

**Workers' education
and its techniques**



41865

Workers' education and its techniques

A workers' education manual

Copyright © International Labour Office 1976

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorisation, on condition that the source is indicated. For rights of reproduction or translation, application should be made to the Editorial and Translation Branch, International Labour Office, CH-1211 Geneva 22, Switzerland. The International Labour Office welcomes such applications.

ISBN 92-2-100195-4

First published 1976

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. A catalogue or list of new publications will be sent free of charge from the above address.

Printed by Atar, Geneva, Switzerland

CONTENTS

Introduction

Diversity in workers' education	1
The aims of the manual	3

Part I. Basic considerations

1. The purpose	9
Aims of worker-students	9
Basic purposes of workers' education	10
Some major objectives	11
From individual aims to social purpose	12
2. The scope	15
The four components of workers' education	15
1. Basic skills	17
2. Technical and vocational training	18
3. Social and economic education	19
4. Cultural and scientific education	20
Conclusion	21
Special training schemes	21
3. The content	25
The four objectives of workers' education	25
Some sample programmes	27
4. The teachers	35
Qualities and qualifications of a good tutor in workers' education	35
The training of tutors	37
A sample tutor-training programme	38
5. The organisers	45
Duties of the workers' education director	46

Workers' education and its techniques

Evaluation of programmes	49
Possible help with administration and organisation	51
6. Outside help	55
Government and other public agencies (libraries, radio and television networks, etc.)	55
Universities, technical colleges, schools	57
Workers' education associations	60
Other voluntary agencies	61
Industrial and commercial enterprises and associations	62
International and regional organisations	62
7. The students	67
Characteristics of worker-students	67
A volunteer	67
Experience of life	68
Lack of learning experience	69
The "ideal" student : Guidelines for his selection	73
Special types of worker-students	75
8. The time and place	77
The candidates	77
The timing of workers' education meetings	78
The place to hold workers' education meetings	83
The size of study groups	86

Part II. Methods and techniques

9. Adults and the learning process	93
Can adults learn ?	93
Learning : A process of assimilating information	95
The rate of learning, assimilation and forgetting	97
Retaining new information and ideas	103
10. Techniques	111
1. Personal self-directed study	111
2. Correspondence courses	112
3. Lectures	114
4. Discussion	116
The role of a discussion leader	117
The qualities of a good discussion leader	118
5. Variants of lectures and discussions	121
(1) Active lectures	121
(2) Discussion subgroups	122
(3) Step-by-step (or cumulative) discussion	122
(4) Dialogues, debates, panels and brains trusts	123
(5) Forums, symposiums and colloquies	124
(6) Active group work	124

11. Tools and materials	131
1. Written material	133
General	133
Different types of written material	133
(1) Literacy primers	133
(2) Small booklets for new literates	134
(3) Booklets and pamphlets	134
(4) Union and workers' education magazines, newsletters and bulletins	134
(5) Study manuals and short summaries	135
(6) Modular study kits	135
(7) Programmed instruction booklets	136
(8) Books	136
(9) Wall newspapers and bulletin boards	137
The use of written material	137
(1) How to read	137
(2) What to read	138
Practical exercises for workers' educators' training courses on written material .	138
2. Aural aids	139
General	139
Types of aural aids	140
(1) Radio	140
(2) Recordings (records and tapes)	141
Practical exercises for workers educators' training courses on tape recordings ..	142
3. Non-projected visual aids	143
General	143
Types of non-projected visual aids	143
(1) The blackboard (or chalkboard, writing board, etc.)	143
(2) The magnetic board, flannelboard, plastigraph, "combi-reel"	144
(3) Graphics (posters, diagrams, graphs, maps, charts, still pictures)	147
(4) Turnover charts (flipcharts, flap-sequences, flash-cards, flip-cards)	148
Practical training exercises for workers' educators' training courses on non-	
projected visual aids	151
4. Projected still visual aids	151
General	151
Types of projected still visual aids	152
(1) The overhead projector	152
(2) The episcope	152
(3) The diascope (filmstrip or slide projector)	153
(4) The epidiascope	154
5. Projected moving visual aids	155
General	155
Types of projected moving visual aids	155
(1) Films	155
(2) Television	159
(3) Video-tape recordings	160
Practical exercises for workers' educators' training courses on projected still	
and moving visual aids	160
6. Models, exhibitions and travelling museums	161

