

A trend towards co-determination? Case studies of South African enterprises

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1 INTRODUCTION

For the first time in South Africa's industrial relations history, European style co-determination has been introduced into our labour legislation through the introduction of workplace forums in Chapter 5 of the new Labour Relations Act (LRA). The rationale for introducing a system of workplace representation is stated clearly in the explanatory memorandum of the Legal Task Team set up in 1994 to review the labour relations system.

"South Africa's re-entry into international markets and the imperatives of a more open economy demand that we produce value-added products and improve productivity levels. To achieve this, major restructuring is required. In those countries, such as the United Kingdom, where the adversarial labour relations system was not supplemented by workplace-based institutions for worker representation and labour /management communication – "a second channel" of industrial relations – this process fared badly. Workplace restructuring has been most successful in those countries where participatory structures exist: for example, Japan, Germany and Sweden. If we are to have any hope of successfully restructuring our industries and economy, then management and labour must find new ways of dealing with each other" (Ministry of Labour: 35).

The Legal Task Team argued that the old system of industrial relations, designed in the 1920s, was not suitable for this task. The new Act provides for workplace forums to be established by the Commission for Conciliation, Mediation and Arbitration (CCMA) on application by a representative union. This is designed to reassure unions that forums will not be used, as works and liaison committees were used in the past, to supplant unions. Instead, they are designed to compel employers to co-operate by providing workers with statutory rights of consultation and joint decision-making in the workplace. Specifically:

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"they are designed to perform functions that collective bargaining cannot easily achieve: the joint solution of problems and the resolution of conflicts over production. Their purpose is not to undermine collective bargaining but to supplement it" (*ibid*).

In the light of the new form of participation offered by workplace forums, the aim of this article is to identify the changing forms of workplace representation that have been emerging in South Africa. The article does this by reviewing recent survey evidence of the extent to which new forms of workplace representation have been emerging. The bulk of the article is devoted to presenting the findings of a number of preliminary case studies of selected companies where new forms of workplace representation were introduced prior to the new legislation. In our interviews we explored how these forums² were established, how they function and what their main characteristics are.

2 CONCEPTUAL FRAMEWORK

Two clarificatory conceptual points are necessary before proceeding. Firstly, the existing forms of worker participation in South Africa have not constituted a legally supported system, as in a number of European countries. In Germany, for instance, one finds a union movement that has had "(a) consuming preoccupation with *Mitbestimmung*; the equal sharing of control over economic decisions between capital and labour at all levels, including the enterprise"(Streeck in Rogers & Streeck: 319). Underlying this system is a different theory of the firm. Firms are public institutions, not just the property of their shareholders, and are required to take account of the interests of employees. Thus the law provides for representation at workplace level (through works councils) and representation at enterprise level (through a worker representative on the management board and equal representation of employees and shareholders on supervisory boards in enterprises with more than two thousand employees). This strong political and legislative support for co-determination has ensured that it has become the cornerstone of the industrial relations system.

Under this system managers of large firms face capital and labour markets that are highly organised, enabling both capital and labour to participate directly in the everyday operation of the firm and requiring decisions to be continuously negotiated. Decisions thus take longer, but are also easier to implement. Furthermore, by giving the workforce a legal right to co-decision making it becomes more difficult to dismiss workers. The result is that the average employment spell in a German firm (10.4 years) is almost as long as Japan (10.9) and much longer than the United States

2 The term "forum" emerged in the early 1990s to describe a wide range of representative institutions that were established to give voice to the disenfranchised, such as the National Economic Forum, the Housing Forums and a wide variety of forums in the workplace. The term workplace forum was drawn from these examples and used in Chapter 5 of the LRA. We use the term loosely to capture the variety of workplace initiatives.

(6.7) (Streeck: Table 5). Importantly, by turning labour into more of a fixed cost, high investment in skills is encouraged. To understand co-determination then, it is necessary to understand that a different kind of capitalism emerged in Germany after the second World War, what Michel Albert calls the Rhine model, as distinct from the American model (Albert, 1992).

In South Africa the opposite is the case. Workplace representation evolved in an adversarial fashion, with black workers and their representatives maintaining a strategic distance from areas of responsibility and decision-making. An important part of the reason for this orientation has been the historically hostile stance of the state towards unions, particularly black trade unions. Thus, South African legislation until 1995 repeatedly tried to introduce mechanisms for employee representation that were intended to supplant trade unionism. The first instance of such legislation was the Native Labour (Settlement of Disputes) Act of 1953 which provided for the establishment of works committees to represent black workers. These structures were limited to an essentially advisory role *vis-à-vis* management, and were meant to supplant unions for black workers. This Act was amended in 1973 to provide for the establishment of liaison committees where works committees did not exist. The new version of the Act, called the Bantu Labour Relations Regulation Act, constituted the liaison committees as consultative bodies, composed of equal numbers of management and worker representatives and, as in terms of the 1953 Act, to be chaired by an appointee of the employer.

Both the works and liaison committees discredited workplace representation in the eyes of trade unionists, although works committees were used strategically by certain unions and in certain areas due to the fact that these bodies could be constituted through worker election of representatives. The Wiehahn Commission revisited these mechanisms and from the Commission flowed major changes to the Industrial Conciliation Act, later renamed the Labour Relations Act, the most important feature of which was the recognition of black trade unions. But the Commission also recommended the retention of a weak form of workplace representation, in the form of works councils which were to replace the works and liaison committees. In practice, very few works councils were established. Bendix reported that "the experience is that works councils are soon overtaken by trade unions and, even where this does not happen, conflict arises between the plant-level union and the works committee/council" (Bendix, 1991: 428).

