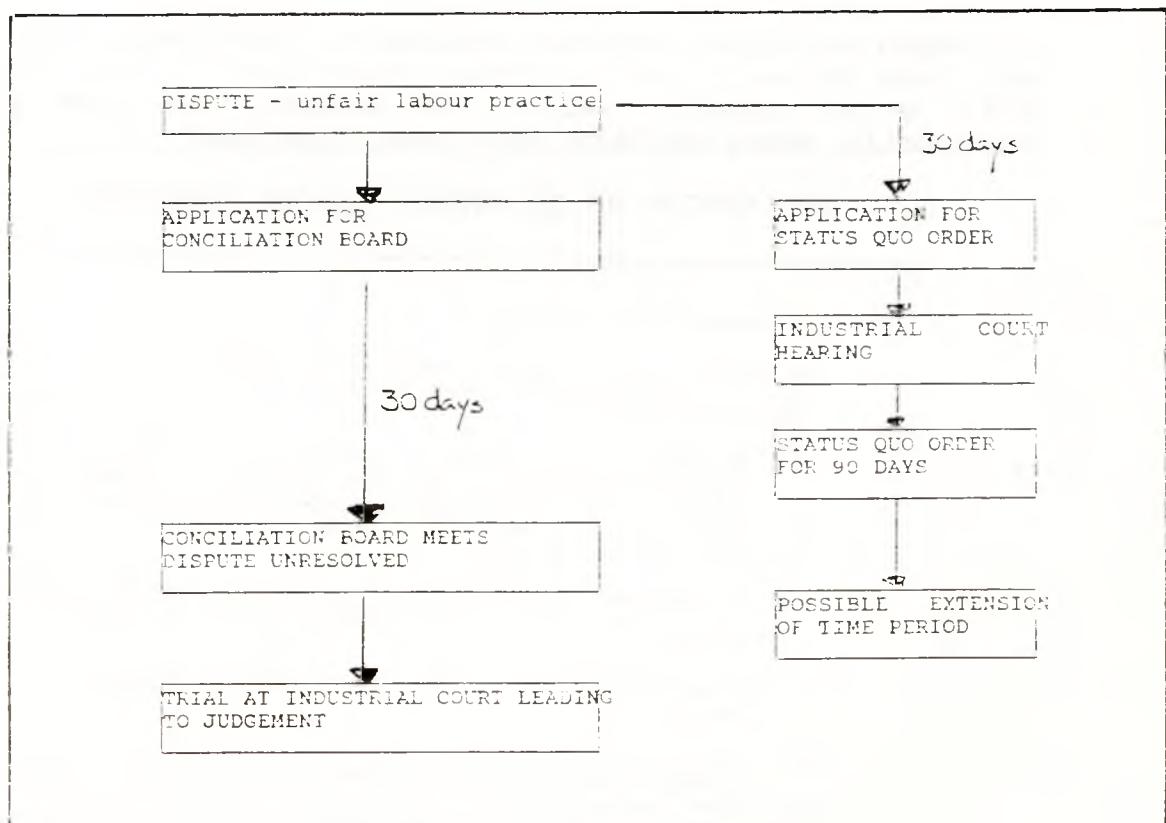
1. The union applies for a Conciliation board
2. The union puts its case in writing
3. The union delivers a copy of the written case to the company and to the Industrial Court.
4. This is done within 30 days of the dispute.
5. The company can reply to the case in writing
6. The union can reply to the reply
7. The Industrial Court hears the case, but it is not a trial. Only the written case is considered.

The judge may grant the order. In the case of unfair dismissal the worker may be reinstated temporarily or paid for a limited period instead of physical reinstatement.

**b. Procedure for full Industrial Court case**

1. The union applies for a Conciliation board using procedures outlined above. In the application the union alleges that there was an "Unfair Labour Practice".
2. The Conciliation Board is appointed and sits.
3. The Conciliation board deadlocks.
4. Either party refers the case to the Industrial court within 120 days.
5. The Court then contacts the union and requests full details of the case and whether the case will proceed.
6. Normally the case will be referred to lawyers who will prepare for the case in the normal way. The date of the case is usually several months after the Conciliation Board.

**DIAGRAM - TAKING A CASE TO THE INDUSTRIAL COURT**



### c. Interdicts

Both the employer and the union can go to court urgently and apply for an interdict to stop the other party doing something illegally. This is usually used by management in an illegal strike situation. This cannot be used against a legal strike unless the employer is trying to prove the strike is illegal. (interdicts will be discussed more fully later)

### d. Appeal Courts

The decision of the Industrial Court is not final. The LRA amendments of 1988 introduced an appeal system. There is an agreement to change this system, but it is not yet law. The appeal courts have strongly favoured employers. Workers who have been reinstated by the Industrial Court have had that judgement turned around on appeal. Examples are the Sasol I case and the Reckitt and Colman case.

There are two appeals possible:

- Special Labour Appeal Court - set up under a judge from the Supreme Court. These judges know nothing about labour and are very biased in favour of management.
- Appeal to the Appellate Division - a further appeal can be made if the case is lost at the Supreme Court.

If companies appeal against Industrial Court decisions workers may have to wait two to three years for a final decision. This delay usually suits the bosses, not the workers - especially where workers have been dismissed.

## **DEFINITION OF AN UNFAIR LABOUR PRACTICE**

"unfair labour practice means -

- a. any labour practice or any change in any labour practice, other than a strike or a lockout which has or may have the effect that -
  - i) any employee or class of employees is or may be unfairly affected or that his or their employment opportunities, work security or physical, economic, moral or social welfare is or may be prejudiced or jeopardized thereby;
  - ii) the business of any employer or class of employers is or may be unfairly affected or disrupted thereby;
  - iii) labour unrest is or may be created or promoted thereby;
  - iv) the relationship between employer and employee is or may be detrimentally affected thereby; or
- b. any other labour practice or any other change in any labour practice which has or may have an effect which is similar or related to any effect mentioned in paragraph (a);

---

**Activity: Using the Conciliation Board and the  
Industrial court**

**Task:** *Break into small groups  
Answer the following questions  
Prepare a report back*

---

1. What do you think are the advantages of using the Conciliation Board method when there is a dispute ?
2. What are the disadvantages ?
3. When would you see the Industrial Court ?
4. What are the advantages of the Industrial Court ?
5. What are the disadvantages of the Industrial Court ?

---

## USING THE CONCILIATION BOARD

### ***Advantages***

1. Pressure on the company - if they do not settle there will be a legal strike.
2. The union can build publicity around the issue during the 30 days.
3. Workers can build up pressure in the factory within the 30 days.
4. It gives the company deadlines.
5. Workers can be mobilized around the dispute and build up to a well planned strike.

### ***Disadvantages***

1. It is a lengthy process and workers around may get impatient.
2. Workers militancy may cool off.
3. Workers must be prepared to strike at the end of the procedure.

## USING THE INDUSTRIAL COURT

### ***Advantages***

1. The union and its members are not place at risk by taking strike action e.g. they cannot be dismissed for going to court.
2. If the court has already decided that something is an unfair labour practice and the union is not in a position to go on strike - court action is the best way of resolving the dispute.
3. If the union can establish a new right in court, all union can in future rely on that right.

### ***Disadvantages***

1. The dispute is taken out of the hands of workers.
2. There are long delays in getting a decision
3. There is uncertainty about winning the case.
4. Costs are high.
5. The case may be lost on appeal.



## STRIKES AND INDUSTRIAL ACTION

One of the most powerful weapons in the hands of the working class is the RIGHT TO STRIKE or take other industrial action.

Workers must know what form of industrial action they should embark on to put pressure on management during disputes.

It is important that workers know when and how to embark on industrial action. It is important that action is well planned.

### 1. *What is Industrial Action ?*

There are many forms of industrial action. Industrial Action occurs when there is a demand and workers take action collectively to force the employer to concede to the demand. Some forms of industrial action:

- legal strike
- illegal strike
- work stoppage
- go - slow
- overtime ban
- sit down
- sleep in
- sympathy strike
- grasshopper or repeat strike
- stay away
- general strike

### 2. *Strike Action*



Direct strike action is the most common form of industrial action - and the most powerful.

---

**Activity: Evaluating strikes**

**Task: Break into groups**

**Make a list of strikes**

**you have been involved in.**

**Which strikes were a success?**

**Which strikes were a defeat?**

**Why?**

**Prepare a report back**

---



### 3. Strikes and the law

In South Africa a distinction is made between a legal and an illegal strike.

a. Legal Strike - A strike becomes legal when the provisions of the Labour Relations Act have been followed (see section on Conciliation Boards).

In a legal strike workers cannot be charged for striking, because they are not doing anything illegal. However we all know there are other laws which can be used against workers, such as the Intimidation Act.

In a legal strike workers can still be dismissed by the employer. However, management is more reluctant to dismiss workers in a legal strike.

b. Illegal Strike - All other strikes, stoppages, overtime boycotts etc, are illegal. This means that workers can be charged with striking. It is a criminal offence.

