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Comment

MAKING THE MARKET PLACE LESS UNEQUAL

"The market place is the correct forum for free enterprise, but the market place is the unfairest forum of all if advantage can be taken of inequality in bargaining power." - Harry Swartz M.P. (Sunday Times 27/6/76)

That employers can, and do, take advantage of the unequal bargaining power afforded to the majority of workers in the South African Labour Market is all too clear. In our last issue we looked at the failure of the state machinery of factory based committees to extend adequate bargaining power to African workers, and its consequent failure to effectively institutionalise conflict. The contents of this issue point to two themes which substantiate the argument we have made before; that the lack of bargaining power stems from the non-recognition of independent trade unions.

The first is that it is not culturally determined factors which somehow make African workers conveniently pliable to managements interests. The stereotypes of popular anthropology on which management so readily rely only serve to disguise the very real restrictions to which African workers are subject (see D. Webster's Review, Pg.52). It is not a case of unsophisticated tribesmen who require a little 'understanding' and an attempt at 'communication'. A case of the naive African worker requiring guidance from a paternal management to understand the complexities of the industrial world. Rather as Phimister's article points out African workers have long been aware of the need to bargain - be it in the form of:

"Ikona mali, piccaninny scoff, Meningy Sebenza - this nigger's off".

Yet in the past at each stage of the attempt by African workers to translate this awareness into collective bargaining rights through the establishment of trade unions, the process of maturation has been ruptured by the failure of management to grant recognition. Instead management and the state have

avoided granting collective bargaining rights and opted in favour of peripheral adjustments to the factory based committee system, and the strengthening of the industrial bureaucracy.

The all but non-existent provisions that protect *all* workers against victimization and afford some degree of job security illustrate the argument in another way. Progressive management realise the problem of victimization:

"A particularly unfortunate short-coming in this regard has been the failure to pursue allegations of victimization by Black workers. The fear of victimization seems to be a fundamental characteristic of the black worker and it is important to ensure that the machinery for protecting the worker's position is free of criticism.

(Improving the Machinery for Regulating Black Labour Relations in the Republic of South Africa, The Condenser 1975, Tongaat Group.)

We hope that Galt's article makes it clear that the fear of victimization is not merely a 'characteristic' internal to the Black worker per se, but the product of a far more generalised structural lack of legal protection. To look to improved mechanisms within the present legislative framework of African worker representation is to fail to perceive that the roots of the fear go far deeper and permeate all aspects of the work situation. Improvements in the present legislation might temporarily convince a few leaders that they are better protected, it is unlikely to convince the majority of workers that their long term job security has been improved. This scepticism is a product of years of accumulated experience of what it means to sell one's labour in a grossly unfair market. The article also shows that more favourable conditions in Britain must be attributed to the existence of unions with independent power to ensure that controls have been established to protect workers.

We have argued continuously for the recognition of collective bargaining rights for all workers. Yet this call is fast becoming platitudinous in present circumstances. Though it has been recognised for

some time by parliamentary opposition, progressive management and organised workers that such rights are inevitable and desirable, little has happened to convince us that such calls indicate a real intention to grant recognition. Too often these calls have been for the most mixed of motives.

"The realities of the position are such that already in this industry 70% of the persons employed are people who are not able to belong to a trade union. People who are living on less than 27 cents an hour! The remaining percentage comprises of Indian, Coloureds, and whites, and they are getting comparatively high wages. But make no mistake about it, we are becoming more unrepresentative of the workers in the industry every year, and to close our eyes to the fact that the Africans cannot, and will not be permitted to belong to our unions, is something we cannot tolerate. We also cannot open the flood gates to this unorganized horde, that will bring our standards right back to 90 or 100 years ago."

(Mr C.H. Crompton of the Iron Moulders Society of South Africa at the 1972 TUCSA Conference.)

The dilemma for management and organised labour caught between their realisation that changes are taking place which are beyond their control, and their continued desire to maintain complete control is an acute one. They remain either confused or opt to try and strengthen their failing grip by appealing to government to be more sophisticated in their approach to labour relations. They state in principle their acceptance of trade union rights for Africans, but fail to act to make concrete what they see as inevitable.

In the article 'Towards a Stable Truce' which is directed at an unregistered trade union audience, a strategy is suggested for winning management recognition while ensuring that the union remains independent of management manipulations, and is perceived by those it represents to be free from any such accusation. The mere cultivation of an elite of professional negotiators is not enough to ensure industrial peace. Such negotiators

might be suitable to management board rooms, but they are unlikely to win the approval of rank and file who through bitter experience are thoroughly sceptical of management protégés. Only independent worker's organisations which are democratically controlled by workers themselves are likely to provide a solid enough basis for industrial peace.

The task facing management now is to move from statements in principle to the concrete details of how union recognition is to be achieved. African trade unions will not be legislated into existence overnight. Recognition is as much management's prerogative as it is government's. Where African trade unions exist in concrete form within their own factories, it is time to recognise emerging union leadership. The concrete steps by which existing organisations will be accommodated must be clearly outlined, not only in general terms but in terms of specific factories.

The market place will only become a less unequal bargaining situation when workers are able, through their own organisations, to establish the necessary checks on management's present prerogative to buy labour only on their own conditions.

SECURITY OF EMPLOYMENT AND VICTIMIZATION IN
SOUTH AFRICAN LAW

by Peter Galt

The more important factors determining the security of employment of a worker are economic and political. Economically the general state of the economy and the extent to which that worker is skilled or qualified (the less skilled he is the more tenuous is his employment); and politically the extent to which workers are organised and the existence or non-existence of legal rules protecting their job security.

Security of employment has a static and a dynamic aspect - it describes not only the keeping or not keeping of a job, but also the realization of those terms of the employment contract favourable to the employee, as well as the fruition of expectations of employees as to future improvement in those terms. This note attempts to evaluate the recognition of the employee's interest in the security of his job in South African law.

To the extent that the law restricts an employer's freedom to terminate a contract of employment and provides procedural safeguards for the dismissal of an employee, it thereby recognises and protects the employee's interest in the security of his employment. At common law the employer's freedom to terminate the contract is very wide, and the recognition of the employee's interest in the continuity of his job is correspondingly very limited. Ordinarily the employer can terminate the contract by giving the employee notice, and in certain circumstances, summarily.

JOB SECURITY AT COMMON LAW

In the case of an employment contract, which runs indefinitely, on a periodical basis, the employer can terminate the contract by giving the employee 'reasonable' notice.⁽¹⁾ What is reasonable notice depends on the circumstances. The period of notice is usually the same as the period of work on which wages are calculated eg. one month's notice, given not later than the first day of that month, where

the contract is a monthly one. (2) No reasons need be given for terminating the contract, nor does the employer have to follow any special procedure; in fact notice can be given to run concurrently with leave due to the employee. (3) The employer can dispense with the need for notice by paying the employee in lieu of notice and requiring him to leave immediately. Even the right to notice can be forfeited by the employee's misconduct.

In all employment contracts the employer is able to dismiss his employee summarily for any conduct which is substantially incompatible with the obligations undertaken by that employee. There are no fixed rules of law defining the degree of misconduct which will justify summary dismissal - it is a question of fact for the court to decide in each case. (4) Where wealth is unequally distributed (especially where employees are unorganized) the litigant having more money has a better chance of success; consequently standards of misconduct have tended to be stringently interpreted in the employer's favour. (5) The common law does not require an employer to give his employee a warning, or an opportunity of improving his performance, before treating that lapse as justifying dismissal. Should the employer give a warning, he is not obliged to allow a reasonable interval to pass before taking action against the employee. Nor is the employer obliged to give reasons for the dismissal at the time, in fact summary dismissal can be justified *by facts unknown to the employer* and only discovered subsequently. (6) When deciding whether or not to dismiss the employee, the employer does not have to give him a hearing as the *audi alteram partem* rule is not applicable. (7) There is no provision for alternative penalties of differing severity that can be imposed on the errant employee.

Where the summary dismissal has been wrongful (i.e. the employer's reasons for dismissing the employee are not legally valid) the damages to which the employee is entitled are limited to the remuneration he would have earned had his employment continued until the earliest date for terminating the contract, less any amount he has earned,

or could reasonably have earned during that period in similar employment, as the employee is under a duty to mitigate his losses.(8) The fact that the wrongful dismissal adversely affects his attractiveness to potential employers is not relevant in determining the question of damages - only the manner of dismissal is relevant.(9) Nor is the state of the labour market and the unlikelihood of the employee finding other work relevant. The employee cannot get an order of specific performance against his employer.(10)

Theoretically the same rules apply to the employee - he, too, is free to terminate the contract on reasonable notice, and where the employer is guilty of misconduct, the employee can terminate the contract summarily. But this appearance of symmetry conceals a real inequality of bargaining power between the employee and the employer. 'Normal' economic conditions in a capitalist economy presuppose a residual pool of unemployed people, so that while the employee is usually eager to keep his job, his employer is free to hire and fire as he pleases. This imbalance emphasises the "social irrelevance of the law of master and servant and its failure to express the realities of the contemporary employment relationship." (11) The *laissez-faire* principle of the freedom of contract allows the employer to treat labour as a market commodity, while the standard of conduct demanded of the employee is regulated by an almost feudal notion of hierarchical duty, these duties being far more onerous than those of the employer.(12)

Both the employer and the employee have a real interest in the continuance of their relationship (over and above the mutual exchange involved), the employer in the increased skill and reliability of the employee; the employee in the accrual of certain benefits etc. which increase in importance as his employment endures.

STATUTORY PROTECTION OF JOB SECURITY

To some extent statutory inroads have been made into the employer's unrestrained freedom to fire indiscriminately. These statutory limitations can

operate negatively, by limiting the employer's power of firing, or positively, by recognising the employee's right to security in his job.

The Shops and Offices Act (75 of 1964, s8) provides certain minimum periods of notice to which employees covered by the Act are entitled, and prevents the notice period running concurrently with annual leave, sick leave, or compulsory military training. But the Act explicitly leaves intact the employer's common law right to dismiss summarily. (s8(3)(a)). The Apprenticeship Act (37 of 1944 s29) provides that a contract of apprenticeship cannot be terminated except by the mutual consent of both parties as well as the consent of the Registrar of Apprenticeships. Wage regulating measures made under other industrial legislation can also regulate the periods of notice required to terminate the employment relationships to which they apply. (13) These provisions focus on the employee's right to notice - provided the employer complies with the provisions he can still fire his employees as he pleases.

PROTECTION AGAINST VICTIMIZATION

A different type of limitation on the employer's freedom to fire is that imposed by the statutes which prohibit the victimization of employees. This is the closest South African law comes to recognising the employee's interests in the security of his employment both as to duration and content. As will appear, this recognition, pale as it is, is more theoretical than practical.

The earliest prohibition against victimization was contained in the Wage Act (27 of 1925 s13) which made it an offence for an employer to dismiss an employee or adversely alter his conditions of employment, because the employee gave information, which he was required to give under the Act, to certain officials or in court. The onus was placed on the employer to prove that the dismissal or alteration of employment conditions had taken place for reasons other than victimization. If the employer was convicted the court could also order the reinstatement of the employee or order the employer to pay him

compensation. A similarly worded provision was introduced into the Industrial Conciliation Act (24 of 1930, s16), and the Shops and Offices Act (44 of 1939, s11).

The Industrial Legislation Commission of 1937 (14) recommended that the concept of victimization be extended to prohibit the victimization of employees because they were members of a trade union or played an active part in its *legitimate* activities. Because of the serious nature of victimization, the Commission also recommended a more drastic penalty and greater damages for the victims.

These recommendations were adopted in the Industrial Conciliation Act (36 of 1937, s66,74) and the Wage Act (44 of 1937, s25,33). The wording of these provisions has been substantially repeated in the other statutes which contain prohibitions against victimization. (15) When these statutes were replaced by updated ones in 1956 (Act 28 of 1956) and 1957 (Act 5 of 1957), the provisions relating to victimization were repeated with one modification viz that where previously the court could order the reinstatement of a victimized employee, for such period and subject to such terms as it determined, this power is now with the Minister of Labour (see below).