Workers' education and its techniques

7. Group work materials and activities	161
General	161
Types of group work materials and activities	162
(1) "Games" and group exercises	162
(2) Case studies	164
(3) Role playing	164
(4) Simulation exercises, critical incidents analysis, in-tray exercises	165
(5) Demonstration and practice	166
8. Study visits and field work	166
9. Real objects and real life	168
Practical exercises for workers' educators' training courses on group work activities, study visits and field work	169
10. General summary	169
Conclusion	185

Appendices

1. Additional suggestions and practical exercises	187
1. How to organise a step-by-step group discussion	187
2. The "I understood you to say" exercise	193
3. Discussion questions about this whole manual	195
2. Selection of <i>Labour Education</i> articles on methods and techniques	196
3. The ILO and workers' education	198

REMINDER CHARTS

1. Some features of workers' education	5
2. Is this manual for you?	5
3. Topics for a trade union branch officers' programme	24
4. Sample three-level graded curriculum	28
5. Outline of three study programmes organised by the Central Board for Workers' Education of India	30
6. Comparative summary of the curricula of two Asian regional workers' education centres	31
7. Programme content for special types of worker-students	34
8. Guidelines for the content of the ideal workers' education programme	34
9. Programme of a one-month training course for a mixed group of workers' educators	39
10. Components of the educational method used in the one-month training course for a mixed group	43
11. Suitability of worker-teachers	43
12. Some duties of a director of workers' education	49
13. Five forms of administration of workers' education	52
14. Different agencies and their possible contribution to workers' education	64
15. Characteristics of worker-students and their implications	72
16. The "ideal" worker-student	73
17. Types of worker-students and their special needs and problems	74
18. When and where to hold meetings	80

19. How to run one-day meetings	86
20. Content, time and place of workers' education meetings for special types of worker-students	88
21. The ladder of experience	106
22. Methods of teaching and study	109
23. Prerequisites of workers' education methods	109
24. Advantages of discussion	120
25. Conditions for fruitful discussion	120
26. Different techniques in workers' education	128
27. What workers' educators can do about written material	139
28. How to use a film show for educational purposes	158
29. Tools and materials for workers' education	171

FIGURES

1. From individual aims to social purpose	13
2. Adult education as a whole and its component parts	16
3. Composition of adult education	22
4. Major objectives and content of workers' education	26
5. Emphasis on the objectives of a workers' education programme	26
6. A pyramid of workers' education	47
7. A pyramid of workers' education: The scheme of the German Confederation of Trade Unions (DGB)	48
8. Advice to tutors about worker-students	70
9. How information is received	95
10. The communication process	96
11. Learning speeds	98
12. Plateaus of learning	99
13. The threshold of reproduction and "over-learning"	102
14. The threshold of learning and the forgetting process	102
15. Memory and learning methods	104
16. Pictorial recapitulation: Lectures	116
17. The first meeting of a discussion group	119
18. The group after the tutor has improved it	119
19. Main group methods and participation patterns	126
20. Pictorial recapitulation of the basic principles of learning	132
21. Set of flannelboard symbols devised in India: "The union elephant"	145
22. A typical organisation chart: The structure of the ILO	149
23. Use of turnover charts	150
24. The square-counting exercise	163
25. Pictorial summary of tools and materials for workers' education	180

INTRODUCTION

Experience of those involved in the ILO Workers' Education Programme has revealed that, while trade unionists in Africa, Asia, Latin America and the Middle East widely appreciate the value and importance of workers' education, they lack adequate knowledge of, and practice in, its modern methods and techniques. They themselves suggested the preparation of a handbook or manual on workers' education especially for the benefit of the developing countries.