Many strikes in South Africa are "illegal". Very few strikers are actually charged, but it can and does happen. Certainly, workers more often get dismissed in an illegal strike. It is much more difficult to get reinstatement, or to win a court case if the strike is illegal.

#### 4. *The Right to Strike*

The right to strike is a right that has been bitterly fought for by the working class, world wide. The strike has been used by workers for over 100 years - but the ruling classes have always resisted granting workers the right to strike.

After years of struggle, of attacks against workers and political repression, workers in some countries have won, (through their hard struggles ) the right to strike. Often however, this right is limited by strict rules about when it is legal to strike.

In South Africa the right to strike has not been fully recognised.

- a. Strict procedures and time limits are placed on workers. This makes a legal strike difficult.
- b. Capitalists fire workers when they go on strike.
- c. Workers do not have the proper right to picket.
- d. Many workers are classified as "essential service " workers. They do not have the right to strike. They do not have proper alternative ways to resolve their problems.
- e. Security laws are used against strikers.

South African workers are still struggling to have the right to strike fully recognised. This is one of our major demands in our campaign for Worker Rights in a new South Africa

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**Activity: The right to strike**

**Task:** *In pairs write down quickly what you consider to be the full right to strike*

*Write down quickly what you consider to be the full right to picket*

---

## 5. Planning and Organising a Strike

### Activity One

**Activity:** Planning a strike

**Task:** In your group write down all the questions you must ask when planning for a strike

### Activity Two:

**Activity:** Strike organisation

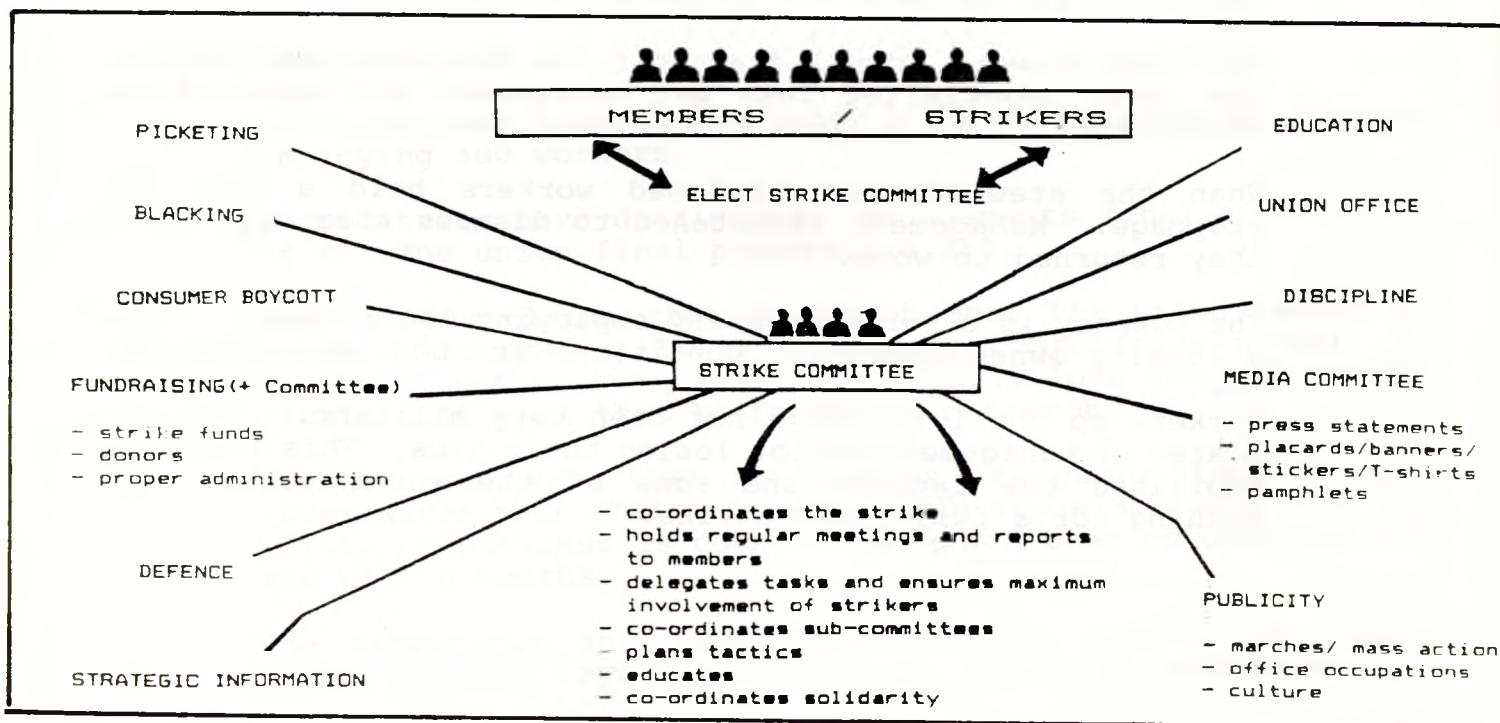
**Task:** In your group write down the tasks of a strike committee during a strike



## Planning

- \* **Be prepared** - make sure that the workers are prepared for a strike. Test this out to make sure. For example by holding a demo.
- \* **Be strategic** - is the issue one that is important and strategic. You cannot strike on every small issue.
- \* **Make a strike plan** - there should be detailed plans for the strike including practical arrangements. For example where will striking workers meet if management evicts them from the company premises.
- \* **Do research** - this is important. Who are the company suppliers/customers. Can production be made elsewhere?
- \* **Solidarity** - check on the kind of support we you are likely to get from industry and politically.
- \* **Check the strength of the company**
- \* **Prepare the families and community**
- \* **Prepare your publicity and media**
- \* Decide on whether the strike will be legal or not.

## Organising - tasks of the strike committee



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**Activity: Disputes/Strikes -assessing which weapon to use**

**Task: Break into three groups**

**Each group read one of the case studies and decide:**

- \* **Which weapon would you advise workers to use to win this dispute e.g. legal strike, industrial court etc**
- \* **Give reasons for your advice**
  - possibility of succeeding
  - building organisation
  - mobilising workers
  - strategic issue etc
- \* **Make a detailed plan of action**
- \* **Write this detailed plan of action on a chart or overhead**

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#### Case Study - One

1. One of the shop stewards was dismissed. You have looked at the facts and believe the dismissal was unfair.

The shop steward appealed against the dismissal and failed. The union negotiating team met management but negotiations deadlocked.

When the steward was dismissed workers held a half day stoppage. Management threatened to dismiss them all and so they returned to work.

The company is a rubber company employing 150 workers. It is a locally owned company. Conditions are bad and wages very low.

Workers up until now have not been very militant. They are scared of management and of losing their jobs. This issue has mobilised the factory and some of the young workers are pushing for a full scale strike.

### Case Study - Two

You have been negotiating for March 21st at your plant. It is a very large plant employing 5000 workers. It is partly state owned and is a continuous process operation.

You started negotiations very early because you knew it would be a battle. In your last meeting management gave a flat NO. They were not prepared to swap a holiday nor were they prepared to give a few hours off on that day.

Your organisation in the plant is uneven. You have 60% membership, but have difficulties in getting full attendance at general meetings because of the size of the plant and because of shifts.

However, a sizeable number of workers are very militant, and feel strongly about the issue. In general meetings they talk a lot. You think the majority of workers would be prepared to fight for the issue but you are not 100% sure.

### Case Study - Three

You have been negotiating wages at a multi national company employing 400 workers.

Negotiations have deadlocked. Managements final offer is 14 %. The union final proposal is 25%.

The company claims that it cannot meet the union demand as profits are down. It is in a very competitive market and should it put up its prices then it will lose business to its rivals. It will then be forced to retrench.

Workers are aware that the company has competitors who pay lower wages than their company. They are also aware that the volume of business is down as there has been no overtime for the past 6 months.

The membership and organisation in the factory is strong except for two departments - boiler house and warehouse.

In your last general meeting workers said they were going to strike unless the company granted 25%.



## MANAGEMENT COUNTER STRATEGIES

Management has developed many counter strategies against the worker's strike weapon. Capitalists are supported by the State. The laws and the courts all favour management.

Managements' strategies are always changing. As workers we also have to develop new and imaginative strategies.

Some of the management's most widely used strategies during strikes are :

- \* mass dismissals
- \* selective dismissal/rehiring
- \* interdicts
- \* lock outs

### **Mass Dismissals**

This is an old strategy. It was very frequently used in the early days of union organisation in recognition disputes. It seems to be coming back into fashion, and is used both in illegal and legal strikes, but more commonly in illegal strikes.

When workers strike management:

- threatens dismissal if workers do not return to work
- gives a time deadline for the return to work
- dismisses everyone.

In our Union our biggest mass dismissal was at the Sasol plants in Secunda in 1984.



### **Selective re-employment**

Following the mass dismissal management then refuses to re - employ all workers.

Often management re-employs the majority of workers but leaves out others - usually shop stewards or the most militant workers. Often management cooks up reasons for this for example, intimidation.

