



AFRICAN NATIONAL CONGRESS

DEPARTMENT OF POLITICAL EDUCATION

P.O. Box 31791, Lusaka, Zambia, Telephone 219656/7 Telex 45390.

Our Ref: B1/88

THE ANTI-LABOUR RELATIONS BILL

This is a briefing document issued to all RPCs, the Commissariat, and copied to other sections/departments of the movement

CAMPAIGN AGAINST THE BILL

Published in September 1987, the Bill is a revised version of a draft issued in December 1986. The original version aroused much criticism from progressive trade unions, some employer associations and members of the legal profession. The present Bill, which is only slightly different from the first draft, was submitted in November 1987 to the Parliamentary Standing Committee on Manpower Affairs which invites comments from interested parties.

Officially called a Bill to Amend the Labour Relations Act of 1956 - actually enacted in 1981 - the draft is the focus of a growing campaign to compel its withdrawal.

Opponents are forming groups to enlighten people about its aims, content and dangers to free trade unionism and the civil rights of the entire population. Systematic efforts are being made to mobilise the unions, national liberation movement, members of the Five Freedoms Forum, and local committees of the United Democratic Front. Appeals for support are being issued to religious bodies of all denominations opposed to apartheid. The international labour movement is also being activated through the World Federation of Trade Unions, the International Federation of Free Trade Unions and the International Labour Organisation. The campaign is intended to create a broad basis for a world-wide demand for the withdrawal of the Bill.

FOUR SETS OF PROVISIONS REQUIRE URGENT ATTENTION. They concern:

- * The right to strike;
- * restrictions on the powers and jurisdiction of the Industrial Court;
- * closed shop agreements and action taken against non-union members in disputes;
- * effects on unregistered unions.

Before we discuss each of these items in turn, something has to be said about the Labour Relations Act (LRA), its history and importance to the trade unions and the national liberation movement.

The Labour Relations Act: A Victory for the African Working People

African workers won a great victory in 1979-81 by forcing Pretoria's racists to do away with race discrimination in the labour laws. This is the only real reform carried out by the regime. As we have seen, however, it is now trying to backtrack by means of the draft Anti-Labour Relations Bill.

What specifically are the 'reforms' brought about by the LRA? In short, it

- a) includes Africans in the definition of 'employee';
- b) provides for the official recognition of their union;
- c) admits them to industrial councils and conciliation boards;
- d) does away with statutory job reservation and trade union segregation;

e) sets up an Industrial Court with powers to protect workers against 'unfair labour practices'

f) recognises a lawful right to strike within narrow limits.

Trade unionists took advantage of these gains, making spectacular advances in the early 1980s. Some 20% of the 7 million gainfully employed workers belong to trade unions, many of whom are grouped in federations. COSATU, the largest of these, claims a signed up membership of more than a million. Its Second National Congress, held in July 1987, showed an impressive growth of political understanding in a number of resolutions denouncing apartheid policies. In contrast to the 'non-political' stand taken by white dominated unions, the Congress adopted the aims set out in the Freedom Charter as a statement of its immediate objectives.

This trend towards political action is in keeping with world-wide experience. When workers who suffer class oppression have established a firm trade union base for collective action, they invariably move on to demand the right to vote, form political parties, take part in decision-making at all levels of government and compete for control of the state itself. These are the demands of the African National Congress and the entire national liberation movement. Black trade unions, regardless of ideological differences and special interests, fully support the demand for a new constitution for a democratic society that will sweep away the hangovers from a colonial past, do away with all forms of race oppression and enable people to lead normal lives as free citizens in a free society. Apartheid structures must be uprooted and destroyed.

NO POLITICS ALLOWED IN TRADE UNIONS - Pietie du Plessis

The Minister of Manpower, P. du Plessis, told the Cape National Party Congress that unions were a 'new concept' for Blacks who had been granted unions rights only in 1979. This, by the way, is a misleading statement. The history of African trade union organisation goes back to the 1917-20 period after the first world war when Clements Kadalie of ICU fame, the ANC, and communists laid the foundations of African Trade Unionism. What the Minister had in mind was the new labour law introduced in 1979 that extended the system of statutory collective bargaining and registered trade unions to African workers for the first time in South Africa.

Du Plessis went on to explain that Africans 'did not yet have the experience of older unions' (Cape Times, 13/11/1987). He denied, however, that strikes were getting out of hand. In fact, South Africa had fewer strikes than other industrialised countries, specifically Britain, United States, and the EEC. South Africa's labour system, he claimed, was a success and its labour legislation 'among the most advanced in the world'.