In contrast to state and management initiated workplace representation and employee involvement, shop steward committees emerged in the 1980s as the central communication channel between workers and management on the shop floor. Shop steward committees perform a dual function; they engage in collective bargaining, and participate in joint problem-solving where problems arise in production. Thus, unlike Germany where the works councils are institutionally separated from collective bargaining which takes place at industry level, in South Africa a form of union-linked workplace representation emerged that engages in both problem solving and collective bargaining.

However, during the early 1990s, a number of companies began to separate these two functions institutionally by establishing joint forums with unions, within which information sharing, consultation and, in some cases, joint decision-making occurs. These innovative structures formed a point of departure for the Legal Task Team's recommendations that workplace forums be introduced. In exploring these structures the Legal Task Team also drew on the legislation governing the German works council system.

The second conceptual point relates to the distinction between workplace representation and employee involvement. Employee involvement is a much broader phenomenon than that of workplace representation and incorporates a variety of schemes aimed at enhancing quality, productivity and motivation amongst the workforce. It is a form of direct involvement in the immediate work environment and constitutes an example of what Pateman calls "pseudo participation", or techniques which persuade employees to accept decisions that have already been made by management (Pateman, 1971).

Workplace representation, on the other hand, involves formal mechanisms of management-worker interaction that seek to "institutionalise rights of collective worker participation, including rights to information and consultation on the organisation of production and, in some cases, formal co-determination in decision-making" (Rogers & Streeck: 98). In the South African context, co-determination can be taken to refer to joint decision-making, where decisions can be made only if they are agreed to by both parties. Co-determination as a form of decision-making can be usefully distinguished from consultation, which involves obligations, usually from management, to inform workers before taking a decision, to wait for a response or counterproposal, and to take any response or counterproposal into consideration when deciding the issue (*ibid*: 149-150).

Workplace representation, then, takes place through structured interaction between management and workers. Such interaction may, however, vary in the form it takes, the frequency of interaction, the powers ascribed to representative institutions and may combine consultative and representative functions (Rogers and Streeck: 11).

3 FROM EMPLOYEE INVOLVEMENT TO WORKPLACE REPRESENTATION?

Instead of workplace representation, management in the 1980s began introducing forms of employee involvement, such as briefing groups, communication schemes, quality circles, "green areas", and suggestion schemes. Almost all of these structures were limited to the immediate work environment and concentrated on increasing productivity (Maller, 1992). These findings have been confirmed in more recent research.

Firstly, in both rounds of the South African Labour Flexibility Survey (SALFS) conducted in over 300 establishments in the manufacturing sector during 1995-1996, over 50% of establishments reported having joint committees, with the number increasing slightly from 51% to 56% between

1995 and 1996 (Macun, 1997: 5). The SALFS sample was weighted to include a larger number of smaller firms (employing between 1 and 50 persons) and it is interesting to note that roughly 46% of firms which reported having joint committees were in this small size grouping. A postal survey conducted in 1992 and 1995 also found a significant number of companies embarking on employee involvement initiatives (Veldsman & Harilall, 1996). Interestingly, Veldsman and Harilall found that in 1995 most companies (91%) had initiated employee involvement to prepare for future environmental changes and to make it easier to introduce changes in the functioning of their organisations. This contrasted with their 1992 finding where most organisations had cited improvement in quality, productivity and worker motivation as the main reasons for initiating employee involvement (*ibid*: 11). A worker representative survey, carried out as part of the SALFS, found a much smaller proportion of companies with mechanisms for management-employee discussions (apart from committees that dealt with negotiations or single topics such as health and safety) (17%) (Macun, Rosenthal & Standing, 1997). Given the likelihood of divergent views on the nature of employee involvement between workers and senior managers, this is hardly surprising. This conflicting finding merely serves to emphasise the ambiguity surrounding expectations and the role of such initiatives.

Secondly, the most common function of the joint committees identified in the SALFS survey was consultation. Some were also concerned with negotiation, information-sharing and, in some cases, joint decision-making, but these were all a smaller proportion than those concerned with consultation. The survey by Veldsman and Harilall also found that a relatively small proportion of employees were actually involved in these initiatives and that they were predominantly production oriented; for example, feedback mechanisms, quality circles and quality of work life committees (*op cit*: 69).

Thirdly, despite an increase in these structures, the information flow between management and workers remains limited. Respondents to the SALFS were asked whether they provide information to employees or their representatives concerning work accidents, labour productivity, labour costs, sales and financial information on a regular basis. Apart from information pertaining to work accidents (which is subject to the Occupational Health and Safety Act), a relatively small proportion of firms provided information on key economic issues (see Table 1). This feature was confirmed both by the Veldsman and Harilall survey and the Worker Representative survey.