Workers are usually employed as new workers - they lose all service benefits.

### **Selective dismissal**

Another trick of management is to dismiss only some workers during or after a strike. This is done in many ways:

- \* Management uses the disciplinary procedure. It issues warnings to all workers. Those workers on final warnings are dismissed.
- \* Management makes a case against certain workers. It uses their behaviour during the strike as an excuse. An enquiry is held and the result is sometimes dismissal of active members and shop stewards.

### **Interdicts**

This strategy was first used during the sleep-in strikes of 1986.

It is a very widely used management tactic. Since the Labour Relations Act was changed through the power of workers, management's rights to interdict workers is less. A Legal strike cannot be interdicted now. However, management can:

- \* challenge the legality of the strike. This will delay the strike and confuse workers
- \* interdict all so- called illegal strikes
- \* interdict workers to keep off company premises so destroying worker unity. This is a very widespread tactic and has broken many strikes.

### **What is an interdict ?**

An interdict is an order of the Court which prevent certain actions taking place e.g. a strike, a sleep in, singing etc.

When workers strike the management rushes off to the lawyers who draw up a statement. The statement, called a Notice of Motion (see example below), is presented to the judge who usually grants a temporary interdict. Since the amendments to the LRA in May 1991, companies are supposed to give notice to the unions when they are going to interdict and where the court hearing will be.

Shop stewards must watch for this Notice of Motion and contact the union office immediately it is given to you.

## Example of Notice of Motion

57/DUN/3	CASE NO:
IN THE INDUSTRIAL COURT OF SOUTH AFRICA	
In the matter between:	
DUNLOP INDUSTRIAL PRODUCTS and CHEMICAL WORKERS INDUSTRIAL UNION	APPLICANT 1ST RESPONDENT
PERSONS MENTIONED IN ANNEXURE "A"	2ND AND FURTHER RESPONDENTS
<b>NOTICE OF MOTION</b>	
TAKE NOTICE that Application will be made to the above Honourable Court as a matter of urgency sitting at 6th Floor, Meubelcentrum, Kerk and Mooi Streets, Johannesburg on Wednesday, 28 July 1988 at 15H00 or so soon thereafter as the matter may be heard for an order in the following terms :	
1. DISPENSING: with the provisions of the rules relating to times and manner of service referred to therein and dealing with matter as one of urgency in terms of Rule 6(1) ;	
2. DECLARING that the strike action presently being implemented at the Applicant's Benoni premises constitutes a strike as defined in Section 1 of the Labour Relations Act 28 of 1956 which is and will continue to be unlawful until such time as the provisions of Section 65 of the Labour Relations Act have been complied with ;	
3. ORDERING that a rule nisi do issue calling upon the Respondents to appear and show cause before this Honourable Court sitting at Johannesburg on TUESDAY, 02 August 1988, or such earlier date as may be arranged between the parties why an Order should not be made in the following terms :	
3.1 INTERDICTING and restraining the Second and further Respondents from participating in the strike action which has commenced at the applicant's Benoni premises whilst such strike action remains unlawful;	
3.2 DIRECTING the Second and Further Respondents to perform all their lawful obligations in terms of their contracts of employment ;	

The Court will usually grant a temporary interdict. This temporary interdict will say that workers must stop the strike. The order (interdict) will be served on the workers by the sheriff - sometimes it is posted on notice boards or given to the shop stewards.

## Example of Interdict

57/DUN/1	CASE NO : H12/3/134
IN THE INDUSTRIAL COURT OF SOUTH AFRICA	
HELD AT JOHANNESBURG THIS 28TH DAY OF JULY 1988 BEFORE MRS J.M DUFF, ADDITIONAL MEMBER :	
In the matter between :	
DUNLOP INDUSTRIAL PRODUCTS and CHEMICAL WORKERS INDUSTRIAL UNION	APPLICANT 1ST RESPONDENT
PERSONS MENTIONED IN ANNEXURE "A" TO THE FOUNDING AFFIDAVIT	2ND AND FURTHER RESPONDENTS
----- ORDER -----	
Having heard Counsel and having read the paper file of record <u>IT IS ORDERED :</u>	
1. DISPENSING with the provisions of the rules relating to times and manner of service referred to therein and dealing with the matter as one of urgency in terms of Rule 6(3) ;	
2. DECLARING that the strike action presently being implemented at the Applicant's Benoni premises constitutes a strike as defined in Section 1 of the Labour Relations Act 28 of 1956 which is and will continue to be unlawful until such time as the provisions of Section 65 of the Labour Relations Act have complied with ;	
3. ORDERING that a rule nisi do issue calling upon the Respondents to appear and show cause before this Honourable Court sitting at Johannesburg on TUESDAY, 02 August 1988, on such earlier date as may be arranged between the parties why an Order should not be made in the following terms : 3.1 INTERDICTING and restraining the Second and Further Respondents from participating in the strike action which has commenced at the Applicant's Benoni premises whilst such strike action remains unlawful	
3.2 DIRECTING the Second and Further Respondents to perform all their lawful obligations in terms of their contracts or employment ;	

If workers defy the order and continue their strike, then they are in contempt of court. The police can then be used to enforce the order.

The law works in favour of management :

1. The whole process happens very quickly, making it difficult to prepare a counter strategy.
2. Notice on interdicts can still be very short, despite the new LRA. This means there is little time to prepare any defence or even get our lawyers to court to try and stop or postpone the interdict.
3. The company can say anything in the court papers. With an urgent temporary interdict there is usually no opportunity to reply. In many cases the company makes false accusations.
4. The judge nearly always grants an interdict - especially if a strike is illegal. This usually stops the strike immediately. Only 3 or 4 weeks later can workers defend themselves in court - but it is often too late - the strike is broken.

## **Lock Outs**



### **What is a Lock Out?**

A lock - out happens when management does one of the following things:-

- (a) When the management locks the gates and you are locked out of the factory premises.
- (b) When management switches off electricity to prevent you from working
- (c) When management refuses to pay your wages or benefits

### **Purpose of a Lock Out**

Managements use lock-outs to force workers to accept :-

- (a) New conditions of employment. An example is the 1990/1991 dispute at Indian Ocean Fertilizer where management locked out workers who were on a legal wage strike. Management wanted workers to sign a productivity clause.
- (b) The existing terms of employment.
- (c) Either the dismissal, suspension or employment of any person.

Lock - outs change the balance of power between the workers and the bosses dramatically. Lock - outs give the company more power than the workers. In lock - outs the company presents the workers with a set of demands that workers have to meet before workers are allowed on factory premises to resume work.

The lock out is a very nasty weapon.

### **Legal and illegal lockouts**

There are legal lock outs and illegal ones.

#### **Legal Lock out**

For a lock out to be legal the company must follow the procedures laid down in the LRA- that is, there must be a conciliation board which deadlocks, and a thirty day waiting period. However, many companies have locked workers out during a legal strike. In other words, they themselves have not applied for a Conciliation Board, but use the procedures followed by the Union. At the moment the Court says that this procedure is correct. This favours employers as they do not have to go to the trouble of taking a strike ballot like workers wanting to strike. They merely have to get a resolution from the Board of Directors.

#### **Illegal Lockouts**

A lock out will be illegal if the procedures have not been followed. However, do not confuse a lock out with a mass dismissal. The mass dismissal does not involve any demand from the employer. It is very difficult to prove an illegal lockout.

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#### **Activity: Countering managements strategies**

**Task:** *Break into groups*

*Answer the following questions*

*Prepare a report back*

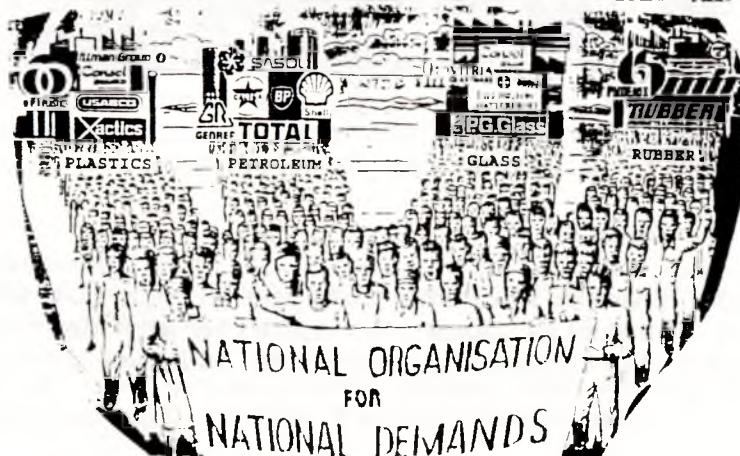
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1. What tactics can we adopt to prevent mass dismissals during a strike ?
2. What will you do if management selectively re-employs workers ?
3. What would you advise workers to do if management obtains an interdict preventing workers from continuing a so called illegal strike
4. If there is a legal lock out in your company, what will you do to counter managements tactics ?
5. List any other management counter strategies that are used during disputes and strikes.