There was, he admitted, a slight problem. 'Unhappily, certain radical elements had begun to infiltrate unions and certain union leaders were politically inspired', using the unions to destabilise and bring the economy to a standstill. Many were 'being held' - meaning detained under emergency laws - 'because they had made themselves guilty of undermining the security of the state'. The government would not act against leaders who confined their attention to the wages and working conditions, but if they moved out of the labour field they then became a fitting matter for the security police.

He assured employers that under the proposed amendment to do the LRA union members guilty of striking illegally could be summarily dismissed without recourse to any court for a restoration order. The Bill would make it illegal for a union to strike twice on the same issue in a 12 months' period, outlaw 'sympathy strikes', and defined 'unfair labour practices' in such a way as to assist employers to follow correct procedures when dismissing workers.

The Minister's task was to provide a dose of soothing syrup to Nasionale party members who want employers to 'hit back' at unions that demand improved wages and working conditions; and the government to take action against the 'increasing number of strikes that are politically inspired'. The amending Bill, he assured delegates, would do just that. With this background in mind, and confident that no amount of threats will stop working people from demanding political rights to consolidate their gains, we can proceed to examine the Bill's main clauses.

COLLECTIVE BARGAINING AND THE RIGHT TO STRIKE

The two are closely linked like Siamese twins. P. Benjamin and H. Cheadle give the essential reason for this intimacy. ('Proposed Amendments to the Labour Relations Act. A Critical View'. S.A. Labour Bulletin, v.13, No. 1, Nov. 1987, p. 79)

Although strikes are unlawful if they fail to conform to procedures laid down by the LRA, illegal strikers have not been prosecuted for a number of years. The official National Manpower

Commission actually recommended in 1984 that criminal penalties for illegal strikes should be repealed for both technical and political reasons. Police intervention and prosecutions have a bad effect on labour relations, tending to provoke rather than settle disputes.

South Africa's Labour laws in common with industrial legislation in developed economies therefore provide a measure of protection to unions and workers taking part in strikes that reinforce collective bargaining structures. Section 78 of the LRA grants immunity to registered unions against restraining orders - known as 'interdicts' - and actions for damages arising out of a lawful strike.

These include 'sympathy' strikes under the present Act. The draft Bill would make them illegal.

The labour movement has to cope with the ability of monopoly capitalism and multiple owners of firms to transfer production from one plant to another to frustrate a strike. The workers' response to this manoeuvre is to call on employees in the second plant to down tools in support of the strikers in the first plant. The Bill proposes to make the secondary strike unlawful. Workers would commit a crime by taking part in a strike arising out of a dispute in which they are not directly involved; or by going on strike for the same cause twice within 12 months. Other impediments to lawful strikes contained in the Bill involve changes to procedures laid down for Conciliation Boards and Industrial Councils, the key institutions in the system of collective bargaining.

Furthermore the Bill would greatly weaken the protection now given to unions against claims for damages arising out of strikes and make unions responsible for the actions of any member who provokes an unlawful strike. The purpose is to force unions to stop 'wildcat' strikes or pay damages claimed by employers for losses suffered caused by the strike.

A long and complicated definition of 'unfair labour practices' in the Bill would penalise commercial boycotts, other kinds of solidarity campaign organised in support of strikers and attempts to expel 'scabs' who refuse to join a union having a majority of the workers employed in a plant. The aim of the proposed amendment is to resist the demands of unions for exclusive bargaining rights; the effect will be to encourage the emergence of minority and racially exclusive unions.

Finally, the proposed introduction of a special labour court should be noted. Its function will be to decide on questions submitted by the industrial court, review its decisions and hear appeals from unfair labour practice cases. The effect would be to downgrade the status and weaken the power of the industrial court which is a popular forum among unions and workers for legal redress against arbitrary and unjustified dismissals.

DEFEAT THE BILL

A massive campaign to force the regime to withdraw the Bill, needs to be mounted. Large scale efforts are needed to explain its purpose to Trade Unions and Workers generally (Obviously SACTU co-ordination is needed) to mobilise them for action, and enlist the support of the international working class and the solidarity movement generally.

All forms of mass action, positive action, should be developed in each region.

DOWN WITH THE LABOUR RELATIONS BILL!

DEFEND THE RIGHT OF OUR WORKERS TO STRIKE!

**STRENGTHEN THE LABOUR MOVEMENT AGAINST MONOPOLY CAPITALISM
AND ITS BEDFELLOW, APARTHEID!**

Issued by the Department of Political Education
LUSAKA.

February 5, 1988.