These provisions make it an offence for an employer, whether or not a determination, agreement or order made under some industrial legislation is binding on him, to

- i) dismiss an employee, or
- ii) reduce his remuneration, or
- iii) alter the conditions of his employment to his disadvantage, or
- iv) alter his position unfavourably in relation to other employees

because the employer believes or suspects, whether or not the belief or suspicion is true, that the employee

- a) has given information (eg. relating

- to his condition of employment) which by that statute he is required to give to certain officials or in court(16), or
- b) has refused to waive or evade the provisions of that statute (eg. by repaying portion of his wages or accepting wages lower than those prescribed), or
 - c) belongs to a trade union or has taken part in the *lawful* activities of a union.(17)

When it is proved that the employer has done any of these four acts, it is presumed that he did so for the reasons stated in the charge, (ordinarily the prosecution must prove all the elements of the charge beyond a reasonable doubt) and it is then for the employer to prove otherwise. The penalties provided are in most statutes a fine not exceeding R600, or imprisonment not exceeding 2 years, or both.

Where reinstatement of the victimized employee is one of the remedies provided (eg. Bantu Labour Relations Act and Bantu Building Workers Act), it is only available if the employer is prosecuted and convicted. Where the employee feels he has been victimized but the state declines to prosecute the employee can institute a private prosecution against the employer, in terms of the Criminal Procedure Act 56 of 1955 CH111. This Act provides that any private person, who proves some substantial and peculiar interest in the issue of the trial, arising out of some injury which he individually has suffered in consequence of the commission of the offence, can institute criminal proceedings against that person. Before the employee can commence proceedings he needs a certificate from the attorney general that he declines to prosecute. If the accused is acquitted, the court may order the private prosecutor to pay his costs.

Africans are excluded from protection against victimization for trade union activity, either because the statute concerned excludes Africans by its definition of employee (eg. the Industrial

Conciliation Act) or by defining 'trade union' to mean a registered trade union, which Africans cannot form (eg. Wage Act, Shops and Offices Act, Apprenticeship Act and Factories Act). Similarly, the provisions under the Industrial Conciliation Act whereby compulsory arbitration can be made to apply to a dispute arising from victimization, do not apply to Africans. Nor does the procedure whereby the Minister of Labour can order the reinstatement of victimized employees apply to Africans if the reason for victimization was trade union activity.

JUDICIAL INTERPRETATION OF THE VICTIMIZATION PROVISIONS

The cases interpreting and applying the victimization provisions indicate a restrictive approach by the courts - an attitude that often defeats the purpose underlying these sections. The courts have held that because the sections are penal, they should be restrictively interpreted, and not extended to cover situations which do not clearly fall within their ambit. Although they are penal as far as the employer is concerned, they are beneficial from the point of view of the employee.

If the person to whom the employee gives the information concerning his employment is not an official, as defined by that statute, then it is not victimization for his employer to fire him for giving that information (R v Bolon 1933 CPD 208). Here the appointment as inspector of the person to whom the information was given, was irregular. This ignores the good faith with which the information was given, and deprives the employee of the protection given him for a technical reason.

Similarly, it was held in R v Sachs 1940 (2) PH K53 (T) that the employer rebutted the presumption by showing the the information given by his employee was, in fact, false. It would still amount to victimization where the employee gave information which he believed was false, but which was in fact correct, but it would not be victimization if the employee in good faith gave false information believing it to be true. That no distinction was

drawn between *bona fide* but mistaken information and information given with knowledge of its falsity, seems wrong. Again, it appears unfair to deprive the employee of protection on this basis.

Where the employer's motives are 'mixed' ie. if apart from the reasons mentioned in the victimization sections, there are other reasons for the dismissal which are valid at common law(18), then it is not victimization to dismiss that employee (R v Wilson 1948 (i) SA 117 (t); R v Singleton 1952 (2) PH K145 (c)). The giving of information, union membership etc. must be the *effective* cause for the dismissal to be victimization. If the employer can show that there exist grounds on the basis of which a reasonable employer (one who would consider a week's notice to a breadwinner 'reasonable') might well consider it prudent to terminate on notice the services of that employee, then he rebuts the presumption that victimization was the cause of the dismissal. It is significant that in these cases the motive of the employer is ignored. In both cases the court chose not to follow its own ruling in R v Sarkin (1944 TPD, unreported, but discussed in Wilson's case) where it had been held that where there are 'mixed' motives, if the illegal motive influences the employer in any way, he is guilty of victimization. This latter view seems preferable.

In R v Watson 1948 (i) SA 11(T) the employee, a union shopsteward, was dismissed for opposition to a certain condition of his employment. Because it was not the policy of his trade union to oppose that particular condition, the court found that he was not taking part in the lawful activities of a trade union and consequently his dismissal was not victimization. Surely one of the ways in which union policy is determined is by the opinions of individual members.

The onus that is placed on the employer has also been treated unsympathetically by the courts. In interpreting a similar provision the appeal court held that it was not necessary for the employer to prove beyond doubt that he had not underpaid the employee, that the presumption was rebutted if the employer proved this on a balance of probabilities

(*Ex Parte Minister of Justice in re R v Bolon* 1941 AD 345). In *R v Bassa* 1944 NDP 239, which dealt with victimization, the court drew attention to the difficulties facing an employer in proving a negative, as he must, to rebut this presumption. This ignores the employee's difficulty of proving that he has been victimized. The detailed knowledge of the reason for the dismissal is with the employer, whose decision it would be rather than the employee's, so it would appear that the fears expressed by the court in Bassa's case are unfounded. In this case the court treated as insignificant the fact that the employer had stated that he was opposed to trade unions (the dismissed employee was an active union member) but as very significant the economic reasons - reduction in the selling price and a smaller market for his product - advanced by the employer for the dismissal.

Because the prohibition against victimization is absolute, i.e. it is not permitted on pain of a penalty, the victimized employee can raise the question of victimization indirectly e.g. where a term of his employment is that he has the occupation of a house, and he has been dismissed in contravention of the section against victimization, he can prevent his ejection from the house by proving that his dismissal was unlawful because it amounted to victimization. In effect he proves that the contract between the employer and himself has not been legally terminated. (*Rooiberg Mineral Development Co. Ltd. v Du Toit* 1953 (2) SA 505 (T)), though the correctness of this decision was questioned in *Kuruman Cape Blue Asbestos (Edms) Bpk v Boshoff* 1973 (2) 663 (NC), 670.

EVALUATION OF THE VICTIMIZATION PROVISIONS

Evidence given before the Industrial Legislation Commission of 1951(19) criticized the existing provisions as being totally inadequate: employers still succeeded in evading the spirit and underlying motive of the sections. It was not an offence for an employer to intimidate an employee against joining a trade union of his choice; an employer's opposition to, or dislike of trade unions was not an offence, even where membership of a union was a bar to an employee's progress in that employment;

cases of genuine victimization were often concealed under other legitimate grounds for discharging an employee, for example reorganisation. Several witnesses, including a senior industrial magistrate, were of the opinion that judicial interpretation of the existing provisions had rendered them 'practically negatory'. Public prosecutors, in the light of these decisions, refused to prosecute employers even where an industrial council was of the opinion that the evidence was sufficient to prove a charge of victimization.

In the face of this criticism, the Commission recommended that no changes be made to the existing provisions concerning victimization because they found the interpretation of the sections by the courts acceptable; the Department of Labour was satisfied with the provisions as they were; and trade unions had established themselves and no longer needed protection. This last point may be true of white unions but is not true of African unions.

These reasons do not appear to be very convincing and the reservations expressed by one of the members of the Commission seem as applicable now as then. In his opinion there was no doubt that workers were still at the mercy of unscrupulous employers. It was a serious reflection that prosecutors declined to prosecute because they were unable to obtain convictions under the victimization sections as framed. (20) He recommended that the sections be amended so that if an element of victimization was present in the dismissal, even if it was mixed with other legitimate motives, the employer would be guilty of victimization (para.1338f). In addition it is submitted that the concept of victimization, as set out in these sections, affords inadequate protection for workers. Where victimization takes the form of dismissal, the provisions cover both summary dismissal and termination of the contract by notice, but it seems unlikely that the courts will construe the provisions to include 'constructive dismissal'. As was pointed out before the 1951 Commission, the ways are numerous - and are not exhaustively covered by the sections.

I.L.O. AND ENGLISH LAW AND JOB SECURITY

It is interesting to compare briefly the protection afforded employees in South African law with that recommended by the I.L.O., and that actually given employees in English law. In 1963 the I.L.O. adopted Recommendation No. 119 on the termination of employment at the initiative of the employer, the kernel of which provides that 'termination of employment should not take place unless there is a valid reason for termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking.' Certain unacceptable reasons for terminating employment are listed, the more important being trade union membership; the lodging of complaints in good faith against an employer; and consideration peculiar to that employee e.g. race, sex, marital status, religion etc.

In English law the employee was initially as unprotected as his South African counterpart. He too had no rights other than the right to a reasonable period of notice and even that could be forfeited by misconduct. The statutory modifications brought about have also been of the two kinds mentioned above; either focussing on the right to a minimum period of notice or else recognising a right to job security on the part of the employee. (21) The Contracts of Employment Act of 1963 (22) is of the former type. It compels employers to give at least a minimum period of notice to employees who have been employed for a qualifying period.

The Redundancy Payments Act of 1965 combines aspects of both. Where an employee who has worked continuously for his employer for 104 weeks loses his job for reasons for which he is not responsible (i.e. redundancy) he is entitled to compensation from his employer. 'A redundancy payment is compensation for the loss of a right which a long-term employee has in his job. Just as a property owner has a right in his property so a long-term employee is considered to have a right analogous to a right of property in his job, he has a right to security and his rights gain in value with the years. Therefore when he is deprived of them by reason of redundancy he is entitled to ... compensation for the loss of that

right.' (23) There is a presumption that the reason for every dismissal is redundancy, unless the contrary is proved by the employer.

The Industrial Relations Act of 1971 was the first labour legislation in English law to create a right against unfair dismissal for employees. (24) This Act was replaced by the Trade Union and Labour Relations Act of 1974 which re-enacted the provisions relating to unfair dismissal. With some important exceptions, every employee is given a right against his employer not to be unfairly dismissed. If he is unfairly dismissed the employee can complain to an industrial tribunal, which may recommend that the employee be re-instated or re-engaged, or it may award him compensation. The exceptions are persons employed in small businesses, or by spouses or close relatives, or part-time workers. To qualify for protection the employee must have worked continuously for 26 weeks with that employer.

By definition 'dismissal' covers termination of employment by the employer, with or without notice; the expiry of fixed-term contracts of employment without renewal; as well as constructive dismissal (i.e. where the employer by his acts makes it impossible for the employee to continue working for him). The reason for the dismissal must be shown to be acceptable in principle and fair in fact. The onus is on the employer to show why he dismissed the employee and that the reason is one of the five considered as acceptable in the Act. These are that the employee could not do the job (i.e. physical or mental incapability or a lack of appropriate qualifications); that the employee was guilty of misconduct; that the employee is redundant (in which case he may be entitled to compensation under the Redundancy Payments Act); that it would be a breach of some statute to continue to employ him in that job; or that there is some other substantial reason which would justify the dismissal of that sort of employee. Even if the employer shows that his reason for the dismissal is acceptable, he must still satisfy the tribunal that the dismissal was fair and reasonable. The compensation cannot exceed £5,200 or 104 weeks pay, whichever is less.