Table 1: Percent of management providing information on selected issues to employees on a regular basis, 1996

Category of information	All Employees	Representatives	No information
Work accidents	47	28	25
Labour productivity	39	28	33
Labour costs	18	29	53
Sales	26	24	50
Financial information	17	19	66

Finally, although it is difficult to gauge the extent of union involvement in these initiatives from the survey findings, it is clear that employee involvement is occurring mainly in unionised firms. Roughly 60% of the 33 companies surveyed by Veldsman and Harilall were unionised and this figure was very similar to the SALFS (58.7%). It is possible to interpret this feature to suggest that management use employee involvement to bypass and, possibly, to undermine trade unions. Given the extensive support for COSATU unions, in particular, and their majority status in most workplaces, the undermining of unions is unlikely. It is more likely that trade unions treat such initiatives with circumspection, avoid them or find it necessary to engage with them in order to improve their participation rights in companies.

4 CASE STUDIES OF WORKER REPRESENTATION

4.1 Sample and method

The companies selected for the study were chosen according to two factors; companies with whom the Sociology of Work Unit (SWOP) had past research contact and where the existence of institutions for worker participation was known. A more detailed summary of the sample is presented in Appendix 1. Our sample consisted of 11 large national companies: 6 in the manufacturing sector, 2 in mining, 2 parastatals (one electricity, one transport) and one in the retail sector. Interviews were conducted with a representative from the industrial relations or human resources department in each of the companies. The first round of interviews was conducted between February and March 1995, with a second round of interviews being carried out between September and October 1996.³ Where possible, union officials and shop stewards were also interviewed. A semi-structured questionnaire was used and the interviews were transcribed. All the companies in the sample were highly unionised, with union membership exceeding 50% of the workforce and the majority of companies having a unionisation rate of 80% (see Appendix 2 for industrial relations features of the sample).

As Appendix 1 indicates, nearly all of the companies are in highly competitive markets, including, in many cases, competitive international markets. These are markets which are also price sensitive. A number of the companies are large enough to derive economies of scale and competitive advantage given their position as national companies. All the companies in the sample have undergone or are undergoing some form of restructuring, ranging from changes in senior management to international expansion, workplace restructuring and changing corporate culture.

4.2 Findings

The findings from our case studies can be divided into four different themes: why are forums introduced, what form do they take, what powers

3 Initial reflections on the first round of interviews were published in Webster 1996.

do they have, and how do they deal with conflict. After addressing these themes, we discuss some general observations before drawing conclusions.

4.2.1 Why are forums established?

A variety of factors influenced the establishment of new forums. The most useful way of understanding these influences is through the concept of "breakpoints". "Breakpoints", according to Paul Strelbel, are sudden radical changes in business conditions, changing technologies, changing community and customer attitudes and shifting political frontiers (Strelbel, cited in Stace and Dunphy, 1994: 20). They can be handled, he says, by anticipating the breakpoints, by exploiting the breakpoints or by creating the breakpoints.

All the companies interviewed began to anticipate "breakpoints" from the mid-1980s onwards when they began introducing new participatory styles of management. However, two of these – Volkswagen (VWSA) and PG Bison – stand out as organisations which created the breakpoints by developing "new rules of the game". By responding creatively to "breakpoints" these companies changed the playing field for others. "Breakpoints" force management to make strategic choices. Do they retain a hard line towards employees or do they seek a solution together? The latter approach is encouraged by the threat of chaos in a continued stalemate. The table below lists strikes, as the most dramatic example of breakpoints.

Table 2: Strikes as breakpoints

Company	Date	Duration	Demands
Pick 'n Pay	July 1994	27 days	R229 over 12 months
Eskom	June 1994	1 day	End to unilateral change
Nampak	August 1990	9 weeks	Company bargaining
Transnet	November 1989	8 weeks	Recognition agreement
VWSA	August 1994	6 weeks	Sector bargaining (NBF)
Mercedes Benz	August 1994	6 weeks	Sector bargaining (NBF)

The Nampak Human Resource Director reflected on the nine week strike in the company during 1990, "You reach a stalemate, and then sit down afterwards, both formally and informally in various mediating sessions and so on. The blunt reality is: no one won that strike. There were no major achievements by either side" (Interview: 26 January 1995).

It is quite often out of prolonged conflict, for example the VWSA strike in 1994, that the parties came to agree on the need to accept joint responsibility for the future of the company. The Human Resource Director (Nampak) expressed this point in these words, "The strike cleared the air and made us realise that we cannot carry on like this and destroy each other. I think if we had not had that strike it probably would have been more difficult for us to embark on our current changes" (*ibid*).

The opening up of the South African economy in 1990 was to provide another “breakpoint”. In the words of the Human Resources Director of VWSA:

“Suddenly when the whole situation changed, everyone started saying we have got this plant down in South Africa, they have been bumbling along on their own, how do we integrate them into the Group? . . . We had a new set of top management, who became much more productivity oriented, and would clearly say there is no such thing any more as a national car market, there is just one global car market. It happens to have a surplus production capacity of 10 million cars. So suddenly we had this massive focus on our productivity, our integration in the world; we had guys coming and going and saying, look, you guys are over-structured, you are not productive, a German plant producing the same number of cars as you has 2000 people, you have got 7000. What the hell are you doing?” (HR Director, VWSA, 15 February 1995).

The result was a new agreement between VWSA and NUMSA “forged in the context of a recognition by the parties of the need to ensure the long-term viability of VWSA in domestic and foreign markets”. The agreement noted the global over capacity of motor vehicles of 10 million units, and the ongoing eight year tariff reduction programme for the South African motor vehicle industry, as well as the increased competition from both domestic and foreign manufacturers that this will engender, and committed the parties to “forge new standards which match those of our world-class competitors” (*ibid*). As management explained, a forum was also necessary because “we had a vacuum – we had the national bargaining forum, but no regular in-plant negotiations. No place where we could trade off issues and we wanted a formal in-house committee to do this” (Interview: HR Director, VWSA, 3 October 1996).