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# CENTRALISED BARGAINING CHEMICAL WORKERS DEMAND CENTRALISED BARGAINING NOW!



## LEVELS OF BARGAINING

**Activity :** Revision - different levels of bargaining

**Task:**  
Break into company groups  
Read the information on Levels of Bargaining below  
Answer the questions  
Prepare a report back

1. What kind of company do you work for - single plant company, national company with many plants, multi national, company belonging to a conglomerate?
2. Which sector of the chemical industry do you belong to?
3. What level of bargaining are you involved in at your company?
4. Have you experienced any problems with the level of bargaining in your company?
5. What other levels of bargaining do you know our Union to be involved in?
6. What do you think is the most appropriate level of bargaining for your company and why?

## ***What are the levels of Bargaining?***

Bargaining with the bosses can take place at many different levels:

### **1. Plant Bargaining**

This is the level of bargaining that we are most familiar with in the CWIU. In most of our companies we bargain for wages and working conditions on a plant basis. We also bargain about day to day matters at this level.

### **2. Company Bargaining**

Company bargaining takes place where one company has several establishments operating on different sites. A joint negotiating team is elected from the shop steward committees at the various plants. This team negotiates with a management team representing the company as a whole. In CWIU we have over twenty companies which bargain at this level. In all cases we have fought very hard to achieve this. Examples in the CWIU are Pilkington, Plate Glass, PDC, Caltex Oil, Consol Glass and Plastics. Many companies are still resisting company bargaining. An example is Unilever.

Wages and Working Conditions are negotiated at Company level and other major issues such as CINPF, housing. Day to day issues are still negotiated at plant level. There is sometimes disagreement as to what should be negotiated at plant level and what should be negotiated at Company level.

### **3. Corporate Bargaining**

This is a new area of bargaining and not well developed. Some companies have several subsidiary companies. These subsidiary companies may be in several different industries. We call such large and powerful companies conglomerates. An example of this is Barlow Rand, which owns companies in metal, mining, chemical (Plascon, Metal Box Glass, Adcock), food, paper. Each plant, company or industry may have its own bargaining arrangement for wages and working conditions, but there may be issues which are decided upon by the parent company, and therefore need to be negotiated with that body. For example in Barlows the issue of policy on recognition, policy on industry bargaining need to be negotiated at Corporate Level.

## Levels of Bargaining

- 1) Joined union
- 2) Strike
- 3) Unity | Solidarity beyond factory gates
- 4) Mass strike

#### 4. Industry Bargaining

This is where negotiations on wages and working conditions , and other major areas, take place on an industry basis. An industry can be defined as covering the whole industry nationally, or it can cover an industry regionally. An industry can be defined narrowly - for example in the Chemical Industry we could define the pharmaceutical sector as an industry- or it can be defined broadly as the chemical industry and include all sectors.

An example of a nationally defined broad industry is the metal industry. All metal workers are covered by one national negotiation. The negotiation covers plastics workers and therefore some of our members are covered by these negotiations. The unions in the metal industry negotiate with the metal Employers Association - Seifsa -at least once per year. If agreement is reached, it is extended to all workers in the industry. The agreement covers minimum conditions ie conditions which the employer cannot go below.

This metal industries negotiation takes place under the Industrial Council system. This system is the most important system for industry bargaining. Industrial Councils are set up under the Labour Relations Act, and any agreement made becomes law. In most cases the agreement is extended to all workers in the industry. This protects unorganised workers.

Not all industry bargaining takes place under the Industrial Council system. For example, the Motor Assembly Industry has a National Bargaining Forum negotiated with the employers. The mining industry also has an NBF. The NUM bargains with the Chamber of Mines. This is not an industrial council but a forum agreed upon by the Union and the employers association.

In the Chemical Industry there are no proper industry bargaining forums or industrial councils. In the Western Cape there is one very small Chemical Industrial Council which covers only certain types of chemical worker and only covers the Western Cape. There used to be an industrial council for the chemical industry in the Transvaal. This covered only certain chemical workers. However, this council collapsed. CWIU did not belong to this council. At that stage we opposed industry bargaining.



## WE NEED CENTRALISED BARGAINING TO....

Centralised bargaining means that negotiations around wages and working conditions are organised centrally and not at each plant. These negotiations can cover a whole industry, a sector of an industry or even across industries. CWTU is fighting for centralised bargaining in different sectors of the chemical industry as a step to centralised bargaining for the whole chemical industry.

### FIGHT FOR THE CINPF....

Today, centralised bargaining has become an urgent necessity. It is not possible for workers to continue organising in the old ways. We have a national producer fund for the chemical industry. Are we supposed to negotiate plant by plant for companies to join the fund? No. We must negotiate at an industry level for all companies to participate in the CINPF.

### FIGHT FOR LITERACY & SKILLS TRAINING....

COSATU affiliates are now talking about literacy training in all companies. Again we can't negotiate this issue company by company. We need to be able to negotiate one literacy programme for the entire industry. We cannot even begin to talk of restructuring workers and one grading system for the entire industry without centralised bargaining.

### RESTRUCTURE THE SA ECONOMY....

With the increasing number of retrenchments and the economic crisis, the South African working class is beginning to discuss new issues. It is becoming clearer that workers have to have greater control in the factories, and socially restructure the economy. How can we begin to restructure the chemical industry if the bosses refuse to participate in centralised bargaining?

### CLOSE THE WAGE GAP....

Within the chemical industry there are massive gaps between high paid and low paid workers. This has divided us as workers. These are often the direct result of racism. In a new South Africa we can only begin to close the wage gap, and ensure equal pay for equal work with centralised bargaining.

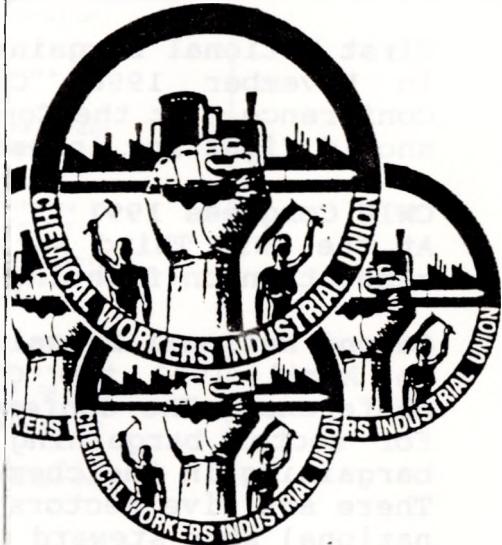
### CONSOLIDATE ON OUR GAINS....

We have already made major gains in the struggle for worker rights through centralised bargaining at different levels. At factories where CWTU is organised there are well over 20 national company bargaining forums. With centralised bargaining at Plate Glass, workers were able to force management to cut the number of job grades from 17 to about 3 or 4. Through centralised bargaining at company level we have also forced the bosses to give workers in the benzinates the same conditions as workers in other parts of South Africa. This was especially the case at Pilkington's in Boenaharraan.

The COSATU/NACTU/SACCOLA Accord was another example of the importance of centralised bargaining. The gains that workers made in the LRA job could not have been if they had to be negotiated plant by plant.

*How can we build on these gains?  
How can we make sure that the bosses agree to centralised bargaining?*

## NATIONAL ORGANISATION FOR NATIONAL DEMANDS



## 5. National Bargaining

This again is a new area for the trade unions. It has come to mean negotiations which take place between union federations covering all industries, and employer organisations covering all industries and may include the State. We have two examples of this:

- \* negotiations that took place between Cosatu/Nactu and Saccola on the LRA.
- \* the formation of a National Economic Negotiating Forum to include labour, business and the State

National negotiations deal with major issues affecting all workers and the working class as a whole.

## THE CAMPAIGN FOR CENTRALISED (INDUSTRY) BARGAINING

### 1. Cosatu Campaign

Major demands are being put forward at national level concerning no retrenchment, job security, job creation. Major demands are being put to stop the unilateral restructuring of the economy and industry. All unions are expected to put forward these demands in their own bargaining forums. In some industries like our industry there is no industry forum. The demand for centralised bargaining is therefore a key demand in our campaign.

Cosatu has said that **all unions must fight for industry bargaining** in their industry. This demand will also be put to the bosses at a national level.

### 2. CWIU Campaign for Centralised Bargaining

#### **First National Bargaining Conference**

In November 1990, CWIU held its first National Bargaining Conference. At the Conference delegates recommended that the CWIU should fight for industry bargaining.

#### **CWIU Congress 1991**

At the CWIU Third National Congress held in June 1991, a strong resolution on fighting for Centralised Bargaining was adopted.

#### **Second National Bargaining Conference**

In April 1992 the CWIU held its Second National Bargaining Conference. The Conference confirmed that the union should fight for sector bargaining as a stepping stone to full centralised bargaining in the chemical industry.

There are five sectors now in our union. Each sector has formed a national shop steward council and branch shop steward councils. The sectors are:

- \* Plastics
- \* Glass and Ceramics
- \* Consumer Chemicals e.g. pharmaceutical, toiletries, soaps, cosmetics, paints etc.
- \* Petro Chemicals - petroleum, basic chemicals, industrial chemicals
- \* Rubber

The Conference worked out core demands to be put to all sectors and a programme of action.