CONCLUSION

All labour law attempts to regulate, in varying degrees, the relations between employers and employees. Against the background of common law rules of master and servant, any labour statute has the effect of cutting down 'managerial perogatives' and will be seen as interfering with private proprietary and contractual rights. Because of this 'such legislation is peculiarly apt to be ineffective unless it is both carefully drawn, and administered by persons who understand and are sympathetic to its purpose.' (25)

It seems unlikely that a right of unfair dismissal will be created in South African law in the near future. The majority of workers lack a meaningful right of organisation and should many of them become 'foreign' workers there will be even less opportunity for organising themselves. In fact it is ludicrous to speak of job security in a system which makes involuntary migrants of so many of its workforce.

FOOTNOTES:

1. The irony is that the reasonable period may be as short as a day or a week.
2. *Tiopazi v Bulawayo Municipality* 1923 AD 317
3. *Carstens v Ferreira* 1954 (4) SA 704 (T)
4. *Wallace v Rand Daily Mails Ltd* 1917 AD 479, 491
5. e.g. *Gogi v Wilson & Collins* 1927 NLR 21
6. *Flemmer v Ainsworth* 1910 TPD 81
7. *Grindling v Beyers* 1967 (2) SA 131 (W)
8. *Brown v Sessell* 1908 TS 1137, 1141, 1143
9. *McMillan v Mostert* 1912 EDL 184
10. *Schierhout v Minister of Justice* 1926 AD 99, 107
11. M.R. Freedland *The Contract of Employment* O.U.P. 1976 pl
12. A. Fox *Beyond Contract: Work, Power & Trust Relations* Faber & Faber London, 1974 pl81ff

13. e.g. agreements and awards made under the Industrial Conciliation Act 28 of 1956, s24; determinations under the Wage Act 5 of 1957 s8, and the Bantu Building Workers Act 27 of 1951, s13 (4); and orders under the Bantu Labour Relations Regulation Act 48 of 1953, s13 (1). Although the Defence Act 44 of 1957, s16 prohibits the dismissal of employees in certain circumstances, it is beyond the scope of this note.
14. Report of the Industrial Legislation Commission UG 37-1935, para 601-603.
15. Factories Machinery & Building Act 22 of 1941 s41,44 Apprenticeship Act 37 of 1944 s34,41. Soldiers & War Workers Employment Act 40 of 1944 s25,28
Training of Artisans Act 38 of 1951 s3
Bantu Building Workers Act 27 of 1951 s25,31
Bantu Labour Relations Regulation Act 48 of 1953 s24,30
Shops & Offices Act 75 of 1964 s22,30
16. This is the only reason that amounts to victimization in the first 4 statutes mentioned in footnote 15.
17. In the Bantu Labour Relations Regulation Act this protection relates to the establishment of a liaison or works committee, or participation in its activities. Confining protection to legitimate union activity is significant because the right to strike by white employees is very limited, and of black employees was until recently non-existent.
18. The employer's wide freedom to fire at common law has been described above.
19. Report of the Industrial Legislation Commission UG 62-1951 para 1327ff.
20. Since 1952 there have been no reported cases dealing with victimization, which seems to indicate that prosecutors still feel this,

rather than that there is now industrial peace.

21. For a detailed analysis of the development of a law of job security in English law see B. Perrins *Labour Relations Law Now* Butterworths London 1975 ch.7, and D. Jackson *Unfair Dismissal: How & Why the Law Works* C.U.P. 1975
22. which has been replaced by the Contracts of Employment Act 1972.
23. *Wynes v Southrepps Hall Broiler Farm Ltd* 1968 Industrial Tribunal Reports p407.
24. The concept of unfair or unreasonable dismissal exists also in French, German, Dutch, Italian, and American law; see G.N.De Clark: *Remedies for Unfair Dismissal A European Comparison* (1971) 20 ICLQ 397.
25. Ibid 427.

THE CASE OF WILSON VS. REX 1948
1948(1) S.A. 1170

"Accused who carried on a garage business, was convicted of contravening Section 66(1)(a) of the Industrial Conciliation Act, No. 36 of 1937" "in that upon or about the 14th February, 1947, the Accused being an employer did wrongfully and unlawfully dismiss HOREA MAKGATE and ISAAC RANTHLA, employees employed by him, by reason of the fact that he suspected or believed that they had given information which by or under the said Act they were required to give, or which related to the conditions of their employment or those of other employees of their employer to an Industrial Council, to wit. the Industrial Council of the Motor Industry, Transvaal and Orange Free State, or to the designated agent or other official of the said industrial council."

In terms of Section 74(12) of the Act, the onus of proving that he did not dismiss the employee by reason of the suspicion or belief stated in the charge is upon the employer charged under Section 66(1)(a).

The two complainants had complained to the Industrial Council about their wages and apparently stated to the designated agent that they were less than the prescribed rate of wages. As a result, an agent of the Industrial Council, one F, visited Accused on the 14th April, 1947. He interviewed complainants separately in the presence of Accused and his Cashier, Mrs N. Each complainant denied that he received the amount of wages shown in the wage book register and their denial implied, and was understood by Accused and Mrs N. as implying, that she had paid them less than the amount shown in the register as having been paid to them and had kept the difference for her own benefit. Subsequently Mrs N. gave Accused a month's notice because she felt she had been accused of taking the difference in the wages of the two complainants. Accused asked her to stay on but she persisted in her decision because she said she had never before been accused of theft, and in due course she left. After receiving notice from Mrs N., Accused dismissed the two Natives.

Accused gave as his reasons for dismissing the

complainants that he had previously missed money, the shortage appearing to be in the cash takings for sales of petrol, of which complainants had been in charge as part of their duties. He therefore suspected the two complainants. His evidence on this point was corroborated by the complainant HOREA who said, in F's presence, that Accused had asked him for an explanation about shortages in the petrol cash. ISAAC admitted having been questioned on a previous occasion. Accused said he did not dismiss the two Natives at the time on account of the shortages because of the difficulty of finding honest Natives. He said that he also dismissed them because of their insolence and lies which he maintained they told in regard to the amount of wages they had received and their suggestion that Mrs N. had taken the amounts by which they were underpaid. He denied that he was upset by the statements made by the two complainants to F.

The question was whether the Accused had discharged the onus upon him of showing that the dismissal was due to the grounds stated by him and not to the fact that they had given information to F or to the Industrial Council.

HELD:

1. The proper test is whether the belief or suspicion, that the employee has made a complaint about wages or conditions of employment, in the mind of the employer was the effective cause of the dismissal. Dismissal could not be said to have occurred by reason of a suspicion or belief which was only one of a number of other and perhaps more cogent considerations which led to the dismissal. As the statute is a penal one, Section 74 (12) should not be extensively construed.
2. On the facts:
Accused had discharged the onus upon him of proving that he did not dismiss the complainants by reason of suspicion or belief stated in the charge, but because of the cumulative

effect of the three considerations which he had in mind and that the factor which ultimately led him to dismiss them was Mrs N's decision to leave his employment because of the accusation against her.

Ordered:

Appeal allowed conviction and sentence set aside.

AFRICAN WORKER CONSCIOUSNESS:
ORIGINS AND ASPECTS TO 1953

by I.R. Phimister

(A paper presented at the Conference on Southern African Labour History, African Studies Institute, University of the Witwatersrand.)

'We are now, it seems, to have a native newspaper-reading community. Such would appear from the practice of the batches of boys assembling outside the Argus Company's premises to read the police news of the daily issue posted up. Amongst the boys is always one who can read sufficient English to interpret the Magistrate's Court, and as he announces the result of "no pass" and "desertion" cases, his audience is highly interested and deeply concerned with their neighbours who are sent gaolwards for a holiday ... it shows boys are susceptible to their surroundings and cognisant of the institutions which exist in their midst.' (1)

The generally appalling conditions which were characteristic of Southern Rhodesian mine compounds for over twenty years from at least the late 1890s often literally meant that 'for an African mineworker, the choice of employer or employment centre was ... a life-and-death decision.' (2) For black workers, then, sheer survival was in many cases dependent on an intelligence system concerning labour conditions on the various mines. Associated with this basic 'consciousness of survival' was an equally acute perception of differing wage levels, not only within Southern Rhodesia itself, but throughout the Southern African regional economy.

Until recently, however, academic observers of Southern Rhodesian labour history were unanimously of the opinion that African worker consciousness first began to manifest itself primarily in the 1920s. These interpretations, which assumed that the consciousness of African labourers 'should be assessed largely through the presence or absence of associations and organizations which manifestly articulate worker interests', have now been systematically exploded by van Onselen's thorough analysis

of black responses and strategies in the Southern Rhodesian mining industry between 1900 and 1933.

The basic and enduring features gave rise to and shaped the general expression of African worker consciousness; the predominant position of the Rand within the southern African regional economy and the repressive system of labour control and mobilisation operated by mine managements and the state. As regards the first feature van Onselen has explained that

'in the southern African regional economic system there were, for a complex variety of reasons, successive zones of low and high wages. Broadly described, there were zones of low wages in the northern areas of (Southern) Rhodesia and South Africa - i.e. at those points where there was an influx of immigrant labour. To the south of these zones, there were areas of higher wages - i.e. closer to the major employment centres of the respective national economies of Rhodesia and South Africa. Crudely put, the low wages of Mashonaland gave way to the higher wages of Matabeleland while the low wages of the Northern Transvaal gave way to the higher wages of the Witwatersrand. The behaviour of the labour migrant can only be understood against this broad economic background.' (3)

Black worker consciousness or concern to maximise wages was therefore expressed in a persistent southwards movement of labour towards the highest-paying employment centres.

Although Southern Rhodesian mines were favourably situated geographically to take advantage of this flow of labour from the northern peripheries of the regional economic system towards the Rand, their limited profitability and concomitant low wages and poor working conditions made them generally unpopular with migrant labourers. These workers, where distances were too great to allow a direct journey to South Africa, sought short-term employment on Southern Rhodesian mines in order to accumulate sufficient

savings to continue southwards. They would then desert 'from Mashonaland mines ... make their way south to the Matabeleland mines, where the process would repeat itself as workers left for the Witwatersrand.' (2) Such desertion, itself an effective form of worker combination, (2) was a device used by Africans, apart from its other functions, to combat the provisions of the Masters and Servants Act of 1901 and the Pass Law of 1902 which together attempted to divert migrants to Southern Rhodesian mines and, once there, to control and hold them for the duration of their contracts.

African mineworkers were confronted not only with coercive legislation, but on the mines themselves were subjected to the harsh discipline of the compound system and to somewhat broader social controls manipulated jointly by the mines and the state. (4) Recognition of this second feature, the repressive control of labour, enabled van Onselen to identify a further major area of worker consciousness, found not in 'direct expression of discontent' but 'in the nooks and crannies of the day-to-day work situation.' (2) It was thus possible to draw an illuminating parallel with the techniques of resistance utilised by slaves in the southern states of North America: 'Side by side with ordinary loafing and mindless labor went deliberate wastefulness, slowdowns, feigned illnesses, self-inflicted injuries, and the well-known abuse of livestock and equipment.' (5)

Details of van Onselen's study of black worker consciousness for the period 1900 to 1933 are not, however, repeated here. Instead, what this paper hopes to demonstrate is that, in most respects, the essential features of African worker consciousness were already well-developed *before* the turn of the twentieth century. In particular, by concentrating on the first formative decade of the capitalist mining industry in Southern Rhodesia, it is possible to trace the origins and early development of that consciousness. Secondly and more briefly, given the fact that the mining industry's central profitability constraints remained essentially unaltered in the years 1934 to 1953, the natural continuation in that period of earlier patterns of worker responses is examined.