The initiation of workplace representation, at least by companies engaging in strategic re-orientation, dovetails with devolution of managerial authority to lower level management. The industrial relations manager no longer has sole responsibility for stable and peaceful labour relations. Furthermore, industrial relations is no longer confined to collective bargaining but is integrated into human resources management, corporate strategy and even production issues.

As the Human Resources Director at Volkswagen observed:

“I remember the old days when I first started in the industry – employee relations or industrial relations was the preserve of a couple of personnel types. I started at Ford and Fred Ferreira sort of ran the thing, and no one else saw the union, but increasingly line management, training specialists, compensation specialists, all sorts are having to mesh and get more involved. There was a recognition that it was important that people management was devolving to toe the line because the nature of that relationship was changing with the move towards more participatory forms of engagement. It became important that first line managers had good people management skills and assumed responsibility for managing people in their areas. So, over the last year, it’s been a major focus, with the devolution of human resources management to line, training intervention, etc” (*ibid*).

The Nampak HR Director suggested a similar shift to line managers:

“We used to have thousands of lawyers here... and then we decided that legal industrial relations was a historical thing and the lawyers left. Since then we

have never found a need for them. We have a retainer for a legal firm for about eight months and we have abandoned that as well. So symbolically that shift is important. When we decided three-and-a half years ago that Nampak was no longer going to be a company of the past, one of the things was to abandon legal industrial relations people. . . The industrial relations functions generally moved into the camp of the managers that manage plants, the so-called line managers" (*ibid*).

The need to integrate traditional collective bargaining issues into corporate strategy has now become central:

"What we are finding is more and more, the whole issue of production and human resources is more integrated than it used to be. The newly created employee relations department is tasked with picking up issues with the union, but within human resources, training, the benefit side, the compensation side and then a range of issues on the line side are now involved in industrial and employee relations" (VW interview).

The VWSA HR Director developed this point further:

"Industrial relations in the old days involved interacting with the union about disciplinary issues, conditions of service, pay, overtime – it was limited to that sort of thing. We were also involved in a bit of training of artisans and apprentices. That was the extent of our work. But today it's a whole host of issues. Everything now – out sourcing, strategic sourcing, where we buy our parts, how we structure production, productivity – a host of training issues – multi-skilling, adult basic education – so it's really impossible for one or two industrial relations people to handle those things. Whereas in the old days, one person could handle a little bit of training – you know, the old traditional personnel manager, that's really gone now" (*ibid*).

In the words of the Human Resources Director of Randgold:

"Instead of being second level service departments aimed at record and housing maintenance, labour allocation, hostel management and employee welfare, the human resource departments should be catalysts for cultural change; redesign the labour process; develop strategies for productivity improvements; and manage the consequences of the new South Africa" (Interview: 23 January 1995).

It was in the context of these fundamental shifts in the industrial relations functions of firms that the "new forums" were initiated by management in the late 1980s and early 1990s. Management, in all cases, seized the initiative from the unions and the unions have been perceived as becoming largely reactive in orientation. As the Human Resource Director of PG Bison remarked, "Unions have tended to be reactive and lacking in initiative. They lack the capacity to frame creative and imaginative proposals" (interview: 12 January 1995).

The HR Director of VWSA expanded on this point:

"We are moving into territory that's difficult for management to understand. Restructuring, out-sourcing – the shop stewards are unsure of themselves a lot of the time, for example, Board of Trade and Industries recommendations on the future of the motor industry. Quite frankly these guys do not know what the hell we are talking about. And a lot of them feel very inadequate and it was comfortable in the past. They were masters in the art of resistance politics, taking management to the cleaners, whipping up emotions. Now that whole ball game has changed. I think they are very unsure. Now they are having to engage management where we'll present a full financial disclosure. Our

finance director and our controller, who are very bright CA's will come down and meet them with figures. And we will talk about duty-free allowances, tariffs, the fiscus – what all this means for the motor industry – and by their own admission they just say, guys, look we don't know. We've discussed our submissions to the Board of Trade: they don't understand what we are talking about – whether what we say is right or wrong, they're just going to have to trust us" (VWSA interview).

As the case studies illustrate, forums arise from "breakpoints", understood as radical changes in the firms external environment, such as the dropping of tariff barriers in the motor industry, that radically change business conditions. These changes, in turn, intensify conflicts in the workplace, as illustrated in Table 2. Interestingly, in all the case studies, management responded creatively by introducing new forms of management-union interaction. These initiatives changed the rules of the game. In order to do so, it is not surprising that a striking feature of the new forums is a strong emphasis on consensual interaction. Although most have arrangements for third party intervention (mediation or arbitration), they by and large attempt to avoid conflict by being consensus driven. This emphasis prevails even if it means side-stepping or shelving some issues and prioritising others. It is well captured by a clause in the constitution of one of these forums, which states:

"Consensus will be sought by way of exhaustive discussion by the parties to the Working Groups, the National Forum and the Strategic Forum. This can include third party facilitation and referral to the next higher level. Should this process fail the parties will refer the matter to mediation under the auspices of the Independent Mediation Services of South Africa" (IMSSA) (Constitution of Samancor Participative Structures).