# CWIU RESOLUTION ON CENTRALISED BARGAINING



## CENTRALISED BARGAINING

### A. Noting:

1. 1.1 Centralised Bargaining has the following identified advantages:
  - Unites workers
  - Promotes solidarity
  - Combines common objectives
  - Benefits weak and isolated workers
  - Develops control and influence in industry
  - Promotes high level of organisation
  - Saves time and resources
  - Raises the profile of struggle
  - Places greater pressure on employers
  - Facilitates co-ordination of vacancies and information
  - Mobilises workers more easily nationally
- 1.2 - The prevailing economic crisis in South Africa and internationally.
- 1.3 - That bosses and the government tend to place the burden of the economic crisis onto workers by retrenchments, low wages, high prices, productivity schemes etc.
- 1.4 - That our union has been relatively weak in responding to the attacks - with weak co-ordination and solidarity.
- 1.5 - That our union and its leadership has not taken this campaign seriously enough, not placing sufficient resources and strategic emphasis onto it.

### B. The Political Period of Reform Transition

- 2.1 The decline in political activities and direction of the workers and the instigated violence has contributed to the non-attendance of union members to union structures. The workers are thus not responding to political challenges of the day.
- 2.2 That organised workers and the working class has not taken the lead in this political process.
- 2.3 The weak state of working class organisations.

3. 3.1 The excessive work and responsibilities of the union due to the demands of members and broader campaigns.
- 3.2 The inability of the union staff and structures to cope with all this pressure.

### B. And believing that:

1. There ought to be a single negotiated grading system for the industry.
2. The union should take affirmative action in the skills training of workers in the industry;
3. In line with the national grading system, and in recognition of the skills obtained, wages across the industry should be standardized.
4. Industry wide centralised bargaining is most effective if the industry is organised by a single super chemical union.

C. We therefore resolve:

1. To campaign fully for CENTRALISED BARGAINING in the chemical industry to strengthen our union.
2. We adopt the following programme of action:
  - 2.1 That this campaign receives top priority at every NEC, BEC Local meeting and factory general meetings. It should also be taken to COSATU structures.
  - 2.2 To educate and mobilise workers around the struggle for centralized bargaining.
  - 2.3 Conduct extensive research into the chemical industry with the aim to forming sectoral bargaining forums.
  - 2.4 Mobilize for sectoral bargaining as an interim strategy, using sector councils, in order to facilitate the transition to industry wide central bargaining starting with the Glass, Petroleum, Plastics and Rubber Sectors as a stepping stone to industry wide bargaining.
  - 2.5 Sectors councils are to work out clear programmes of for the campaign.
  - 2.6 These programmes of action are to incorporate solidarity/co-operation with unions like SACWU, PPWAWU and NUMSA.
  - 2.7 These programmes of action are to be submitted, centralised and assessed at every NEC.
  - 2.8 The NEC must appoint sector co-ordinators (1 Official, 1 worker) who shall meet from time to time to co-ordinate the campaign.
  - 2.9 The union is to convene its 2nd Bargaining Conference not later than the 1st week of April 1992. COSATU must also convene a bargaining /Living Wage Campaign Conference not later than May 1992.
  - 2.10 Any further Bargaining Conferences, meetings activities for the National Campaigns to decided by the NEC/NCC from time to time.
  - 2.11 To actively work for the merging of the chemical unions in the industry towards the formation of one super chemical union.

## CENTRALISED BARGAINING AT INDUSTRY LEVEL

### ***Why Industry Bargaining?***

The main reasons for campaigning for industry bargaining are:

#### **\* There are problems with plant and company negotiations**

- + they use union resources in an unproductive and inefficient way - especially plant by plant negotiations as in the chemical industry.
- + they can divide workers and develop a plant/company only consciousness. We see this a lot in our Union where workers are only interested in their own wage negotiations at the plant or at the company. Many shop stewards who are in companies where there is a Company bargaining forum never attend union structures.
- + make solidarity action very difficult. Workers will strike for their own demands but cannot support all other individual strikes.
- + cover only workers in that plant or company. Unorganised workers are not covered by any agreement and can therefore be super exploited by the bosses.

#### **\* There are many advantages to Industry Bargaining**

- + It helps to build an industry or union consciousness
- + It builds unity around common issues and programmes
- + It gives strength and power to workers in an industry. A well organised strike of all workers in the industry can shut down the industry.
- + Workers can start influencing the industry as a whole on such issues as provident funds, training, job grading etc.
- + Workers can engage with employers on such major issues as restructuring of the chemical industry, job creation.
- + It can assist and protect unorganised workers in the industry by fighting to extend agreements to all workers.
- + It allows union resources to be used more effectively.

## **Problems with Industry Bargaining**

There are some problems with Industry Bargaining which we must look at seriously and try to counter.

- \* **Democracy.**  
In plant bargaining it is very easy to get mandates from workers and to report back at every step in the negotiations. With industry bargaining it is not so easy. If we do not set up good and democratic systems for the negotiations we may find a group of negotiators at the top taking decisions for workers.
- \* **Education**  
Workers have to have a clear understanding of the nature of industry bargaining and the reasons for industry bargaining. They have to develop an industry consciousness, which is not easy. Careful explanation and education is necessary. If this is not done workers will not see the advantage of industry bargaining and will be open to management propaganda and manipulation.
- \* **Wage levels in the industry or industrial sectors**  
There may be very big differences in wage levels within one industry or industrial sector. For example if you compare Colgate Palmolive and Chet Chemicals, both making similar products, you will find that the minimum wage at Colgate is twice that of Chet Chemicals.  
There may be big differences in the profitability of companies in an industry and therefore in the level of increase they can afford to pay.  
These differences lead to workers making extra wage demands at plant level to push their increase above that of the industry increase or the industry wage.  
When this happens solidarity action collapses. We saw this in the 1987 Numsa strike. The industry negotiations deadlocked. Workers voted for an industry strike. Many managements offered an extra increase. In some plants workers demanded plant bargaining to get an extra increase. The result was that those workers pulled out of the strike and weakened the power of the strike.
- \* **Extension of Agreements to unorganised workers**  
This is sometimes resisted by employers and the State and has to be fought for. This is especially true for workers in the Bantustans and workers in small businesses. Capital and the State want to see such areas and such businesses exempted from minimum conditions. This is called de regulation.

**Activity: Industry Bargaining**

**Task: Break into groups**

**Answer the following questions**

**Prepare a report back**

**1. Industry Bargaining**

**1.1. List the advantages of industry bargaining?**

- Unity between workers.
- Time + resources saved
- Rights can be extended to all workers
- Strength given to workers
- Influence industry as a whole.

**1.2. List the problems of industry bargaining**

- Democracy.  $\rightarrow$  Leadership not accountable
- Communication
- Division between workers.

**1.3. How do we make sure that industry bargaining is conducted in a democratic manner? Give some concrete ideas.**

- Negotiating team will have close contact with SIS
- SIS will have telephone + facsimile to speak to SIS at plant.
- G.M. will be held everyday on day of negotiations - Show-off pad.

**1.4. Wage levels are very different in different companies. Should we allow for plant level bargaining as well as industry bargaining? Explain how you think this will work.**

- There should be sectoral bargaining
- to equalize wages
- Centralized Bargaining on negotiable wages CIPPF, Medical Aid, etc

2. Industry Bargaining and the Chemical Industry

2.1. Why has the Union decided to fight for industry bargaining in the chemical industry?  
Using the resolution write down three reasons.

- Unites workers
- Promotes Solidarity
- Combines common objectives

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2.2. List the sectors you belong to.

- Consumer
- Petrolatum
- Plastics
- Rubber
- Glass

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2.3. Why has the Union decided to use sector bargaining as a stepping stone to full centralised/industry bargaining?

- equalise sectors
- Unity in sectors
- Bosses will be more willing to negotiate with a common ??

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2.5. How will we mobilise and educate our members around this issue?

- General meetings
- Seminars; workshops
- Videos

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## HEALTH, SAFETY AND ENVIRONMENT

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**Activity:** *Health, Safety and Environment Problems*

**Task:** *With a partner  
Discuss and write down  
What are the main health and  
safety problems you experience  
at work?  
Report back*



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**Activity:** *Factory analysis of problems*

**Task:** *As a group draw up a chart of  
which problems affect which  
plants  
Which are the most common  
problems?*

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## COMMON HAZARDS AND HOW THEY AFFECT YOU

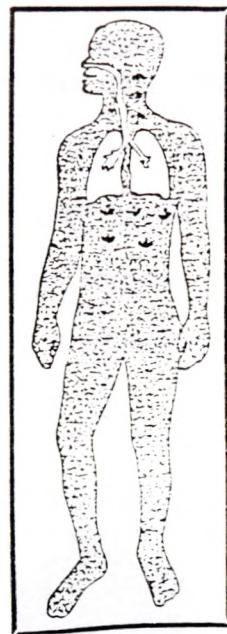
Dangerous health, safety and environmental conditions have both immediate effects on workers (short term) and hidden effects (long term). The effect of certain hazards depends on a number of things such as type of chemical, amount exposed to, how exposed, for how long.