The roots of African worker consciousness and responses to the 'modern' mining industry are somewhat diffuse, but three main strands can be identified. The first and most fundamental strand of worker consciousness, in the wide sense of seeking the most lucrative sources of income, was basically an extension and adaptation of past African experiences in precolonial production and trade and appreciation of market opportunities, whether for agricultural produce or labour. Africans in what became Southern Rhodesia assessed employment opportunities on local mines and very largely rejected them in favour of the more financially rewarding occupation of peasant production for the new and expanding markets. (6)

Not all Africans, however, could effectively exercise the option of producing crops for markets. Whether because of remoteness from markets in the early colonial era or because of real limitations within 'traditional' Shona agriculture before that period, Africans also turned to wage labour. But Africans from Southern Zambezia took care, both before and after 1890, to seek out the most remunerative centre of employment. From 1870 and 1886 respectively, these were recognised to be the Kimberley and Rand mines. As early as 1873 at least one Shona was returning from Kimberley and two years later a 'party of Makalakas' were recorded as on their way home from the diamond fields, 'carrying each in great triumph the gun for which he had been working for the past year. They were full of gossip and tales from the Fields.' (8) In 1877, two white travellers described the welcome they received at a Kalanga village when they were 'recognised by one of our Kimberley mining boys, who ... rushed off to his kraal and told his three companions that their old bosses had arrived. They had been good boys and had been well paid and rewarded for their services. Ndebele labourers, too, worked at Kimberley, by 1884 as many as one hundred and twenty. (10)

The formal proclamation of colonial rule over Mashonaland in 1890 and over Matabeleland in 1893 did not stop this southwards flow of labour but rather increased it as time went on through the imposition of taxes. Early in 1894, the *Rhodesia*

Herald was of the opinion that 'many of the (Matabeleland) natives having worked in the Transvaal and Kimberley mines are practised workmen' and in the Mashonaland district of Victoria most of the tax in 1895 was paid in gold earned on the Rand and at Kimberley. In subsequent years the higher wages of the south continued to attract 'large numbers' of migrant labourers and this factor, together with awareness of the appalling working conditions on local mines, meant that 'Boys who have had years of experience in Johannesburg and Kimberley cannot be induced to go to Selukwe, preferring to go back to Johannesburg rather than risk their lives at Selukwe.' Other government officials testify to a similar awareness on the part of Africans elsewhere; for example, of the Bulalima district in 1898, it was reported that 'large numbers of the young men are away at work, chiefly on the Rand where they are offered higher wages and better treated on the whole (so they say) than at the Mines in Matabeleland.'

Both in their production of crops for new markets and in the sale of their wage labour, Africans thus displayed considerable acumen from the earliest days of capitalist development north of the Limpopo. Moreover, as the preceding sections have indicated, this strand of consciousness, the well-developed sense of economic self-interest, had lengthy historical roots.

The second strand of consciousness, though, did not draw on the African past in the same direct manner; it was rather a consequence of the imposition and implementation of colonial rule, which, as Rosa Luxemburg has explained, was the struggle against natural economy:

'The principal methods in this struggle are political force (revolution, war), oppressive taxation by the state, and cheap goods; they are partly applied simultaneously, and partly they succeed and complement one another. In Europe, force assumed revolutionary forms in the fight against feudalism: ... in the non-European countries ... it assumed the forms of colonial policy ... In detail, capital in

its struggle against societies with a natural economy pursues (amongst others) the following ends: (1) To gain immediate possession of important sources of productive forces such as land ... minerals ... (2) To "liberate" labour power and to coerce it into service.' (11)

Although colonial rule was uneven in its impact on Southern Rhodesia during the decade 1890-1900, the speed and crudity of primitive accumulation in this period was sufficient to produce the African rising by 1896-7. Large-scale expropriations of cattle, the exaction of 'fines', the imposition of taxes, the levying of forced labour and the progressive alienation of land were all mechanisms used by white settlers to disrupt the indigenous economy (12) and at the same time induced in Africans what can be termed the 'consciousness of the colonised'. (13) The brutality and 'openness' characteristic of primitive accumulation in Southern Rhodesia left Africans in little doubt as to their new status; in the words of Fanon:

'In the (metropolitan) capitalist countries a multitude of moral teachers, counsellors and "bewilderers" separate the exploited from those in power. In the colonial countries, on the contrary, the policeman and the soldier, by their immediate presence and their frequent and direct action maintain contact with the native and advise him by means of rifle-butts and napalm not to budge. It is obvious here that the agents of government speak the language of pure force. The intermediary does not lighten the oppression nor seek to hide the domination.' (14)

As far as the mines were concerned, the 'language of pure force' was employed almost from their inception. Neither wages nor working conditions were sufficiently attractive to bring forth labour in the required numbers and within three months of the arrival of the 'pioneer column' in Mashonaland the B.S.A. Company Administrator was complaining that 'the mining community both on the Mazoe and Umfuli are suffering from the scarcity and bad quality of the local labour'. The way in which

labour power was 'liberated' and 'coerced into service' was candidly explained by a mining commissioner in 1892: 'The natives here seem much more willing to work this year than they were last (year) the chastisement meted out to other kraals of which they are certain to have heard, has no doubt greatly tended to make them better in this respect'. Such measures, of course, could prove counter-productive and a year later it was reported of the same district that 'there is considerable difficulty in getting boys for the small number of prospectors in the district. Some of the Kraals refused either to trade or furnish boys. I think this is in a great measure due to bad treatment received previously.'

The unwillingness of local Africans to work on Mashonaland mines led the *Rhodesia Herald*, in a somewhat confused editorial in 1893, to suggest that 'it is quite possible that artificial means will have to be employed to hasten the natural influx of native miners ... In these days *laissez faire* has to all intents and purposes become an exploded doctrine, and Government regulations and restrictions are found to answer as well or better than the haphazard outcomes of Darwinian struggles.' Insofar as the attempts of isolated mining commissioners and individuals to force Africans to work can be regarded as 'haphazard struggles', the B.S.A. Company heeded the *Herald's* advice and, with the establishment of the Native Department in 1894, forced labour became more widely and systematically practised. But Native Department 'regulation' of the labour market did not entirely supersede the activities of other interested parties. The Tebekwe Mine, for instance, employed a number of Zulu workers who were issued with company rifles and were 'in the habit of raiding the District for Boys and looting on their own account.'

While it is impossible to calculate the number of Africans who were forced to work on Southern Rhodesian mines, it is clear that forced labour was singularly unpopular, was an important cause of the 1896-7 risings and perhaps more than any other single factor, contributed to black consciousness regarding their exploitable and vulnerable colonial status. According

to one study of the African risings, the British Army in the Selukwe District in 1896 heard the cry, 'anything is preferable to working in the mines' and Africans themselves later explained the 'the cause of the rebellion was labour recruiting ... When the white people started the place which they call Selukwe the police used to come to our kraals... and when they recruited us they used to beat us.' (15) Certainly Africans seized the opportunity afforded by the risings to destroy mine buildings and property at one mine damage to machinery alone amounted to about one thousand pounds - and to kill foreign miners.

Forced labour in particular and the mining industry in general were thus perceived as the symbol and the cause of the African's colonised position; indeed, B.S.A. Company officials bluntly informed African leaders that 'they might as well understand once and for all that this is a white man's country and that the white man's object was to get the gold out of the ground'. Conversely, where they were able to exercise the option of choice, Africans were unwilling to assist Europeans in the attainment of their 'object'. At the turn of the century, at least one observer thought that labour scarcity was partly due to this broad 'consciousness of the colonised':

'The grown up people look upon the discovery of gold as the cause of the loss of their country to themselves. They are unwilling to co-operate in the development of what they consider their great misfortune. No doubt this impression tells also on the young men.'

Shona insurgents, too, specifically objected to white exploitation of the country's gold. Two European prospectors whose camp was surrounded by followers of the 'rebel' Mapondera, later recalled the demands and remarks flung at them: 'Who gave us permission to come up and wash gold and sink pits? The gold was theirs; the district was theirs; they did not want anyone in the country sinking shafts "Magodi". Curses on the English at

Finally, these two strands of African consciousness, a sense of economic self-interest and an awareness of their colonised status, were combined and refined as worker consciousness through immediate experiences of labour conditions on Southern Rhodesian mines. This consciousness found expression in desertions, understanding of wage levels and employment opportunities and even in explicit combination where management provocation was sufficiently great. The latter manifestations were rare, however, because black workers rapidly experienced harsh discipline on the mines and in an era when co-operation between the state and the mining industry to procure and control labour was brutally clear, workers swiftly appreciated that discontent was best expressed in less obvious ways.

After only one year of capitalist mining development, employers were complaining of three features which both reflected black worker consciousness and which, to greater or lesser degrees, were to remain constant factors in subsequent mine labour history. For example, in the Manica region in 1891, companies complained about the scarcity of labour, the frequency of desertions once Africans were 'induced' to work and the low productivity or 'loafing' of labourers. Although some contemporaries attributed these features to African 'discomfiture of hard work', others realised that 'the majority of the best boys' simply preferred the more remunerative occupation of working as 'bearers to and from the Coast'. Elsewhere, desertion was already a widespread device for registering resistance to forced labour and poor working conditions; in the Umfuli district, nearly all' Shona labourers deserted 'after two or three days work'. In the Victoria district, African manipulation of the labour market was so effective that the local mining commissioner pressed for the introduction of a pass law as early as 1892:

'Numerous complaints have been made to me by diggers and others about the difficulty they have in keeping the natives in their employ. They will work for one month and then just as they have learnt to strike a drill and are becoming useful, will leave without notice and engage themselves to another person, either

because they get more pay, or because they like the position of the new mining (?) camp, or for some other reasons ... (In addition) a Contractor who has undertaken to do certain work within a specified time, finds it absolutely necessary that he should have good boys who are up to their work, and he will have a kaffir in his employ whose duty it is to go from mine to mine and find out the boys who are the best (drill) strikers, and the most useful in other ways and he will induce them to run away from the master they are working for, by promises of increased pay etc.' (16)

So widespread was black worker consciousness that it elicited a degree of grudging recognition from B.S.A. Company officials and contemporary newspapers who sometimes abandoned ideology (the inherently 'lazy native' concept) in favour of pointing to the consequences of poor working conditions. In 1893, an over-enthusiastic settler who had suggested 'drastic measures to obtain native labour for the mines', was reminded by an administrative official that 'much of the difficulty experienced in getting natives to work is due to their white employers declining to pay the wages due. I cannot consent to your firing upon any kraal for the purpose of getting labourers.' A local newspaper was also of the opinion that much of the labour shortage was due to employers 'who after engaging a boy, let his period of service nearly expire, and then either cause him to run away, or drive him off, by trumped up charges, deliberate cruelty, or the refusal to pay him his money due.' The paper warned that these methods of treatment were 'rapidly communicated' to other Africans and concluded that 'ignora though willing - and half-clothed natives cannot be expected to turn out before sunrise on a cold or wet morning, and work on empty stomachs, getting more kicks than Half-pence, throughout a long weary day. One willing labourer is worth half a dozen forced ones' (17)

Where black mineworkers were treated decently, the labour supply was correspondingly greater, but in general the level of mine wages, especially in Mashonaland, was too low to attract 'voluntary'

labour. Even during the speculative era of 1894-6 when capital expenditure and mining development were at their most extravagant, such *largesse* as percolated downwards through the system went primarily into the hands of contractors and did not significantly affect African conditions of labour. Although the average wages of black labourers did rise noticeably in this period, (18) the increase seems to have come mainly from the richer Matabeleland mines and in any event, mining companies were not prepared to dilute their speculative profits by improving other aspects of African employment conditions.