Given the role that overt conflict has played in all the companies studied, the emphasis on consensus is understandable. Moreover, given the high rate of unionisation in these companies and the constant presence of the union as an agent of bargaining, the parties have an incentive to resolve issues within the forums in a consensual manner.

4.2.2 What form do they take?

The "forums" that emerged in the late eighties and early nineties are different from shop steward committees. Shop steward committees perform a dual function: they engage in collective bargaining and participate in joint problem solving where problems arise in production. The forums institutionally separate these two functions and focus on problem solving in production and wider policy issues, particularly in the area of labour relations. Importantly, these forums are linked directly to union structures. They extend, rather than transcend, collective bargaining.

The forums are usually comprised of senior shop stewards drawn from the shop steward committees. Only in one of the plants did we find a non-union member in the forum. Where multi-unionism exists, representation is proportional to union membership. The forums are predominantly based on union members who are employees in the enterprise, with occasional involvement of "external" union officials. In one case, union organisers ratify all agreements.

Many of the companies have multiple structures operating at different levels. At the central level there is a forum that focuses on strategic and policy issues. For example, the National Strategic Meeting of Pick 'n Pay; the National Forum at South African Breweries; the National and Strategic Forum at SAMANCOR; the Central Forum at Nampak; the Joint Union Management Executive Committee (JUMEC) at Volkswagen. Sometimes, ad hoc working groups are established to investigate specific issues or a range of issues, for example, housing loans, affirmative action, training, discrimination, employment equity, job security, RDP. These companies then have forums that focus on the plant or local level. They will also often have regional or divisional forums, for example, the regional forum in South African Breweries and Pick 'n Pay.

Only two companies in our sample have worker representatives on their boards of management (Samancor and Eskom). Board representation, however, was proposed by a third company but turned down by the majority union. The relationship between board representation and trade unions is ambiguous at present. In the case of Eskom, a union leader sits on the board in his official capacity, whereas in Samancor the position of the worker representative is contested. According to senior management at Samancor, the union representative is a member of the board in his "individual capacity" (Interview: MD, Samancor). The representative, however, feels he is there as a representative of labour, "I will always emphasise that I am from labour and the views I am expressing are from a particular stakeholder" (Macun & Buhlungu, 1996: 28).

4.2.3 *What powers do these forums have?*

One way of measuring the degree of power vested in the "new forums" is whether they have statutory rights or written agreements. None of the companies sampled had triggered a workplace forum in terms of Chapter 5 of the LRA, but some had formal agreements covering the powers and functions of the forums. For example, in the case of VWSA, the forum (called the Negotiating Committee) has a written agreement between VWSA, Numsa and the SA Iron, Steel and Allied Industries Union. This agreement prescribes the following role for the Negotiating Committee, namely to:

- (a) discuss, negotiate and agree operational issues and other matters of plant-wide relevance;
- (b) resolve disputes referred by Business Unit Committees;
- (c) explore means of promoting co-operation and facilitating a two-way communication process, for example via sharing of ideas and success stories through presentations.

On the other hand, the constitution governing Samancor's Strategic Forum explicitly defines it as a consultative and information sharing forum. While the documents give a clear role to the forums, they do not clearly define the powers and responsibilities of these bodies. Not all the companies have formal agreements governing the forums, however, and some use their recognition agreements with the majority union as a reference point. The absence of strong and binding agreements introduces

the risk of the forums having a limited lifespan and of being sacrificed to what are perceived as more urgent priorities when companies enter difficult economic times.

Most of the forums are empowered to deal with a range of corporate and industrial relations issues, excluding wages. In many of the cases investigated, bargaining is centralised either at the national company level or in sectoral arrangements, such as the National Bargaining Forum (NBF) established for the motor industry. Bargaining over wages and conditions of employment is, therefore, formally removed from plant level interaction in forums. Examples of the kind of issues dealt with in the forums include productivity and flexibility in working arrangements (such as out sourcing), training programmes, affirmative action, racism, RDP projects, world-class manufacturing, company financial performance, strategic direction and benefits such as long-service awards.

The flow of information within these forums is relatively high and has tended to increase over time as the parties have developed their working relationships. In some companies, there is still hesitation by management when it comes to full disclosure of financial information. This is not entirely surprising as outside the context of the LRA there is no legal obligation to do so, nor are there any arrangements or agreements concerning confidentiality of information within these forums. In the absence of clear guidelines concerning confidentiality, the flow of information is likely to remain uneven and, possibly, limited. Unions can ask for information and in many cases management make regular presentations to the union or forum on the financial position of the company, excluding sensitive information on business negotiations and plans.

A central question raised by these forums is whether they operate on the basis of joint decision-making. Although some of the companies do have joint-decision making on certain issues, in general this is not the case. The picture that emerges is one of consultative representation, where workers have gained a substantial degree of influence over a broader range of issues. These concern company policy and operations that have traditionally been the domain of both parties, such as job security, affirmative action and job grading. In some cases, joint decision-making has been extended to issues such as out-sourcing and productivity.

The underlying purpose of the forums can best be summed up in the words of one of our informants:

"to deal with any issues that are obviously not of a collective bargaining nature, in a collaborative manner to maximise the impact on the organisation of what we want to do" (Human Resource Manager, SAB).