Hazard	Short term Effects	Hidden Effects
Chemicals	Burns Skin disease Fainting/dizziness Nausea/vomiting Death by heart attack Death by poisoning	Lung damage Reproductive organ damage Cancers Allergies Environmental damage
Dust	Discomfort Irritation of skin, eyes, chest	Lung damage Asthma Cancer
Heat	Burns Discomfort Heat stroke	Heat rash Heart problems Reproductive problems
Cold	Discomfort Slow down Frost bite	Heart disease Loss of limbs Arthritis
Noise	Discomfort Temporary deafness Accidents	Deafness Stress
Poor safety procedures * no training * poor maintenance * poor equipment	Accidents Exposure to dangers	Death Permanent damage
Bad work organisation * Shifts	Tiredness Stress Eating problems	High blood Stomach problems

What other effects do you know of?

## HOW DO CHEMICALS GET INTO YOUR BODY?

\* Breathe - Inhale



\* Swallow - Ingest

\* Skin - Absorb

\* Eyes/Ears - Absorb

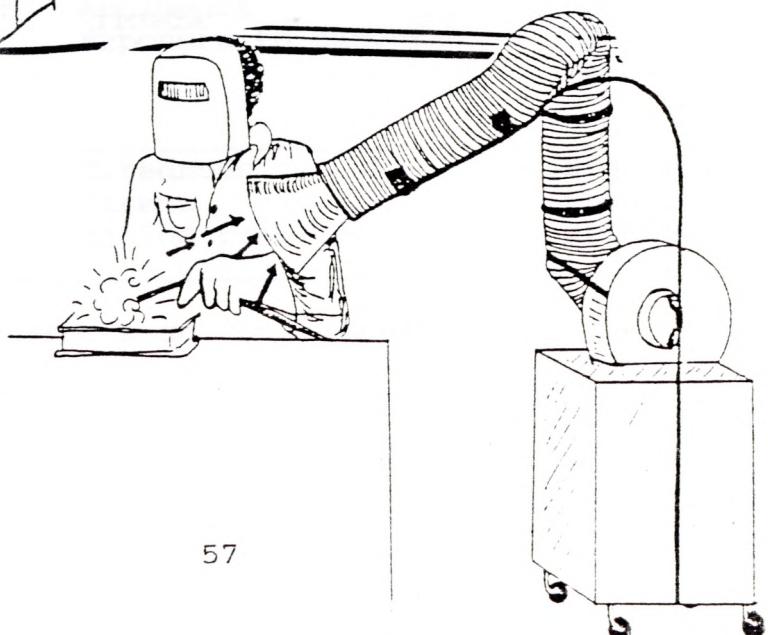
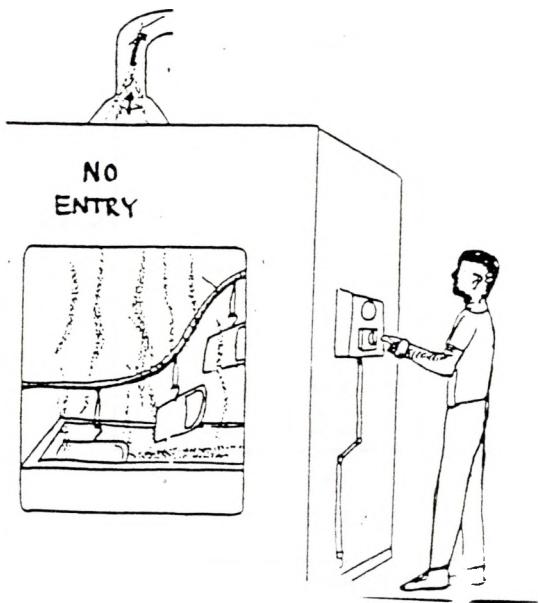


## HOW TO GET RID OF THE PROBLEMS

**Activity:** Preventing Health, Safety and Environment problems

**Task:** Quickly write down how you think the problems can be prevented or got rid of

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- \* Remove the danger altogether **REMOVAL**
- \* Replace the dangerous substance with a less dangerous one **SUBSTITUTION**
- \* Change the process or machinery so there is no exposure to danger **ENGINEERING CONTROLS**
- \* Take out the dangerous chemicals **VENTILATION/EXTRACTION**
- \* Limit the number of people who deal with the substance or limit the time **LIMIT EXPOSURE**
- \* Use personal protective equipment such as masks, gloves to reduce contact **PERSONAL PROTECTIVE CLOTHING**

*What are the problems with these methods?*

- \* **REMOVAL** *Not always possible*
- \* **SUBSTITUTION** *Not always possible  
Substitute can also be dangerous*
- \* **ENGINEERING CONTROLS** *Not always possible  
Very expensive  
Can cause job loss*
- \* **VENTILATION/EXTRACTION** *Expensive  
Needs to be carefully monitored  
Can transfer problem from inside plant to outside community*
- \* **LIMIT EXPOSURE** *Can cause job loss  
Can divide workers - some workers excluded from certain jobs*
- \* **PERSONAL PROTECTIVE EQUIPMENT** *Usually inadequate  
Uncomfortable  
Can cause more danger sometimes  
Expensive  
Changes danger only for one person - does not get rid of danger for others*

## THE HAZARDS OF WORK AND HOW THEY AFFECT THE ENVIRONMENT AND COMMUNITY

- \* Production is DIRTY
- \* Production creates WASTE
- \* Waste can be POISONOUS (TOXIC)
- \* It is EXPENSIVE to clean up the waste
- \* There is no proper CONTROL or laws about cleaning up dangerous waste
- \* Employers get rid of waste as CHEAPLY as possible

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**Activity:**

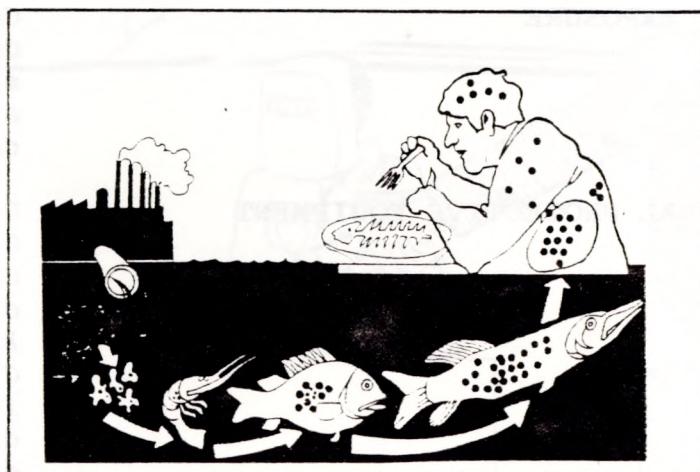
**Environmental hazards**

**Task:**

**With a partner answer the  
following questions  
Report back**

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1. Where and how do companies get rid of dangerous waste
2. What effects do waste products from the factories have on the environment and communities
3. Who should decide where factories should be built and where waste should be dumped.



## HOW TO HANDLE HEALTH AND SAFETY PROBLEMS IN THE PLANTS

**Activity: Handling health and safety problems**

**Task: Divide into groups**

**Read one case study**

**How would you deal with this as a shop steward?**

**Report back**

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### Case Study One

You are working in a rubber factory in the Hose Department. A machine operator got his hand caught in the machine and his finger is cut off. Management had two months ago removed the machine guards in order to speed up the machines.

You are far away from the scene of the accident. A worker comes running to you to tell you of the accident.

1. What would be the immediate things you would do as a shop steward?
  - \* at the scene of the accident?
  - \* with regard to the worker?
  - \* in relation to management?
  - \* in relation to other workers
  - \* in relation to the union?
2. What steps would you take to try and prevent further accidents?

### Case Study Two

You are working in the Mixing Department of a company making soaps and detergents. In June some workers start to complain about skin rashes (dermititis). You establish that 5 out 10 workers in the department have developed this condition.

1. What will be the immediate steps you will take as a shop steward?
  - \* how will you find out what is causing the problem?
  - \* what action will you take with workers?
2. What demands will you put to management?