Management cognizance of African worker consciousness in the form of desertions instead took the cheaper option of improving the control and discipline of workers on the mines themselves. There were few employers who disagreed with the sentiment that 'the only & best means (of preventing Africans desertions) is to have a proper compound on the mines & appoint a few good boys as police to look after the others'. And as in the forced mobilisation of labour, the state co-operated enthusiastically with the mining industry in this sphere. Before the risings, armed 'Native Policemen' were supplied by the B.S.A. Company to various mines in Matabeleland 'in order to prevent the native labourers deserting'. In 1898, renewed requests for this service were sympathetically considered by the Chief Native Commissioner as a means of halting Africans from utilising a particular mine as 'a sort of half-way house where they can rest and obtain food for a few days, before proceeding to the Transvaal, whither they are tempted by the promise of higher wages than are paid on these fields.' If Africans slipped past these armed guards, only to be caught later, their punishment was severe. A British visitor to the territory was 'told that if a boy will not work, or tries to run away, the usual thing is to take him to the native commissioner, and have him given twenty-five (lashes), and I found that the word "twenty-five" said in English to any of the boys was sufficient to make them grin in a sickly way - they quite understood what it meant.' (19)

Repressive mobilisation and control of black labour was further aggravated by the almost complete absence of effective communication between white employers and African workers. According to one Native Commissioner, 'the "Lingua Franca", between natives and Europeans in those early days consisted of about three words: "Ikona, lo, and voetsak"! I heard Mrs Dr. Forrester ... telling her boy to "voetsak lo kwackwacs" out of her garden (turn the ducks out) and he seemed to understand.' Less amusing and more pertinent to African working conditions on the mines was

'on another occasion the Manager of the Bonsor had told ... one of his (work) hands to measure up a lot of cords of mine fuel I had cut for them. This man had a raw boy to carry a very full pot of paint, which he used to mark each stack we measured. The boy could hardly help spilling a little owing to the rough terrain we were measuring in. The official told the boy once or twice not to "spill lo bloody paint" but at last lost his temper and hitting the boy a severe blow with his fist, knocking him over, he asked "Did I not tell ye not to spill lo bloody paint?" and, turning to me he remarked: "The b.... does not understand his own bloody language"!' (20)

Apart from the often brutal manner in which they were disciplined, black workers also discovered how dangerous it was working on Southern Rhodesian mines and consequently gave 'accident-prone' mines a wide berth. At the Inez Mine in July 1895 an explosion, caused through the carelessness of the white miner in charge of the night shift, killed two Africans and injured two others. As a result, approximately fifty labourers deserted 'and it has had a bad effect on (the) district all round'. The frequency with which accidents occurred at the Tebekwe Mine gave it 'a very bad name (and) Boys from the District would sooner work at any other mine.'

In these circumstances of dangerous working conditions, forced labour and harsh discipline, it would be occasion for comment if black labourers had *not*

possessed a well-developed worker consciousness, rather than the converse. The same conditions, however, obliged the majority of African mineworkers to utilise similar techniques of resistance to those discussed by Genovese and van Onselen. Certain techniques were in existence by 1891 and by 1898 were common enough for one government official to summarize the pattern of crime in 'his' district as 'only (those) such as desertion, disobedience, absence without leave, malingering and the like.' Abuse of mining company livestock was also a relatively safe method of registering protest; for example, 'one of 53 oxen belonging to the (Geelong Gold Mining) Company was found dead in the kraal and... on the beast being cut open and examination made it was found that a piece of rough stick about six inches long and rather pointed at both ends had been forced up its fundamental orifice and injured the intestines etc. thus causing death'. At the Red and White Rose Mine, where conditions were often appalling, African labourers staged an effective 'go-slow' which drove the mine management to frustration.

Occasionally, though, black workers reacted in even more explicit ways against exploitation. In 1895 Shona workers on a small mine refused to work following a management attempt to introduce a night shift, as such labour was not covered by the original terms of their labour agreement. A few years later, Africans at the Sable Hill Mine firmly indicated their opposition to management interference with their private possessions. In the words of the investigating Native Commissioner, the employer

'having noticed that meal etc. was being wasted went through the kit of one lot of boys and found some candles, matches, and meal which they ought not to have had in their possession. On going to a second hut, the boys came up brandishing "Kerries" and speaking very excitedly saying they had bought the things in Salisbury. Mr Bennet thinking that he had better not interfere further because he was unarmed and alone, went away.' (21)

Defiance of this nature did not go unchecked. The two 'ringleaders' were punished and the rest reprimanded by the local Native Commissioner, after which all the workers were 'paid to date and dismissed'. Desertion, too, was sometimes recognised as open combination; when reporting the large-scale desertion of Africans from mines, especially in the Hartley district, the *Rhodesia Herald* commented that 'in one instance at least ... it is not a question of the boys deserting so much as "striking"'. Some disagreement, we understand, occurred about the terms of payment and the boys are ... coming into town in a body in order to lodge certain complaints.'

By the end of the nineteenth century, then, African worker consciousness was already well-established and workers in subsequent years 'were careful to make inquiries before leaving (their homes) as to what arrangements would be made regarding medical and general treatment, also the rate of wages and the number of months they would be employed.' As the beginning of this paper noted, these later patterns of African worker responses and initiatives over the decades up to 1933 have been extensively explored elsewhere. After that date, black labourers continued to assess employment opportunities in terms of the regional economic system, and South Africa in general and the Rand in particular remained the ultimate target for most migrant workers. The only significant change was occasioned by the development of the Northern Rhodesian Copper-belt, the higher wages of which increasingly began to draw labour from Southern mines.

During the Great Depression, the closure or restricted output of many concerns and the economic collapse of the African rural areas released a flood of labourers, many of whom initially sought employment on local mines. The response of the Southern Rhodesian mining industry was to consistently lower wages, a practice which in turn ultimately did a great deal to eliminate the labour surplus. Africans in increasing numbers migrated to South Africa rather than work for any length of time for local mine wages which averaged between 17s and 20s per month in 1935. By 1937, a concerned Government estimated that over

twenty-seven thousand Africans, including migrants who had worked their way through Southern Rhodesia, were 'clandestinely' emigrating to South Africa each year. Officials in the southern part of the colony reported the 'very noticeable' development of labour routes to the Rand mines:

'Gangs of Natives are now to be met all along the border and they do not attempt to conceal the fact that they are going to the Rand, they are very ready to say that they are Portuguese Natives and give one the impression that they think because they say they are Portuguese Natives, they are free to use the road without any interference from the authorities of this Colony. Last year the few gangs I did meet disappeared into the veldt on the sight of a car with a Native Messenger in it.' (22)

Migration of this magnitude produced a labour shortage which affected the great majority of Southern Rhodesian mines. The Secretary for Mines warned that the 'labour requirements of the mines on the Rand are almost insatiable, and there appears a danger that, unless attractive conditions of employment are available in Southern Rhodesia, the higher wages paid by the Rand mines will be an irresistible magnet to native labour.' Few local mines were able to respond significantly to the Secretary's warning and as a result the labour shortage continued unabated.

From the Gwanda district, it was reported that 'Hammer boys and those able to operate Oliver Filters are going to the Union for employment', and at the Antelope Mine further south where 'a slight influx of labour from Gwanda District had occurred ... it (was) suspected that these Natives are merely awaiting an opportunity to cross into the Union territory.' In other parts of the colony, desertions and well-developed labour routes were equally common. One particular route frequently used by Africans from Nyasaland provides a classic example of this aspect of worker consciousness:

'At the Hippo Mine it was stated that numerous Natives from Nyasaland come by train to Umtali

and before being registered proceed to this Mine where they obtain work. After a month, having rested and earned a little money, they desert making for Johannesburg. This mine being so far away from Chipinga cannot always have these natives registered before engaging them. Apparently this mine is regarded by some Natives wishing to proceed to Johannesburg as a half way house.' (23)

African workers also gravitated towards better-paid jobs within Southern Rhodesia; secondary industry and the large base mineral producers all attracted labour from local gold mines.

This labour shortage, of varying intensity, which persisted in the Southern Rhodesian mining industry between 1936 and 1953 was clearly a result of black worker consciousness. The shortage itself, moreover, resulted in a strengthening or at least made possible a clearer expression of other aspects of African worker strategies. Because their bargaining position was improved by the scarcity of labour, those black workers who remained within the mining industry were able to utilise other techniques of resistance with comparative impunity. Employers in the Umtali district in 1938 complained of 'inefficiency, deliberate slowness, insolence and a changed attitude of lack of respect for the European (on the part of Africans), many of them are not prepared to do a fair month's work for their pay.' But the compound inspector who recorded these management grievances was sufficiently perceptive to note their relationship to employer exploitation: 'there is another side to this question and that is the morality of the employer; the employer who fails to pay wages, unjustly docks tickets, refuses to accept notice, keeps a ticket in hand to prevent desertion, and has little or no interest in housing or feeding conditions. In the Selukwe area, African workers on a mine which was remote from labour routes, took advantage of management reluctance to antagonize the precarious labour supply, by malingering. Between ten and fifteen workers reported 'sick' each day in order 'to have a rest'.

The following year, the Chief Native Commissioner criticised the prevalent policy 'of "keeping labour

sweet" by complacency towards shiftlessness and absenteeism', but conceded that 'something in the nature of group insistences on the Natives' part ... is observable.' These ran the full gamut from insistence on good food, fair wages and prompt payment' to 'a tendency towards ca'canny and careless work and frequent absentations from duty.' (24)

A junior official was even more explicit in his appraisal: 'Employers complain that labourers are very indifferent, irresponsible, and difficult to handle ... (and) have to put up with impertinence and careless work to keep their employees otherwise their business comes to a standstill.' Compound inspectors were approached by employers and asked 'to lecture the natives on disobedience. They disregard the instructions of their employers, and for peace and quiet their employers let them have their own way.' Others reported that 'natives are adopting a definitely "go-slow" policy' and concluded that the 'natives remaining in employment are well aware of the labour position and are working in a very perfunctory manner.'

Because of the general nature of Southern Rhodesia's political economy and the particular profitability constraints of the mining industry, both of which rested on cheap, exploitable black labour, explicit African worker combination was not generally tolerated for the greater part of the period under consideration. Although the post-war development of secondary industry with its need for a stable labour force did see a resurgence and expansion of earlier black trade unions like the ICU, no similar movements emerged in the closely-controlled mining industry. In 1953, when anticipating the possibility of such a development in the future, the Chamber of Mines determined the following points:

'If Natives want to start a Trade Union, the Members must have a definite qualification, such as a certain standard of education. If they have Unions, there must be safe-guards as they don't account for their funds, they spend them on agitators. A Union where every Native can join was wrong because they could

not think for themselves. They were very good at secret organisations, no one knew what they were up to at all.' (25)

This statement by the major mines of the colony, while on the one hand indicative of continuing employer hostility to African labour organisation on the other was an unintended tribute to black worker consciousness. It was because of their exploitable class position that African mineworkers rapidly became so adept 'at secret organisations (in which) no one knew what they were up to at all'. The combination of state force and management control of compounds was normally sufficient to muffle or suppress explicit worker combination and so ensure that the basis of the mining industry's profitability remained fundamentally unaltered, but African workers, as this paper has demonstrated, from the inception of capitalist mining, developed a variety of often successful techniques of resistance against exploitation.

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For reasons of space the footnotes and references in this article have been substantially reduced and the numbering changed. Anyone requiring the full paper and footnotes will be provided with this on request to the Editors, S.A.L.B.