From this statement, it could be argued that the emerging forums have significant powers, but these are ambiguous as they are not institutionalised in any formal way and there are no binding mechanisms on the parties. What binds them is an interest, on the part of workers, in exercising greater influence and, on the part of management, in creating greater stability, predictability and co-operation. An implicit rationale for the forums is to change the internal politics of the workplace to ensure that management has greater legitimacy. The forums achieve this by extending

the influence of workers, but stop short of real co-determination. It is important to bear in mind that in all the companies there are powerful unions which can exercise leverage on management through the collective bargaining process. It is this leverage that remains central in the workplace, notwithstanding the formation of new forums.

By and large, the companies studied typify what Pateman has characterised as partial participation, that is, situations in which two or more parties influence each other in making decisions but, in the final instance, power rests with one party only. Within this scenario it is not surprising to find a strong emphasis on co-operation and consensus. While forums open up the potential for union influence to be extended, labour's power remains limited within them.

5 CHARACTERISTICS AND LIMITATIONS

There are a number of general points concerning the functioning of the forums which give them a particular character and serve to distinguish them from international experience of workplace representation. Firstly, companies are spending considerable amounts of time and money in running and servicing forums. As pointed out above, most of the companies are large and many have a number of establishments. Given the close link between the forums and trade unions, it is often the members of national negotiating committees that also attend forum meetings with senior management. For example, Pick 'n Pay and Nampak have many different workplaces throughout the country and have to fly delegates to these regular meetings. Estimates of financial expenditure on works councils in countries such as Germany suggest that this amounts to approximately 1% of the annual wage bill.⁴ It is possible that the costs of the forums in the sample companies exceed this, but these should be viewed as "start up" costs, which may decrease over time. Costs are clearly also related to the question of who participates. More decentralised forms of representation, would clearly incur lower costs.

A second characteristic of the forums that have been established during the 1980s and 1990s is their vulnerability. In some cases, such as PG Bison, there is a dependence on individuals, the charismatic individual manager who initiates a forum and later leaves the company. Stace and Dunphy (1994) call this charismatic transformation. The problem that arose in PG Bison was that of maintaining commitment when the charismatic leader leaves to take up a position in government. The problem seemed to have been resolved by an undertaking by the new chief executive to commit himself to the same transformation process. But the vulnerability of the process was underlined when the new chief executive abandoned the structure due to a downturn in the company's economic performance. In the absence of statutory support or formal agreements,

⁴ Personal communications: Dr Claus Schnabel, Head of Industrial Relations Department, Institut der Deutschen Wirtschaft, Cologne, 13 December 1996 See also: W Muller-Jensch (1995).

these experiments in participation will always be subject to cycles of changing support by management and labour.

A third characteristic of forums arises from their close link to union structures. Because of this close link, and the structure of trade union organisation in South Africa, white-collar workers and middle management are excluded from the forums. The only exception in our sample was Randgold, where the middle strata were unionised through the Mine Surface Officials Association (MSOA), the Underground Officials Association and the Surface and Technical Officials Association (STOA).⁵ In all the other cases, these middle strata are neither unionised, nor are they included in the forums. This places management in a dilemma: do they establish a separate forum for this excluded stratum, do they encourage this stratum to unionise, or do they wait for the representative union to trigger a workplace forum? Mercedes Benz have resolved this dilemma by establishing a separate forum for the middle strata "to hear the concerns of staff" (interview: HR Director, Mercedes Benz, 2 October 96). The incentive for all parties to establish a genuinely representative forum is that all parties in the workplace now face the common challenge of international competition and the need, therefore, to develop more cooperative relationships.

In our sample it is clear that, in most cases, a dual structure of bargaining emerged: wage bargaining at the sectoral or central level and bargaining over production at the plant level. Such a structure makes it easier to separate wage bargaining from negotiation over in-plant, production related issues. Employers, however, expressed concern over the rigidity of centralised bargaining. Ironically, the dual structure of bargaining holds out the real prospect of articulation, that is, increased labour-management interaction at several levels.⁶ This approach, which Labour Minister Tito Mboweni calls "regulated flexibility", allows plants to modify agreements through a decentralised bargaining structure.

Two important limitations emerged from the case studies. The first relates to the limited capacity of forum members to engage in joint problem solving. This can best be illustrated through Randgold's Harmony Mine Forum in Virginia. A crucial item on every agenda is the full disclosure of the company's performance. Management feel that "slowly a lot more understanding is developing between union and managements on the financial constraints that the mine is under" (interview: Personnel Manager, Harmony Mine, 11 May 1995).

Union representatives saw the forum rather differently. While welcoming the creation of a forum, union representatives complained that decisions made at the forum were never implemented. "It is nothing more

5 These organisations subsequently merged to form the Amalgamated Technical and Electronic Association of South Africa.

6 Recent research has challenged the simplistic proposition that enhanced international competition is producing a general decentralisation of industrial relations. The general trend is not towards decentralisation, but rather towards articulation, that is, interaction at many different levels (C Crouch & F Traxler 1996).

than a talk shop," one representative said. "It has got no teeth. Management controls the agenda and uses the forum to lecture to us". Another complained that meetings do not take place regularly. "They only call meetings when they want to meet with us. When management has a problem, then they call a meeting". Another remarked "that 99% of the time management has already made the decision. They do not ask us, they tell us. We are a rubber stamp".

One striking feature of this forum is that the union representatives do not feel they have control over its direction. They feel that the agenda is drawn up by management, who call the meetings and most importantly, the union representatives do not meet separately as a group. In practice, it is being run by management, and workers are treating the forum as if it were a "liaison committee".

