

## *Participation on the National Manpower Commission (NMC) and similar organisations*

The CENTRE FOR APPLIED LEGAL STUDIES (CALs) looks at some questions around the NMC

**M**ost statutes governing labour relations create an advisory body to advise the Minister of Manpower on policy and other matters. The best known of these organisations is the National Manpower Commission (NMC) which was created by the Labour Relations Act. The National Manpower Commission can make recommendations to the Minister on all labour matters including the labour policy that the State should adopt. The Commission can also conduct investigations on all matters related to labour relations and also do research.

There are three other bodies which advise the Minister of Manpower:

- The National Training Board (NTB) advises the Minister on the training of workers and the unemployed;
- The Advisory Council on Occupational Safety (ACOS) advises the Minister on all matters falling under the Ma-

chinery and Occupational Safety Act;

- The Unemployment Insurance Board (UIB) advises the Minister on unemployment insurance benefits.

These four bodies have three important features in common:

- All have representatives of the trade unions, employers and the government serving on them. They are often called "tri-partite" organisations.
- Their powers are limited to giving advice and making recommendations to the Minister. He must consider their advice but he does not have to follow it.
- They have the power to conduct investigations and do research on the issues in which they are involved.

All organisations have equal numbers of employer and employee representatives. On the NMC and the UIB there are many more employer and employee rep-

representatives than State representatives. The NTB and ACOS on the other hand have a majority of representatives of government.

### Other advisory bodies

Some of the other advisory bodies have wide-ranging powers. For instance, no regulations may be made in terms of the Machinery and Occupational Safety Act unless they have been considered by the Advisory Council on Occupational Safety. The Unemployment Insurance Board hears appeals by workers who are refused benefits. It has the power to decide that workers may receive certain unemployment benefits in addition to those they are entitled to in terms of the Act.

There is no advisory body created by the Workmen's Compensation Act. This, according to the government, is because only employers make contributions to the Accident Fund from which compensation is paid. A body similar to ACOS, the Mine Safety Committee, exists to advise on safety in the mining industry.

### Recent developments

Until recently, the trade union representatives on these organisations came from the established, predominantly white, trade unions. Since 1990 this has changed and COSATU now sits on both the NMC and the NTB.

COSATU's participation on the NMC followed the

Pretoria Minute signed by the Department of Manpower, SACCOLA, COSATU and NACTU in September last year in which it was agreed that all labour legislation should enjoy the confidence of the major actors in the labour arena (in other words, the major trade unions and employers' organisations). It was this Minute that also led to the enactment of the amendments to the LRA in May 1991 which had their origins in the COSATU/NACTU/SACCOLA accord.

### Future role of NMC

COSATU's participation on the NMC, in particular, has raised questions about the future role of these organisations.

Firstly, COSATU has demanded that the NMC be restructured so that it becomes more representative of the major organisations such as COSATU, on the union side, and SACCOLA, on the employer side.

Secondly, once the NMC is restructured, should it remain a debating shop that can only give advice to the Minister, or should its powers be extended? COSATU's view is that

□ once the NMC represents the major trade unions and employer groupings, the Department of Manpower cannot merely choose to ignore its advice. (For instance, it believes that the NMC should be able to block legislation if its members

agree that the law should not be passed.)

□ functions of the Department of Manpower, such as considering objections to proposed new laws, should be taken over by the NMC.

These changes would transform the NMC from an advisory body to a negotiation forum. This is necessary if the spirit of the Pretoria Minute (that the major employer and trade union parties must be satisfied with legislation) is to be put into practice. The lesson of the 1988 amendments to the LRA is that the government cannot afford to ignore the views of a major trade union grouping such as COSATU.

This raises the issue of what the relationship between the NMC and a democratic government should be if and when one is elected in South Africa. Should the major employers' organisations and trade unions be able jointly to block the policy of a popularly elected government on labour relations because they both disagree with it?

At the moment attention is focused on restructuring the NMC. Once this is done COSATU will presumably call for similar changes to the other advisory bodies.

A final question is whether the separate bodies should continue to exist, or whether the new NMC should deal with all labour matters including issues such as training, safety and unemployment benefits, creating

## LEGAL NOTES

specialist committees where necessary.

### Labour Assessors

Another new issue is the nomination of assessors by unions. For instance, in the Labour Appeal Court the judge is assisted by two assessors. These have mainly been practising lawyers, many of whom have represented management in cases in the Industrial Court. This has caused a lot of dissatisfaction and contributed to the lack of credibility of the Labour Appeal Court.

A question now being debated is whether the law should be changed so that assessors nominated by employers and the unions

should be appointed, and a management and labour assessor would assist the judge in each case. Labour Appeal Court assessors are neutral and their role is to assist the judge particularly by exposing him to the realities of labour relations.

The Workmen's Compensation Act also provides for assessors. A worker and a management assessor sit in hearings, such as objections to decisions made about compensation or applications for increased compensation. They sit with a representative of the Commissioner. These assessors are not required to be neutral and can advance the case of their side. Again, the union assessors have

been predominantly representative of the white trade unions. For instance, Arrie Paulus, general secretary of the whites-only Mineworkers Union was for many years the assessor for compensation claims in the mining industry. Should COSATU now be insisting that assessors for these hearings should also be drawn from its ranks?

### Conclusion

This note has raised more issues than it has answered. Participation on the NMC is leading the unions into new territory. It is important that these issues are debated and policies formulated as soon as possible. ☆



## South Africa's



## Economic



## Crisis



EDITED BY  
**STEPHEN GELB**



Available from good bookshops or, in case of difficulty, David Philip Publishers, P O Box 23408, Claremont, 7735

DAVID PHILIP  PUBLISHERS  
BOOKS THAT MATTER FOR SOUTHERN AFRICA

*South Africa's Economic Crisis*, commissioned by COSATU, is a powerful argument for a fundamentally different economic structure. R34,99

And newly published . . .

**REDISTRIBUTION**  
*How Can It Work  
In South Africa?*

Edited by Peter Moll,  
Nicoli Nattrass & Lieb  
*Loots*

A hopeful and constructive  
work by some of South  
Africa's leading economists  
R19,99