FOOTNOTES:

1. *Rhodesia Herald*, 19/10/1901.
2. C. van Onselen, 'Worker consciousness in black miners: Southern Rhodesia 1900-1920', *Journal of African History*, 1973.
3. van Onselen, 'Black Workers in Central African Industry: a critical essay on the historiography and sociology of Rhodesia', *Journal of Southern African Studies*, 1975.
4. For two examples, see *Rhodesia Herald*, 7/7/1909 and *Bulawayo Chronicle*, 2/8/1930. The compound system is exhaustively discussed in van Onselen *Chibaro, African mine labour in Southern Rhodesia, 1900-1933*

- (Pluto Press, London 1976, (pt. 5))
5. E. Genovese, *The Political Economy of Slavery* (London, 1966).
 6. For details, see Phimister, 'Peasant production and underdevelopment in Southern Rhodesia, 1890-1914', *African Affairs*, 1974.
 7. D.N. Beach, 'The Shona economy : branches of production', University of Rhodesia, Henderson Seminar No. 29, 3/7/1974.
 8. E.C. Tabler (ed), *To the Victoria Falls via Matabeleland: The Diary of Major Henry Stabb, 1875* (Cape Town, 1967).
 9. Tabler (ed), *Zambezia and Matabeleland in the Seventies* (London, 1960), See also, H. Vaughan-Williams, *A visit to Lobengula in 1889* (Pietermaritzburg, 1947).
 10. S. van der Horst, *Native Labour in South Africa* (London, 1942).
 11. R. Luxemburg, *The Accumulation of Capital* (London, 1963).
 12. For examples of all these, see T.O. Ranger, *Revolt in Southern Rhodesia 1896-7* (London, 1967).
 13. For elaboration, see A. Memmi, *The Colonizer and the Colonized* (Boston, 1967).
 14. F. Fanon, *The Wretched of the Earth* (Harmondsworth, 1967).
 15. Beach, 'The Rising in South Western Mashonaland, 1896-7', University of London, unpub. Ph.D. thesis.
 16. N.A.R. N 1/4/1, Mining Commissioner, Victoria, to Secretary, B.S.A. Company, 19/6/1892.
 17. *Matabeleland News and Mining Record*, 21/4/1894.
 18. Phimister, 'History of mining in Southern Rhodesia to 1953', University of Rhodesia, unpub. Ph.D. thesis, 1975.
 19. H.C. Thompson, *Rhodesia and its Government* (London, 1898) The same author noted that 'the natives have a marvellous system of communicating with each other ... (they also) sing a funny little song. It was made by an Englishman, but they have

quite adopted it, and , what is more to the purpose, they act in accordance with it - "Ikona mali, piccaninny scoff, Meningy sebenza - this nigger's off", which may be translated thus:- "No pay and little scoff, Too much work - this nigger's off"'.

20. N.A.R. H.Mss. Misc/Dr 2, William Driver reminiscences.
21. N.A.R. N 1/1/3, NC, Hartley, to CNC, 10/9/1898
22. S 235/438, Assistant NC, Nuanetsi, to NC, Chibi, 7/7/1936.
23. S 1610, Compound Inspector, Mashonaland, report for September, 1944.
24. *Report of the Secretary for Native Affairs and Chief Native Commissioner for the year 1939.*
25. Chamber of Mines of Rhodesia, private papers, Minutes of Executive Committee Meeting, 20/7/1953.

TOWARDS A STABLE TRUCE

by Eddie Webster

(Amended version of a talk given at Merlen House Seminar arranged by Urban Training Project as a service to African trade union officials.)

'How does the union develop a relationship with management and retain its independence?'

It is possible to identify three stages in the growth of a union.

- STAGE 1 RECRUITMENT. During this stage the task of the union is to get members to join.
- STAGE 2 WINNING MANAGEMENT RECOGNITION. Many members have joined and the problem is that of winning recognition from management.
- STAGE 3 NEGOTIATING AND MAINTAINING AN AGREEMENT. The problem during this stage is to negotiate an agreement that ensures workers rights in the factories.

Winning recognition from management is a crucial stage in the development of a union as it enables the leadership to move from a period of loose membership to much tighter control over their members. They are able to achieve this tighter control because they can now demonstrate to their members their ability to achieve advances in wages and work conditions. They may even win from management a 'closed-shop' agreement.

It seems as if the majority of unregistered unions in Durban and Johannesburg are at Stage 2. There are two sides to winning recognition - getting management sympathy and support, and building up a strong organization in the factory.

GETTING MANAGEMENT SUPPORT

It is important to make management less frightened of the union. This is a summary of the fears management have of trade unions. (1)

- (a) unions are illegal.
- (b) they are vulnerable to outside infiltration and 'agitators'.
- (c) they cause unnecessary trouble such as strikes.
- (d) they are not necessary because the company is like a family. Disputes within a family cannot be settled by outsiders - what is called the third party argument.
- (e) Africans are not ready for unions.

Of course these arguments are not true, but it is important for you to listen to them and be able to answer them. Here are some of the arguments that can be used in reply to management when they say the following:

- (a) Unions are illegal:
There is no law which says that Africans may not form unions nor is it illegal for employers to negotiate with African unions. It is perfectly legal for an African union to negotiate an agreement with management and for that agreement to be legally binding on both parties. Of course it is true that unions for Africans is against Government policy - but opposition to the Government policy is not illegal in S.A.
- (b) Unions are vulnerable to agitators:
Union leaders are no more agitators than are management advisors who are brought from outside the company to advise on how to improve the efficiency of the company. Besides the union representatives are democratically elected by their fellow members and they are simply expressing their grievances. This is how conflicts are resolved in a democratic society - leaders are elected to represent your interests and if they concern themselves with issues that are not in their members' interests they will be removed from office. This is why we have a constitution.
- (c) They cause strikes:
Conflict results from the lack of a trust

relationship between management and workers. Where workers do not have representatives to bargain and negotiate with management strikes result. This is what a trade union is designed to do - to bargain with management instead of having strikes. Do not forget that the high numbers of strikes in Britain is not caused by the unions - they are overwhelmingly 'wildcat strikes'.

- (d) The company is a family:
The company is not like a family. The aim of a family is to bring up happy and healthy children. The aim of the company is to make money for the owners. In order to make money it tries to pay workers as little as possible. This leads to a conflict of interest between workers and management. Because the management have knowledge and power workers need the help of a trade union official to help them negotiate, Whether they need such help is a decision the workers must make - not management.
- (e) Africans are not ready for unions:
Africans first began to organize successfully into trade unions over 50 years ago through the leadership of Clements Kadalie in the Industrial and Commercial Union (I.C.U.). To suggest that they are not ready for unions either shows an ignorance of history or is a thinly disguised attempt to prevent them from emerging again.

ORGANIZATION ON THE FACTORY FLOOR

Arguments with management are important, but they are not as important as organization is. Management will really only listen to you if they believe that the workers are well organized and strong. It is no use starting a union today, and negotiating with management for recognition tomorrow. This means that before you begin to negotiate you must always ask "*Are we well enough organized to negotiate?*" As a guide to an answer to this question I want to suggest 5 preconditions before a union enters negotiation for recognition.

- (a) At least half the workers must have joined the union. To say that they must all be paid up members is unrealistic. My experience is that members continue to see themselves as members even when they stop paying subscriptions. (2)
- (b) You must have an elected factory committee - either a works committee or shop stewards committee.
- (c) This committee must have had some training by organizations committed to trade union organization in the principles of unionism, its history and structure.
- (d) When the factory committee decides to approach management they must do so only after full discussion with their members. Right from the beginning all members of the union should participate in drawing up demands and working out a plan of action.
- (e) After meetings with employers the representative must *report back* fully to the members. The members must know what is going on.

This question of keeping the trust of members is very important. Let me explain why. At a certain stage management may come to recognise that some form of unionism is inevitable. They will try and develop and control these unions themselves. I will call this type of unionism *coopted unionism*. Co-optation is a process whereby the leadership of a conflict group is absorbed into the dominant group's institutions in such a way that no shift in the balance of power takes place. The opposition conflict group is given a platform without an independent power base and so effective opposition is stifled without having to alter the distribution of power. This type of unionism is one where the union becomes a kind of junior partner of management. To illustrate what I mean I want to quote extensively from a recent study in Kenya. Speaking of this type of co-opted union the author says:

"Recognizing the utility of a mechanism to permit employees to 'blow off steam', management judges that

this may best be achieved by a union led by 'responsible' and 'loyal' employees. The policy is thus to recognize the relevant union and to contain or guide its development. The company provides assistance to the union in the form of training schemes and time off with pay for leaders. Management also understands that union leaders must not be put in a position where they might alienate their members; it is thus prepared to discuss major grievances and make a few concessions. Finally, management may easily be drawn into the union's internal struggles for power if its proteges are threatened or replaced by so called 'irresponsible elements'. The tutelary relationship was favoured by many of the larger and more progressive enterprises in the 1950's. Convinced that trade unionism was inevitable, these employers created the Association of Commercial and Industrial Employers in April 1956. This Association's policy toward the development of trade unionism followed that recommended by the Overseas Employers' Federation in January 1956, namely that 'the climate of world opinion is such today that the question is not whether employers are to encourage or to discourage workers' trade unions, but what sort of trade union is going to develop... Workers' trade unions will only develop responsibly if they are nurtured by employers. Thus, one of the aims of the Kenyan employers' federation was 'to attempt to guide the corresponding development of employee trade unions along the right lines'. The original idea was that only those trade unions led by 'responsible' leaders were to be recognised". (3)

What, then, is the difference between a co-opted union and a genuine trade union? The difference lies in the word democracy. Democracy means full and continuous participation of all the members of an organization. This is a genuine trade union, policy must be made by the members, and the actions of union officials must be subject to control by the membership. Of course this is not as easy as it sounds and there is a tendency for organizations - and this includes trade unions - to be controlled by a small group of people. But this is dangerous as it leads to corruption. The trade union leaders tend to forget about their members and they become more interested in pleasing management than their

members. This is dangerous for management too because it leads to discontent among the rank-and-file. The most obvious way to prevent this co-optation of the leadership is for the union officials to keep in close contact with their members all the time.

MAINTAINING AN AGREEMENT

Persuading management to recognize a union does not end the power struggle between management and unions. Two problems now present themselves.

1. The first problem is to negotiate a full agreement regarding wages and working conditions in the factory.
2. The second problem is to ensure that workers and their representatives keep to the agreement.

Both these problems raise the question of what is meant by recognition. The first aspect of the problem will be dealt with in a later edition of the S.A.L.B. However, an agreement would obviously include procedures for determining wages which includes piece rates, overtime, etc; minimum working conditions; a disciplinary procedure; and a procedure for settlement of disputes.

The second problem involves two aspects:

(a) There should be an agreed disputes procedure for handling all workers' grievances. This should include a *dismissal procedure*. Such a procedure is necessary to prevent victimization of a union member. Let me suggest three conditions for an adequate dismissal procedure:

- if a union member is fired then the reason for firing must be clearly stated and written down.
- there should be a special arbitrator or committee, agreed to by both management and the factory committee, whose job it would be to consider the member's case. No dismissal should be final unless this arbitrator or committee agrees.
- it must not be possible for management to use a reduction in work force in order to get rid of a factory committee member. Representatives must be the last to be fired if the number of workers is

reduced. The present law on Works Committees is not adequate - representatives need protection in the factory.

(b) Management should recognise a factory committee and give them the necessary facilities to carry out their work. For such a committee to function independently three things are necessary.

- the committee must be able to decide who can attend meetings - not management.

- the committee must be able to meet freely with the workers whom it represents.

- the committee must be able to get help from people outside the factory whenever it needs help - e.g. trade union advice. (4)

A TYPOLOGY OF UNION-MANAGEMENT RELATIONS

Where such a dismissal procedure and factory committee exists the union will be able to retain its independence. I will call this relationship with management a stable truce. At the very least, the stable truce requires a mutual recognition by both management and union that their interests are best served by accepting a more equal relationship in which each side stays out of the others internal affairs entirely. More positively, management may decide that a strong, independent union is beneficial in that it would be able to ensure that employees honour their obligations under collective agreements and refrain from making unreasonable demands.

I have suggested two types of union-management relations - a co-opted union where management does not allow the union leadership to develop an independent power base in the factory, and a stable truce where the union is able to challenge the management through an independent power base. This involves the recognition of the right of union members to withdraw their labour if negotiations fail. Such a truce situation we shall call reformist to distinguish it from co-optation.

By way of conclusion I want to suggest a third type of union - management relationship. Management may agree to recognise the union reluctantly and when the

opportunity arises they will try and undermine it - this type of union-management relationship may be termed an unstable truce. In this type, management either makes no effort to safeguard the prestige of union leaders or attempts to weaken the union by assisting cooperative challengers or by victimizing or buying off the more militant leaders with promotions, better pay or special privileges. Union leaders, for their part, do all they can to stir up resentment against management. The result is bad industrial relations and a high strike record.