There are, of course, crucial differences between the Harmony Forum and a liaison committee. First, the forum is non-racial. Secondly, there is a strong trade union for black workers, the National Union of Mineworkers (NUM). In fact, it was interesting to observe that the NUM was the only union in the forum that knew anything about the new LRA and its provision for workplace forums. This was because the NUM Collective Bargaining Unit had held a seminar on workplace forums shortly before the meeting and the NUM representative had attended this seminar.

This underlines the crucial importance of increasing union members capacity to engage in these forums, a responsibility that rests with national union structures and which will require substantial change in the operation of national unions. This is well illustrated by a veteran unionist and ex-PPAWU General Secretary, who said:

"Most of the union officials came from a political background, not from an industrial background per se. They were politicians. They were political activists who happened to be much more articulate in making this or that statement in whatever meetings. We were not asking people when interviewing them for organisers jobs "what is your experience about the factory situation?" "Can you tell us about the process of production in the printing industry?" . . . We were focusing on political issues, apartheid in the work situation" (Interview with S Kubheka, conducted by S Buhlungu, 28 November 1994).

This limitation places workers at a disadvantage. It is exacerbated by the high turnover of union officials and inadequate training of workplace representatives. Trade unions in Germany play a pivotal role in supporting and resourcing works councils and, as a result, members of councils are well qualified to engage with management. The length of service of many works councillors also provides necessary experience in the functioning of the councils.

A second and related limitation concerns the reluctance of employees and their representatives to identify with the goals of the enterprise. This is deeply rooted in the low trust dynamic that arises from the apartheid workplace regime (Von Holdt, forthcoming), and has resulted in suspicion of any involvement in decision-making. For example, shop stewards at Mercedes Benz SA expressed deep distrust of their works councils' counterparts from Mercedes Benz in Stuttgart, when they visited the South African plant. They commented in an interview that:

"The gap between shop stewards and the people they represent is very large. They (works councillors) dress in suits and ties. They look like managers. They are actually involved in running the company. They help make the rules. Here, our part-time shop stewards still work on the lines alongside membership" (interview conducted by Bridget Kenny, East London, 11 July 1997).

Clearly, these shop stewards saw the role that works councillors play in Germany as being in conflict with their role as worker representatives. The act of joint decision-making for the shop stewards meant that the works councils had been co-opted by management, not that workers had won greater influence over decision-making. The result of this suspicion is that worker representatives find themselves in difficult situations when companies engage in cost-cutting exercises. This was clearest in VWSA and Mercedes Benz where the shop steward leadership has been overturned due to a feeling on the part of the rank and file that the shop stewards were being co-opted into managements strategy (Rosenthal, 1996). Furthermore, the practice of tight mandate and accountability leads shop stewards to either evade tough issues or to agree to tough decisions but then refuse to accept responsibility for these decisions when faced by their members. A manager captured this tension when he described how shop stewards did not want minutes of sensitive discussions made public:

"They prefer to discuss these things in private because they know that if it gets out – that we are discussing the out sourcing of the seat area – then they say: "For goodness sake, let's not tell the workers that we are discussing this highly contentious topic." And we say, "Shouldn't we go out and tell them upfront?" "Woh . . ."they say" (interview: VWSA Human Resource Manager, 23 February 1995).

The final limitation concerns the unresolved nature of worker representation at board level. As highlighted above, two companies in our sample have worker representatives on their boards. Such representation has, however, developed in an ad hoc way and seems to rely on particular individuals rather than clear policy in law and on the part of trade unions and business. Cosatu's September Commission on the Future of Trade Unions has, however, begun to address this. The Commission's report suggests that:

"It should be noted that it would be disastrous for a union to participate on the board of a company if it does not have a clear agenda, and a programme of support for its representatives. The union should define its agenda and programme in terms of the goals listed and discussed in 5.2.a above. If the unions decide to go this route, they should seek to have at least two places on the board of directors reserved for worker representatives to ensure some mutual support. A single labour director could become isolated. The representatives may be union officials or workers from the company concerned. The important thing is to maintain strong channels of communication between the labour directors and the shop steward structures in the workplace, to ensure co-ordination between collective bargaining and board discussions and other participative forums. Labour directors should not forget that they represent workers and must defend their interests. They should always caucus with shop stewards prior to board meetings, and report back after board meetings" (1997: 124).

This proposal has met with opposition from some influential affiliates, who think it will be in direct conflict with what unions are supposed to represent. NUMSA, for example, argue that co-determination with the private sector will make workers' interests and agenda similar to that of employers. NUMSA says this will make unions co-participants in sensitive decisions such as retrenchments (*Mail & Guardian*, 15-21 August, 1997).

6 CONCLUSION

In the process of negotiating workplace change, a number of companies have begun to experiment with new institutional forms to deal with the challenge of restructuring. Some have done so in more advanced ways than others. A key feature of these forums is their attempt to separate institutionally collective bargaining from that of joint problem solving over production. However, forum members find it extremely difficult to take the initiative as they do not have the resources required to intervene in the restructuring process. They find it difficult to deal with new issues that go beyond collective bargaining, such as team work and productivity, all of which could lead to job losses. In fact, both management and shop stewards are well schooled in adversarial bargaining and find it difficult to adjust to co-determination. Furthermore, these forums are not based on legal rights but on the sheer power (or lack of power) of union representatives in the workplace.