## CHECK LIST - WHAT TO DO WHEN THERE IS AN ACCIDENT

1. Go to the scene of the Accident
2. Make sure that the person hurt is being properly attended to.
3. Start your investigations immediately
  - 3.1. Questions to be asked:
    - WHO? Who was involved?
      - names of everyone involved including witnesses
      - name of foreman or supervisor
      - names of workers who do a similar job
    - WHAT? What was involved?
      - materials and equipment
        - \* guarding
        - \* electrical hazards
        - \* defects
        - \* pressure/temperature guage
        - \* safety devices
        - \* modification to machinery designs
        - \* corrosion
      - maintenance and cleaning records
      - personal protective equipment
    - WHERE? Where did it happen?
      - exact place of accident (draw a plan)
      - environmental factors e.g. lighting, noise, dust.
      - other jobs carried out nearby
    - WHEN? When did it happen?
      - exact date and time.
      - when were shift changes
      - was it during overtime hours
    - HOW? How did it happen?
      - description of accident
      - job process in detail
      - events immediately before, during and after accident
      - any other similar accidents or near misses
    - WHY? Why did it happen?
      - Look for possible causes of the accident
        - \* speed up
        - \* changes to work organisation
          - \* supervision
        - \* contract work
        - \* training.
- 3.2. Other investigations
  - take measurements and photographs
  - demand full information from management
  - get information on family of injured
4. Make sure it is safe for other workers
5. Inform other shop stewards and union office if serious



## CHECK LIST - FINDING OUT ABOUT CHEMICAL PROBLEMS

1. **Draw a diagram.** Show the machines, doors, windows, ventilation and fire equipment. Show where the chemicals are. Show where the workers are.
2. **Check on substances.**
  - \* What substances are used?
  - \* Where are they stored?
  - \* How are they used?
  - \* How often are they used?
  - \* What are they like e.g. liquid or solid?Collect labels.
3. **Check on workers**
  - \* what contact do workers have with substances?
  - \* do other workers such as cleaners/contract workers have contact?
  - \* any changes to health noticed e.g. rashes, coughing?
  - \* any similar problems arising amongst workers dealing with the same substance?
4. **Check on physical environment**
  - \* what can you see?
  - \* what can you feel?
  - \* what can you smell?
5. **Check on safety precautions**
  - \* written or verbal instructions?
  - \* signs?
  - \* emergency procedures?
6. **Check on attempts to reduce contact with substances**
  - \* is ventilation adequate and working properly?
  - \* personal protective equipment?
7. **Check on maintenance procedures**
  - \* routine maintenance?
  - \* protection for maintenance workers?



# CWIU RESOLUTION ON HEALTH, SAFETY AND ENVIRONMENT



## NOTING

1. That work in South Africa is very dangerous and the Chemical Industry is particularly dangerous.
2. Workers are killed in accidents. They suffer from the long term effects of Chemicals.
3. The Chemical Industry is a main cause of environmental damage e.g. acid rain.
4. Workers are doubly affected by the effects of dangerous and dirty production in the workplace and in their communities.
5. Management controls Health, Safety and Environment issues in the factories. Workers have no rights namely:
  - \* no right to information.
  - \* no say in the structures.
  - \* no involvement in planning.
  - \* no proper training of workers.
  - \* no say in the prevention of accident and hazards.
  - \* no right to refuse dangerous work "Work Now Complain Later" is management's procedure.
6. Work is organised for profit not for safe and healthy workplace and environment.
  - \* Bosses are pushing production beyond capacity of plant.
  - \* Shift work and overtime is increasing to push production.
7. NOSA star rating system is used by most management to cover up their poor Health, Safety and Environment practices.
8. The current Workmen's Compensation Act and the laws on Health, Safety and Environment are grossly inadequate and this encourages the bosses to neglect Health, Safety and Environment.

## Therefore resolves

1. The Union must be involved in the planning and control of Health, Safety and Environment issues at all levels:
  - a) at the workplace.
  - b) at the Community.
  - c) at National Level through COSATU involvement in developing worker demands for a new democratic economic and political order in South Africa.
2. The union should campaign for changes in the laws on Health, Safety and Environment including NOSA and this should include harsher penalties such as heavy fines and imprisonment for management. There should be an establishment of an independent monitoring structure involving experts /labour and the state this should be financed by the state and the bosses.
3. We should demand that bosses be held responsible for the creation of a safe and healthy workplace and environment. This must include the safe disposal of all waste products. Our campaigns should focus on the disposal of toxic waste substances created during production.

## We further resolve

1. to fight for the right in each plant for shop stewards to be responsible for negotiation of Health, Safety and the Environment.
2. to elect as a matter of urgency in all plants from amongst the shop stewards Health, Safety and Environment representatives.
3. to set up and consolidate Branch and National Health, Safety and Environment structures.
4. to conduct worker research in our factories through a questionnaire and other appropriate methods.
5. to step up our education and training programs including seminars, workshops, media. This should be for the CWIU, COSATU and the community at large.
6. Health, Safety and Environment conditions should form part of broad industrial and economic restructuring.



## FIGHTING RETRENCHMENT

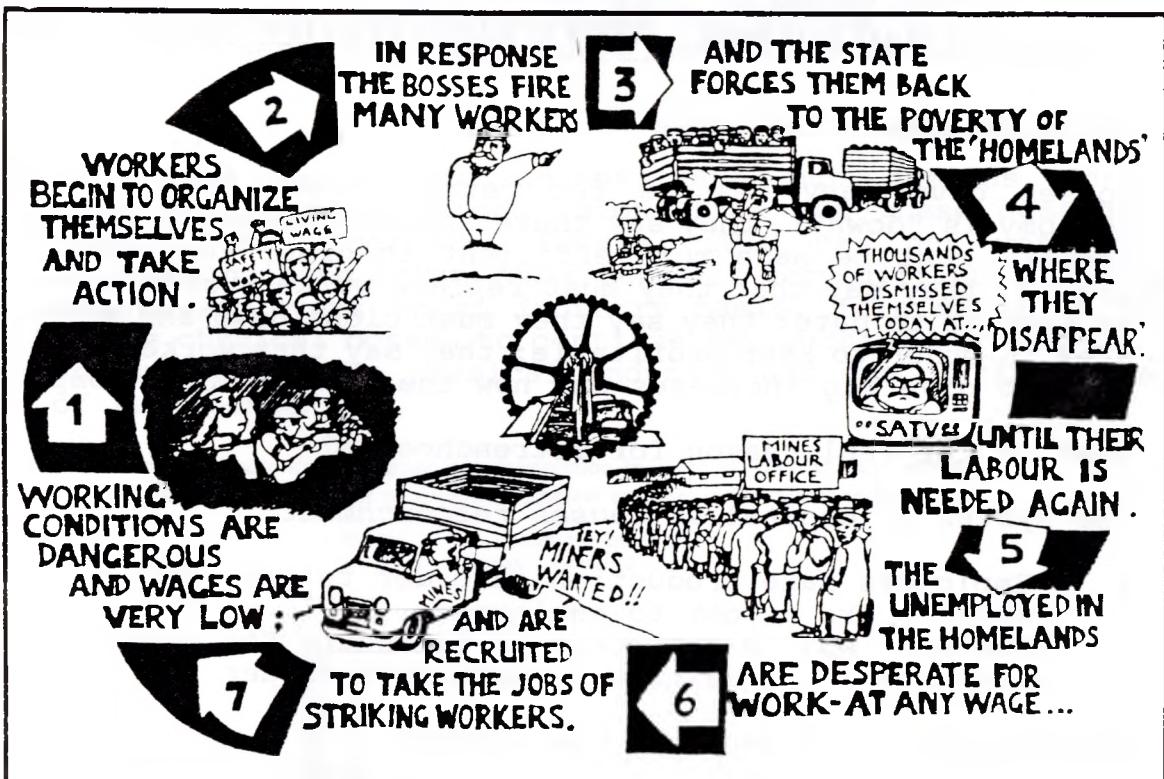
Activity:

Reasons for retrenchment

Task:

Take a partner

Quickly write down what you think  
are the major reasons for  
retrenchment



## **Retrenchments on the increase**

All over South Africa and in every industry retrenchments are on the increase. It has been estimated that every day 1370 workers lose their jobs through retrenchment. In a 4.5 month period October 1991 to February 1992 CWIU lost 1600 members- a monthly average of 357 members. In the mining industry 45 000 jobs were lost in 1990 and retrenchments are still proceeding at a rapid rate.

### **Completed Mossgas to slash 13 000 jobs\***

CAPE TOWN - The Mossel workers in Mossel Bay will be slashed from about 14 000 to 970 by the end of the year, workers have been informed and

LESLIE LAMBERT

#### **Editorial on retrenchments**

The National Union of Metalworkers of SA, which represents about 100 000 workers, has called for a round of retrenchments. It is the first time a union has done this.

## **9000 jobs lost in textile industry**

Companies poised to cut back staff this year

RESISTED ITSELF FOR THE

## **RETRENCHMENTS & FACTORY CLOSURES HIT THE CHEMICAL INDUSTRY**

The chemical industry is one of the worst hit by retrenchments. Major companies like AECI have cut back on many jobs. In our union, a recent

## **More gold mines under threat**

## **Retrenchments - the cause**

Bosses give many reasons for retrenchment. They say that the economy is "down": they say there are no orders: they say that the company must be made more efficient in order to compete and get orders: they say that they must replace workers with more machines to keep up to date: they say they must close down and move to a new area in order to keep profitable: they say that workers have pushed them to give big increases and now the company is uncompetitive.

What is the real reason for retrenchments?