Of course, in practice these three types are not static. For example, management may start off reluctantly and in the course of its dealings with the union may recognize the positive value of an independent union. In such a case an unstable truce is transformed into a stable truce. On the other hand, a reluctant management may try to avoid independent unionism by co-opting the union leadership. What enables an unstable truce to be transformed to a stable truce in one case and co-optation in the other? The answer is simple - a strong organization in the factory. A stable truce in industrial relations depends on democratic and strong organization in the factory.

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FOOTNOTES

1. This summary is based on arguments developed in *The Workers' Organization*, Institute for Industrial Education 1975 and Schlemmer and Boulanger *Race and Employment in Durban*. Paper given at Institute for Social Research Workshop on *Economic Growth and Political Change* 1974.
2. Unpublished research data gathered by Judson Kuzwayo as part of a study on African attitudes to trade unions in Durban. 1975. Undertaken with the author.
3. Richard Sandbrook. *Proletarians and African*

Capitalism: The Kenyan Case 1960-1972. Cambridge University Press, 1975. p. 146-147.

4. These arguments are developed more thoroughly in Chapters 6 and 7 of *The Workers' Organization*.

A REVIEW OF SOME 'POPULAR' ANTHROPOLOGICAL
 APPROACHES TO THE UNDERSTANDING
 OF BLACK WORKERS

by David Webster

The purpose of this review is to evaluate the kind of material an employer of black labour might turn to for information when trying to deepen his understanding of his work force. Unfortunately, academic anthropologists seldom write for the general public and, for many years now, the complicated ethics of applied anthropology have discouraged many social anthropologists from indulging in work that could be manipulated against its subjects. Almost by default then, the field has been left open for popular writers such as E. Raymond Silberbauer and Dr Peter Becker. Neither is a social anthropologist, but their subject-matter falls within the ambit of that discipline, and both the general public and industry have come to regard them as experts in African 'problems'.

Silberbauer is the less-known to the general public, but his impact on industry, especially mining, is the greater. He is the Director of the Bantu Wage and Productivity Association and is a consultant on personnel problems relating to blacks; his services are widely used, and he has widely-read publications such as *The African You Work With* (1967) and *Understanding and Motivating the Bantu Worker; a Productivity Book*.

His influence is spread by lectures and handouts with titles such as, 'General limits on how to handle Bantu' and '50 things to do with Bantu workers' (sic). Recently Goldfields of South Africa produced a film *A World of Difference*, with Silberbauer as consultant on the script. The film attempts to show the large cultural gap between black and white and is an appeal for greater understanding on the part of the white supervisors in dealing with black labourers.

Peter Becker's recent book, *Tribe to Township* (1974) describes him as an 'internationally acclaimed expert on African customs, beliefs, history and languages'. Well-known to the general public through newspaper articles and popular books on African history and anthropology, he does not write specifically on

labour problems, but deals with some in a section of the abovementioned book. Becker works in an advertising agency, and is consulted by industry on African affairs.

The two writers operate from what appears to be a sympathetic, but paternal 'liberal' position, from which they genuinely want greater understanding of blacks by whites, but their strategies are different. Becker demonstrates 'tribal' wisdom, and that it shouldn't be underrated, while Silberbauer, speaking from within the work context, tries to show that blacks are 'different' and special steps must be taken to allow for these differences. Both seem to think that the panacea for all labour problems is communication and understanding - improve that, and worker discontent will disappear. There is no doubt that in our prejudiced and race-overlaid society there is much room for improvement in communication, but our labour problems run much deeper than this superficial analysis can expose.

Analytically, the two writers are poverty-stricken. They lack any kind of theoretical framework which could lend strength to their arguments, and their presentation is consequently episodic, anecdotal, and relies entirely on apt illustration for the points being made. Silberbauer often prefaces his little homilies on worker communication by reference to 'the African'. Becker veers wildly from personal anecdote to sweeping generalization; one wonders just how much weight one can attach to their assertions.

The most serious charge that can be levelled against them, and one which goes to the heart of the matter, is that neither is prepared to face the dominant facts of South Africa's political and socio-economic life: that the country is subject to the policy of separate development and, in earlier times was subject to a system which was not so openly coercive, but was nevertheless exploitative. To be black in South Africa means one is powerless, subject to influx control, job reservation, inadequate housing and health facilities and the lack of trade union representation. All these factors (and more) affect black workers in a fundamental way, and must be

considered when judging his productivity and efficiency.

Neither Becker nor Silberbauer analyses the political economy in which black labour is located. The latter particularly deals with migrant labourers, yet fails to come to grips with the reasons why labour is forced to migrate. They use the facile technique of imputing individual motivation, but as Gugler (1968) and other writers have shown, such explanations are generally of the 'last straw' type - there are usually a multiplicity of reasons for a decision to migrate; the economic underlies them all.

Migrants are particularly disadvantaged: their position is tenuous, so they are less committed to their jobs than permanent workers. They are unskilled because the employers do not want to invest much in training labour which may not return to them. Their lack of skills means that they are often called on to do the most arduous, dangerous, dirty or boring jobs, often at humiliatingly low wages. Migrants are often forced to live in hostels, e.g. mining compounds, which provide artificial and disorienting social conditions, with lack of privacy, uncomfortable bedding, and lack of women. Such conditions must affect the worker in the workplace, at a fundamentally deeper level than mere communication with his white supervisors.

Taking a closer look at the work of firstly, Silberbauer, we find an overweening paternalism. He gives the impression of African workers being hide-bound by custom, which the employer should accept with patience and fortitude. One piece of advice offered is for supervisors to be eventempered because, 'The African (sic) is constantly on the look-out for the influence of spirits. Moodiness in the supervisor may puzzle and worry the worker because it may seem to be due to the influence of an evil spirit' (1967, no. 49).

The paternalism shows through in most of Silberbauer's work, perhaps nowhere as explicitly as in no. 34, where he claims, 'An African said: "We put the White supervisor in place of our father"', followed by an injunction to conduct oneself with the serious

demeanour befitting a father, and not to 'lark about' since 'familiarity breeds contempt'. Most black workers would be offended by such a caricature of their attitudes. In homily no. 63, and in the film *A World of Difference*, he offers an insight which can only be based on ignorance: 'The migrant African who comes to work in town is not accustomed to doors and the ritual of knocking and waiting for an answer'. Rural blacks *do* have doors on their houses/huts; indeed, his own film shows a Venda village with every hut with tightly closed doors.

Silberbauer perpetuates (usually with the best of intentions) ignorant racial and ethnic stereotypes of the sort that are drummed out of every first year anthropology student, such as, 'Compared with the other Black peoples of Africa, the Southern Africans have perhaps the greatest sense of humour' (no. 33) and 'Often the Africans are colour-blind but can't tell you because they have never seen colour' (no.45). The latter point no doubt arises from a superficial understanding of African cultures. The fact is that, in most vernacular terminologies, there is one term for, say, the colours red, orange and yellow. This does not mean that Africans are colour blind, for they are perfectly capable of distinguishing the different colours; it is just that, in their culture it is not of great significance to do so.

There are times, however, when Silberbauer displays real insight and understanding of the problems faced by black workers. He talks of the inadequate diet of many workers, poor housing, the need for dignity and security, and the difficulties of social change. He calls for sympathy for the plight of a worker who may have to set out for work before 4 a.m. and return after dark (no. 61). But, regrettably, such accurate assessments are all too rare, and one finds old stereotypes reinforced, or replaced by a new set of inaccurate ones.

Silberbauer is most culpable when he persists in insulting the intelligence of blacks in general, and workers in particular. He denies the African's ability to work with abstract concepts or numbers (no.62 and 71), urges one to speak slowly and to get the worker to repeat instructions given him (no.76).

His ethnocentrism and supremacist views are exemplified by his assertion that blacks in town may lose their 'moral compass' and need to be shown a 'firm moral example' (no. 65). But let Silberbauer's own words in a dictum that seems central to his understanding display his attitudes:

'The urban Africans are living betwixt feudal tribalism (sic) and the present industrial age. They are in a no-man's land and they need help to make a landing on the beaches of intellect and morality of the modern world' (no. 74)

Disillusioned with Silberbauer's ability to deepen our knowledge of black workers, let us turn our attention to the work of Peter Becker, who purports to be an authority on Africans. Of all his work, the recent *Tribe to Township* touches most on the areas of interest here: migrant labour, urban blacks, attitudes to work, and black-white relationships. Unfortunately, the work is characterized by superficiality and simple-minded abstraction. Not for nothing is he sometimes referred to as 'the Tretchikoff of anthropology'.

A chapter entitled 'Black meet White' dismisses in the page-and-a-half format that characterizes most chapters in this book, the problem of black-white confrontation in early S.A. The border wars, the bloody battles that took place between the black inhabitants and their white adversaries who appropriated their land, are rendered thus:

'Mamba-tongued lightning strokes the skies, and the thunder we hear is the thunder of sour smelling smoke and of gunfire mingled with the rumble of charging feet, the rattle of assegai blades on oxhide shields and the droning throats of warriors black, befeathered and befurred'. (pp. 123-4)

Such a glib gloss over the complexities of black-white war-fare in the early years of South Africa does not even scratch the surface of the complexity that lies beneath it. How did the wars end? Who won, and what was the cost in terms of black

dispossession and oppression? Becker sidesteps this thorny one as if it wasn't there - his description is empty of analysis and descends to facile pathos:

'But war begets war and as the years move on the struggles continue between fighting men... we call out loud, 'Will this not end?'' (p. 124)

With astonishing naivete, Becker resorts to his thunder metaphor to precipitate the reader into his understanding of the origins of migrant labour, begging the whole question of the relationship between border wars and the proletarianization of rural blacks. But let Becker speak for himself:

'And it (the warfare) does end, for now the thunder we discern is not preceded by lightning, for it is the thunder of the mining machines mingled with the voices of work-giving White men calling upon all to replace their weapons of slaughter with the tools of labour. So we move on in retrospect observing the birth and growth of market villages, factory towns and mining cities. And the veld, we observe, has become patterned like a spider's web, with footpaths trodden by black men answering the white work-giver's beckoning finger.' (p. 124)

As readers of perceptive analysts such as Colin Bundy (1972) and Arrighi (1973) are aware, the 'beckoning finger' of the 'White work-giver' was more often than not a mailed fist, sometimes disguised with kid gloves. Taxation, land appropriation (culminating in the 1913 Land Act, which finally allocated only 13% of South Africa's land to Blacks), the forming of co-operatives by White farmers (to keep out black competition), the lack of infrastructure (to facilitate the marketing of black peasant's surplus produce) and other more subtle coercive measures, all had the cumulative effect of forcing the black man into the service of white industrialists and farmers. Becker's facile gloss of what is a subtle and complex interaction of forces is not merely obfuscation, it is blatant distortion of the evidence.

Becker persists with the view that migrant labour is undertaken from purely voluntary motivation of individuals who perceive market opportunities opening up before them. The Great Depression affected all South Africans, not least the migrant workers, who were laid off in their thousands, causing great hardship. The Second World War provided these workers with an opportunity to regain their employment and ameliorate their rural poverty. Again, let Becker's purple prose give his interpretation:

'In 1939, when suddenly the world was ignited with the flames of battle, tribal South Africa interpreted the smoke-filled skies as summoning all able-bodied men to cities now bustling with activities of war. So hordes of potential workers, some accompanied by their loved ones, took leave of childhood friends and haunts, and headed zestfully for... (urban areas)... where in days gone by not a few had worked as mining men. Hearts throbbed with happy expectation. A new era was about to dawn.' (p. 125)

A new era indeed - the boom of the war years ended for blacks when white soldiers returned from the war to find many of their jobs had been taken. Industrial unrest ensued, and Afrikaans-speaking labour and capital combined to produce the Nationalist victory of 1948, with the most rigid and anti-black coercive policies yet employed in South Africa. But Becker sees only optimism in the situation, and describes the idyllic city of Soweto, replacing the sprawling slums, 'with amenities hitherto undreamed of' (p. 125). Surely not even Soweto's most enthusiastic propagandists would agree with such claims.