In the past, South African labour law did not provide for adequate workplace representation. Instead a tradition was built up which rested on strong independent shop-floor structures based around the recognition agreement and the shop steward committee. However, in the process of experimenting with these new institutional forms, the embryo of what the law now calls workplace forums emerged. In doing so, these companies have begun to create "breakpoints" which define the playing fields for others. This emerges most clearly in the influence these experiments have had on the new LRA. However, as our research suggests, both trade unions and management remain cautious about existing forums and the provision in the Act for workplace forums.

At the core of the unions caution lies the concern that new forms of workplace representation will undermine established union structures. Given the adversarial nature of workplace industrial relations, suspicion of any form of involvement and taking responsibility for decisions persists amongst employees and unionists. Managements' uncertainty, especially with regard to the statutory forums, arises from their fear that the proposed forums will substantially curtail their prerogative to make unilateral decisions by giving workers statutory rights to consultation and co-decision-making. These reservations have been bolstered by recent employer arguments that the German model of co-determination is exhausted and that its labour market is too rigid and inflexible (*Mail & Guardian*, 18-24 October 1996).

Comparative research has, however, concluded that institutions such as workplace forums offer a secure basis on which to construct an effective partnership with employees at plant level. Moreover, they hold out the prospect for enhancing efficiency by improving the operation of firms. Current research on the effect of co-determination on European managers supports this argument. Rogers and Streeck argue that representative consultation contributes to economic performance by improving the flow of information; facilitating the implementation of decisions; reducing absenteeism; helping to handle worker grievances; and helping firms to move towards a more flexible and decentralised organisation of work (Rogers & Streeck, *op cit*). Indeed, from our own research, it emerged that from being the Cinderella of German industrial relations in the early post-war period, co-determination has moved to its current status as the cornerstone of the system (Webster & Macun, *Business Day*, 19 February 1997).

Comparative research also suggests that workplace forums could strengthen unions (Streeck, 1984). Firstly, workplace forums exercise their rights as unitary bodies on behalf of the workforce as a whole. Thus forums can become the "extended arm" of the union and deepen its organisational penetration of the workforce in occupational groupings that are less susceptible to unionisation. Given the current low level of unionisation of middle strata employees by the majority unions in South Africa, forums could arguably offer the same opportunity to unions as they have in other countries. Secondly, the union can strengthen itself by gaining access to information from its members on the forum. The forums also offer unions the opportunity to increase their capacity through training, paid time-off, full-time representatives and administrative facilities.

Of course, there is no guarantee that forums will not lead to a decline of unions in the plant. A central criticism of works councils in Europe is their tendency to become management oriented, concerned too much with promoting management's definition of the enterprise. Indeed, those located within the British labour tradition, such as our own labour movement, may argue that it is collective bargaining, and not co-determination, that provides the key to industrial democracy (Clegg, 1951). One way of meeting union concerns that forums could undermine union structures in the workplace would be to link forum members directly to the union. This is provided for in the Act.

Through the introduction of workplace forums in the new LRA, South Africa has made a tentative step towards co-determination. However, the Act falls short in not making adequate provision for training of members of workplace forums.

An important challenge facing trade unions in South African plants is how they interact with workplace forums, once triggered. Ideally, a close and constructive relationship should be crafted between the union and the forum. The Act also makes no mention of board level representation. The significance of this lies not only in increasing the influence of employees but, more importantly, in widening management's notion of their responsibility beyond shareholders to all stakeholders (Albert, 1992). Whether Chapter 5 of the Labour Relations Act has the potential to take us in the direction of German style co-determination remains to be seen.

Appendix 1

Sample classification

Company	Sector	Markets	Degree of Competition
AECI	Manufacturing	Domestic & International	Very high
Eskom	Electricity	Domestic & Regional	Low
Mercedes	Manufacturing	Domestic & International	High
Nampak	Manufacturing	Domestic & International	Growing
P G Bison	Manufacturing	Domestic & International	High
Pick & Pay	Retail	Domestic	Low
Rand Gold	Mining	International	High
Transnet	Transport	Domestic	Low (except road transport - High)
SAB	Manufacturing	Domestic & International	Low
Samancor	Mining	Domestic & International	High
VW	Manufacturing	Domestic & International	High

Appendix 2

Industrial relations characteristics of sample

Company	Trade union density	no of trade unions	Affiliation of majority union
AECI	94%	SACWU NETU MWU EWU CWIU Staff Association	NACTU
Eskom	67%	NUM NUMSA MWU SAAWU Eskom Employees Association	COSATU
Mercedes	80%	NUMSA	COSATU
Nampak	65%	NUMSA PPWAWU MWU	COSATU
P G Bison	90% of bargaining unit	PPWAWU NUMSA UWUSA SAAWU in Piet Retief Other smaller unions	COSATU
Pick & Pay	42% of bargaining unit (66% if casuals excluded)	SACCAWU	COSATU
Randgold	87%	NUM Amalgamated Technical & Electrical Assoc of SA	COSATU
Transnet	60%	SARHWU SALSTAFF BLATU	COSATU
SAB	FAWU 57% total & 80% weekly paid Food & Bev minimal	FAWU Food & Beverage Workers Union	COSATU
Samancor	85%	NUM NUMSA NETU Yster & Staal	COSATU
VW	80%	NUMSA Yster & Staal	COSATU

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- Interview 6: Neil Cummings Nampak 26 January 1995
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