*The system of capitalism causes retrenchment*

- \* Employers make production in order to gain profits.
- \* Workers are a cost to employers.
- \* The best way to cut costs is to reduce the number of workers and make the remaining workers work harder

*Capitalist have mismanaged the economy*

- \* Capitalists have not put profits back into industry to make it grow ( investment). They have not created new factories and new jobs.
- \* Capitalists have made big money by investing on the stock market instead of in industry.
- \* Capitalist have moved their money overseas.

## **How can we fight retrenchments**

### **JOBs FOR ALL - NO RETRENCHMENTS CAMPAIGN**

Cosatu has mounted a campaign against retrenchment. The campaign must be conducted at all levels and by every Cosatu worker.



#### **COSATU says:**

- No to retrenchments
- "Cut profits not jobs"
- Retrain not "retrench"
- Capitalism has failed

#### **National Level**

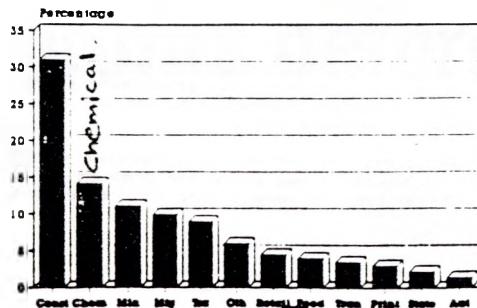
Negotiations with the State and the bosses are taking place on some of the demands. We need to force the bosses and the State to take this issue seriously. We need to force them to put jobs before profits.

#### **Industry Level**

In many industries Cosatu unions have put demands for no retrenchment and job creation. Unions have put these demands in their centralised bargaining forums. CWIU has not yet got a centralised bargaining forum. This makes it very difficult to fight the chemical employers on an industry basis. This makes it very easy for the chemical bosses to continue retrenching our members in order to cut costs. The chemical industry has one of the highest rates of retrenchment.

The most badly affected sector was construction followed by chemical and mining. However, all reports point to major retrenchment exercises in the mining sector during 1991.

Figure 19. Retrenchments by Sector  
ALA Survey - 1989/90



#### **Plant Level**

Demands at national level must be supported by demands at plant level. In every plant we must put forward the demands for no retrenchment, job security and job creation.

## CWIU ANTI RETRENCHMENT AND JOB CREATION CAMPAIGN

The 1991 CWIU Annual Congress passed a resolution on Retrenchment and Job Security. It agreed to mount a CWIU Anti Retrenchment Campaign.

### ***CWIU Resolution on Retrenchment and Job Security***



#### RETRENCHMENTS AND JOB SECURITY

##### 1. Noting that:

###### In the economy:

- 1.1 The problem of retrenchments is not only affecting the chemical industry, but every sector of the economy.
- 1.2 Well over fifty percent (50%) of all retrenchments recently experienced were as a result of restructuring, thereby resulting in permanent job losses.
- 1.3 The employers have, and still are resorting to contracting out their work, and it is clear that this is a means to cheaper labour, and thereby is a union bashing tactic.
- 1.4 There is large scale use of manufacturing automation and the introduction of new machinery and technology.
- 1.5 We are presently plagued by an economic depression, which is characteristic of capitalist business cycles.
- 1.6 In company takeovers, production is transferred to major plants, which leads to the closure of the smaller factories.
- 1.7 Because of the crisis in the political situation of the country, employers have embarked on an investment strike.

###### In the Union

- 1.8 Through retrenchments, this Union is loosing a large number of members.
- 1.9 The Unions are on the defensive in that the struggle against retrenchments is a reaction after the issue has been raised by the bosses.
- 1.10 Retrenchments take place without the bosses being compelled to negotiate with the Union.
- 1.11 That our Union and the labour movement have not organised and fought the capitalists and their government sufficiently to defend workers against retrenchments and forced the ruling class to embark on job creation schemes for all.
- 1.12 Certain employers are offering attractive retrenchment packages selectively, which do not solve the problem of job losses & which result in misguided workers opting for retrenchment.

##### 2. Believing that:

- 2.1 the right to work is a basic worker right.

2.2 workers need to be educated around the issue of overtime work and its effect on the provision of job creation.  
 2.3 That retrenchments are as a result of crises of national dimensions only an organised Labour Movement and its allies through militant campaigns will be able to stop, and force the ruling class to create jobs which benefit the oppressed masses.

3. We therefore resolve to:

3.1 fight to stop retrenchments are for the job security of workers.  
 3.2 to fight for disclosure of bosses finance and profits and for workers to have a say concerning the production process.  
 3.3 to actively and continually fight unnecessary mechanisation.  
 3.4 the Union must fight for the right to negotiate/bargain.  
 3.5 actively negotiate job security and job creation agreements which include demands related to:

- 3.5.1 casual labour and sub contracting;
- 3.5.2 contract workers'
- 3.5.3 training and retraining of workers;
- 3.5.4 natural disasters, eg floods etc;
- 3.5.5 technological advancement and changes;
- 3.5.6 retrenchments;
- 3.5.7 factory closures & relocation;
- 3.5.8 guaranteeing job security;
- 3.5.9 maternity rights.

3.6 Actively and immediately mobilize around our demand for industry wide centralised bargaining, which must be linked to our struggle against retrenchments.

3.7 the union must initiate a National Anti-retrenchment campaign and demand job creation at National level.

3.8 Link our struggle for centralised bargaining and against retrenchments with our continued struggle to seize control of the means of production, since it is only then that retrenchments can be stopped.

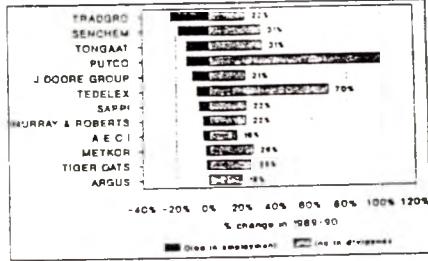
3.9 Fight employers against the unilateral alteration to the productive process.

3.10 Work towards the outlawing of overtime, the usage of contract, temporary and casual labour, and in the interim, to investigate embarking on a national overtime ban after thorough consultations with the rank and file.

3.11 Continue our struggle for a shorter working week, without any loss of pay.

3.12 Retrenchment agreements must be resorted as the last alternative which will cover *inter alia*, notice period, selection criteria, severance pay and retraining of workers.

# Top 100 companies put profits before jobs



PROFITS BEFORE JOBS: These companies cut employment during 1990, but paid a big dividend increase to directors

## FIGHTING RETRENCHMENT -practical steps

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*Activity: How to fight retrenchments*

*Task: Divide into groups*

*Read the CWIU Resolution on Retrenchment and Job Security*

*Answer the questions below*

*Report Back*

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### Questions:

1. What preventative measures can we take to against retrenchment? What demands can we put to management in all our factories?
2. When management announces that it intends to retrench, what steps should we take? What demands should we put?
3. If we fail to stop retrenchments what should we demand?
4. How do we stop workers volunteering to be retrenched?

***Fighting Retrenchment before it happens - Offensive Actions***

- \* Mount a campaign in every factory in the chemical industry
- \* Mobilise/educate workers against retrenchment in every factory, local, branch
- \* Put demands that there be no retrenchment in every negotiation
- \* Negotiate a moratorium on retrenchment in all chemical sectors. Negotiate a job security agreement and job creation.
- \* Stop overtime work
- \* Demand a 40 hour week.

***Fighting Retrenchment when it happens - Preventative Measures***

- \* Demand that management withdraw the retrenchment
- \* Demand full information as to why retrenchment - financial, future plans
- \* Put forward creative alternatives to retrenchment
- \* Mobilise on the ground in factory, local, branch, industry

***Fighting Retrenchment when all else fails - Defensive Actions***

- \* Strike the best deal financially
- \* Get employers to find jobs
- \* Get employers to pay for re training
- \* Back up with action where possible.

## WHAT THE COURTS HAVE SAID ABOUT RETRENCHMENT

The Industrial Court has laid down some guidelines on retrenchment. These guidelines are not laws. However, we may be able to use them against managements who unilaterally retrench or who refuse to negotiate with the Union.

**Employers must give a trade union notice of intended retrenchment**  
The notice must allow time for proper consultation

**Employers must consult with the trade union before retrenchment**  
Consultation is not the same as negotiation. The employer can still retrench even if the talks are not concluded and no agreement is reached.

Purpose of consultation:

- \* employer to give the union reasons for retrenching
- \* to consider possible ways to avoid or reduce retrenchment
- \* agree upon criteria for retrenchment
- \* to agree upon a timetable for retrenchment
- \* to agree on retrenchment pay

**Criteria for retrenchment must be fair and objective**

Management must not select workers for retrenchment on personal grounds. There must be a proper reason and a proper system such as **Last In - First Out.**

**Employees retrenched must be given proper and fair treatment**

- \* employer must give reasonable notice to individuals
- \* employers must allow reasonable time off to look for a job
- \* employers must assist workers to find a new job
- \* the employer must agree to re employ if a job become available
- \* employer should pay severance pay ( there is still division in the industrial court on this issue)