The reader who seeks a deeper understanding of relationships in the workplace, especially with regard to migrant labour, will be met with an uncritical paean of praise for the employers that borders on propaganda: 'Our mining industry leads the field in fostering the soundest race relations... The facilities for its six hundred thousand Black workers are magnificent to say the least' (p. 147). Soundest race relations? When, in the year preceding the publication of his book, black miners were killed

in compound confrontations, which were described as inter-ethnic 'faction fights' (*South African Outlook* April 1975, p.50). Thousands of black miners especially those who live in the older compounds, like City Deep or Crown Mines, would also take issue with him on the subject of 'magnificent conditions', where men still sleep, twenty to a room, on concrete bunks. Admittedly, conditions are improving, and the poverty-level wages (a factor Becker chooses not to discuss) are rising. Points such as these show up disingenuous claims like, 'The hostels are furnished as only those who have worked before in homeland hotels have seen' (p. 147). This is either a comment on the number of hostels Becker has himself seen, or a searing indictment on homeland hotels.

In a country where black workers are denied the legal right to be represented by trade unions, and many are inadequately represented by works and liaison committees, it would be interesting to see what Becker says about worker attitudes to their employers and employment. It seems he feels constrained to explain away African indolence. He and Silberbauer resort to the image of tribal man tilling fields and reaping by the work party system, where time is of no importance and effort is a personal matter, there being no supervision. Their argument is that these 'tribal workers' had difficulty in adjusting to the white man's ways, and particularly his work patterns, and that they still do (p. 128).

There is an underlying tone to this type of argument which, at best, can be seen as ethnocentrism and, at worst, racism. Blacks are not as unintelligent as this picture he paints of them; as Max Gluckman argues, 'a miner is a miner' and should be seen as such. A black, as much as any other person, is adaptable, and finds himself subject to the same social and physical environment in the town or workplace, as any other worker, and responds to it in terms of its own demands. If many blacks (especially migrants) are considered indolent or lazy, perhaps one should look to their work situation, examine their wages and, if these are unsatisfactory (a fairly safe bet), is there not a strong case to be made for

the fact that these men are consciously withholding their effort from their employer, whom they perceive as exploiting them? This is a common low-level strategy used by workers in situations where protest is not allowed in an organised and legitimized (in the eyes of the worker) form.

Becker's lack of an analytical framework is nowhere more glaring than when he tries to account for urbanization/westernization/social change. He again accounts for all of them in terms of the 'individual choice' argument, which ignores the fact that there are governments, economic conditions and socio-cultural changes over which the individual has no control. His recourse is to a metaphor again: westernization/urbanization should be seen as a many-runged ladder, (pp. 135-7) the upper rungs of which represent the most urbanized (civilized?). The ethnocentrism of this view is apparent - 'tribal' life is a lower form of society, and that 'western', urban ideals are the pinnacle of achievement.

CONCLUSION

Both Becker and Silberbauer give the impression that black workers have only very recently been exposed to western culture and its technology. This impression is gained from their emphasis on the immense leap a black worker has to make from his cultural background to conditions at work. Both writers are undoubtedly operating from a sympathetic and at times liberal point of view, but they achieve an unfortunate and erroneous impression of a kind of pristine tribal life - rural, untouched - on the one hand, and westernization, urbanization and industrial work on the other.

The truth of the matter is that blacks have been exposed to 'westernization' for centuries, and many urban blacks are now fifth generation or more. Neither writer raises the problem of apartheid and its constraints, nor do they have any framework which would deepen their analysis. The homelands, for example, are an integral part of South Africa's political economy; they are the underdeveloped periphery to the industrial complex, acting as labour reserves. The apartheid laws, though perhaps

not as keenly felt, are ubiquitous in the homelands, and the effects of the South African economy are, if anything, more keenly felt in the rural areas, poverty-stricken as they are. Becker's 'tribal' garden of Eden misleads; if one wishes to understand one's worker, he must be seen as a total man - the problems he faces at home are not separable from his performance in the workplace.

But whom can one turn to in the anthropological field for the kind of insights into black workers that these two authors so signally fail to provide? The answer is complicated by the fact that the question itself is based on racist premises. Why should a black worker be so different from any other worker? Perhaps if he were not treated as a 'problem' *a priori*, he might not be one. Black workers should be treated as any other worker, and if one wants insight into his problems, general texts on labour should be consulted. Berger and Mohr's *A Seventh Man* is as applicable to South African migrant labour as to the migrants of western Europe it deals with. Finally, if one persists in wanting anthropological approaches to labour problems in Africa, one could do worse than consult Buraway's *The Colour of Class*, Kapferer's *Strategy and Transaction in an African Factory*, and Epstein's *Politics in an Urban African Community*.

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A REVIEW OF THE TRADE UNION INDUSTRIAL STUDIES SERIES. (SOCIETY OF INDUSTRIAL TUTORS, ARROW BOOKS, LONDON 1975).

by Timothy and Martin Plaut

The Trade Union Industrial Studies series, published for the Society of Industrial Tutors, is innovatory in at least two respects. Firstly, in being "specifically directed to the needs of active trade unionists who want to equip themselves to be more effective" (1), the series consciously breaks away from academic treatises and attempts to provide a more penetrating view of those aspects of social reality which immediately present themselves to the active trade unionist. Secondly in planning at least 15 volumes, the series hopes to provide a rounded totality rather than a number of jabs at disparate problem areas.

The series is divided into 3 sets: 1. The key skills. 2. The bargaining context. 3. Understanding industrial society. One volume in each set is termed a resource book and attempts to clarify matters raised in the 4 companion volumes providing an entrée into additional reading and questions. We shall discuss here the first set to be published: "*The key skills*", with special reference to the reference book which bear the name of the set, the "*Organised Worker*" and "*The Activists Handbook*".

THE "KEY SKILLS" HANDBOOK AND "ORGANISED WORKER"

Tony Topham's "*The Organised Worker*" (Arrow Books, 1975, London) is aimed specifically at shop stewards. It moves through a succession of issues: the definition and role of the shop steward, the initiation of a union organisation and its subsequent recognition on a particular site. This is followed by an outline of the difficulties of maintaining the organisation, with special reference to intra-union relations and the delicate balance between discipline and democracy at all levels. The next chapter discusses formal and informal workers regulations of a non-wage nature, whilst chapters five to seven analyse and explain different negotiating procedures at all levels and weigh up such techniques as productivity bargaining, alternate wage systems and procedures for settling disputes. Finally, the last two chapters outline

wider issues of trade unionism. Chapter eight delineates the extension of the role of unions into non-wage concerns, such as environmental protection of workers representation on management boards, as well as the extension of the facilities offered by the trade union movement. The last chapter attempts to situate industrial relations within the social totality simply by sketching three views of industry: as a harmonious partnership, a resolution of conflicts and an authoritarian employer-dominated system.

It is appropriate to pose two critical questions in reviewing this work. To begin with we might enquire as to the theoretical stance adopted by the authors. "The Key Skills" resource book emphasises the value of pertinent information, a basic grasp of arithmetic reasoning and the on-going education of all union activists. Bacon's "For knowledge itself is power" is approvingly quoted.⁽²⁾ Tony Topham in a chapter of this volume does attempt to extend the concerns of these shop-floor manuals by including an exposition of orthodox economic and industrial relations views of trade unionism as a whole. Whilst expressing an antipathy towards the institutions and processes of capitalism, Topham is critical of the radical rejection of trade unionism in toto and concludes that: "This author regards himself as belonging to that tradition which stresses the positive values revealed in trade unionism: its democracy, its sense of brotherhood and its social and political aspirations."⁽³⁾ Topham fails to understand that the critique of unionism is not antagonistic to trade unions as such, but to its limited and limiting role within the totality.

We turn our attention now to a second query, namely the pertinence of these books to the South African labour movement. There is much of value in this regard, as these volumes bring together a wealth of material geared to equipping the trade unionist with those skills that are essential in a world attuned to competition and technical instrumentality. Hence workers are informed how to study, the basics of statistics and their application and the use of a library. At every stage exercises are provided

to ensure an active participation by the worker in his education. Whilst these volumes are written for workers in one of the most mature trade union movements, South African unionists will benefit from the close attention to practical problems of a universal type. For example, the chapter on Organisation and Recognition in "The Organised Worker" outlining ways of avoiding victimisation and management. Similarly the emphasis upon the dangers of redundancy resulting from wage agreements, the necessity of worker participation in regulations regarding their immediate work environment, and other points are clearly important as the labour movement gains strength. Many of the topics are, however, inappropriate to South African conditions as they assume a liberal state and a far deeper organisation of the working class.

THE ACTIVISTS HANDBOOK

As the thought of an "Activists Handbook" brought out in a series of "Trade Union Industrial Studies" may send shivers down the spine of the average South African Manager and cause the Censor Board to break out in a cold sweat, it may be opportune to inform the pillars of society that the most radical aspect of the book is its title. This manual aims to provide 'activists' with skills and techniques so as to make 'more than futile gestures', as the subtitle puts it. The 'activists' the author has in mind range from shop stewards and trade union personnel to the broad category of men and women running voluntary organisations.

The book has a number of drawbacks when considered for a South African market. It is written in a working class vernacular, which although perfect for a British audience, may prove difficult locally. The imagery, language and examples would certainly be foreign to most South African readers. While this is a drawback as far as the present book is concerned, it provides a most valuable example of the kind of publication that can be expected to appeal to a working class readership. The reader is carefully nurtured by being made to feel at ease by the author's relating of incidents from his own life and pre-empting questions that are likely to arise. The chapters are

short, so as not to provide too formidable a challenge to the worker attempting to digest its contents after a days work.

The first section is an introduction, and it is in the second section that the book really gets going. Here the author discusses roles, relationships, social power and social groups, and it is here that the conservative nature of the book is clarified. The argument is couched in the inherently regressive categories of Structural Functionalism, such as goals, roles and institutions. These allow the author to concentrate on the functional and disfunctional nature of particular actions within an organisation. At no point is the linkage between organisations, activists and the society in which they exist discussed. The critic from outside the formal organisation is considered little better than a peeping Tom. Nor is the role of the activist ever spelled out, except as being '... to keep the action going.' He maintains that: 'The activist's *role* is quite distinct from his *job*, which makes him an amateur in the true sense of the word: he does it for love.' (p. 20, emphasis in the original). It is clear that the notion that a job might not be simply a means to an end, but is an integral part of life: a life that can not be reduced to the technical fulfillment of certain functions, has not been considered. In short, this book presents the activist from the perspective of a shop-floor consciousness. The worker is simply seen as an employee, without the inherent possibility that he might become a producer.

The third section is called 'Working the System' and is aimed at providing the 'activist' with the ability to do just that. It teaches him or her to undertake such tasks as writing reports, making speeches and running committees. It is witty and informative and could be of use to anyone having to act within the framework of an organisation.

The fourth section deals with techniques designed to facilitate contact with the media. The mechanisms by means of which the news operates are carefully spelled out. Ways of contacting reporters, methods of making the most out of a television interview and

how to get coverage for campaigns are systematically dealt with. The author is clearly aware of the problems faced by the working class in dealing with situations which, for the most part, their situation does not equip them. While many of these instructions may be useful for personnel officers in South Africa, the climate in this country is not, at present, conducive to providing the working class with the coverage it has enjoyed in the First World. We are yet to see the first sympathetic interview with a black trade unionist on Television.

Despite its weaknesses this series is well worthwhile reading and digesting. It is carefully constructed and could provide a useful model for writing aimed at local conditions, of which there have been a disturbing shortage. These books are also of interest to those students of both British current events and industrial relations as it provides an insight into the tone of debate among people active within the trade union movement. As sections of the South African public are only too ready to pontificate on the role of the trade union movement in the current British crisis, this series may well play a didactic role.

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1. From the frontispiece to all the studies in this series.
2. *The Key Skills* Cobert, and Stuttard G. (eds.) (Arrow Books, London, 1975), page 13.
3. *ibid.* page 95.