The present manual is the outcome of their suggestion.

DIVERSITY IN WORKERS' EDUCATION

It is often said that generalisations about workers' education do not have much value—even within one country—since no two adult groups and no two tutors are ever quite alike, every class meeting differs from the last and presents a new set of problems, and every educational situation is unique and needs special handling. This diversity clearly means that there must be flexible administration, organisation and study methods within each country and lessens the value of any general advice.

If this is true of individual countries, how much harder it is to make useful generalisations on a world scale when there are so many possible sources of diversity: different national cultures, different levels of general education, literacy and other basic skills, the different histories of the workers' organisations, and vast differences in human, material and financial resources and in the help obtainable from outside sources. In addition, workers' education may take the form of a single, short, practical talk to a simple group of plantation workers or of three years of tuition for trade union officers. It may consist of a single film show or a two-year residential study course at a workers' college, of a mass trade union meeting or a single student following a correspondence course. Workers' education may be aimed at illiterates or at highly trained

Workers' education and its techniques

technicians. It may be concerned with how to form a trade union or how to ensure the fair operation of job evaluation under complex work study agreements, with the settlement of local wage disputes or the impact of international labour standards, with the basic economics of collective bargaining or the whole range of questions involved in trade union participation in national planning of economic and social development.

Not only does workers' education differ greatly from place to place, but in many countries it alters from year to year. Its beneficiaries may be described just as workers, or as worker-students (the term most frequently used in this manual), trainees, fellows or participants, depending on the circumstances. In short, the conditions, the content and the methods of workers' education are varied and varying.

This means that the whole range of workers' education cannot possibly be covered in detail in this manual. It also means that, in many cases, no absolute standards can be fixed, no hard and fast rules can be laid down without considering a host of local factors, and no perfect models for organisational or teaching methods can be put forward as being right for all situations. Nevertheless, an examination of the range of possibilities can certainly help us to make sensible choices.

In spite of its many distinctive features and special methods, workers' education is part—a very important part—of the whole field of adult education, although it may at times go beyond this. In special circumstances it may become concerned with literacy campaigns or with what has been called fundamental education, or with technical and vocational and cultural education; but normally, workers' education in its most typical form is designed to develop the workers' understanding of "labour problems" in the broadest sense of those words.

Workers' education, therefore, naturally stresses such subjects as trade unionism, labour legislation, industrial relations, social security, co-operation, applied economics, and economic and social democracy. In other words the training of the worker-student for social responsibility takes priority over the development of his individual capacity for cultural enjoyment.

The increasing pace of economic development, the spread of large-scale industry, the movement of workers from the fields to the factories and from the country to the towns and cities, the enormous technological progress reflected in mechanisation, automation and electronics, the evolution of new social structures and the growth of new social institutions all place new demands on both management and labour. The workers (and their trade unions) will be able to undertake their new role and new responsibilities only if they develop to the utmost educational programmes aimed at helping them to become better trade unionists, better citizens and better members

of the world community. This is the type of workers' education with which this manual is concerned.

THE AIMS OF THE MANUAL

This manual is intended to provide in a simple and easily handled form a survey of the main problems and modern practices of workers' education. After discussing the ends of workers' education, we shall outline the means—the many administrative and organisational methods and the countless techniques and tools of teaching and study among which a conscious choice can be made. We shall try to make the choice easier by analysing special problem areas and special categories of workers.

This should be especially useful in the developing countries (particularly in Africa, Asia and Latin America), where there is a growing awareness of the vital importance of workers' education and of the urgent need to make these conscious choices and to act upon them, but workers' educators from the more developed countries should also find material of value to them.

We hope that the manual will influence the behaviour of people approaching workers' education from many different angles—either as teachers, students, organisers or administrators, or as influential individuals, or as representatives of trade unions, governments, universities or colleges, workers' education associations or other voluntary bodies. It will succeed to the extent that it helps such people to determine wisely and after due reflection their own objectives and their own methods of organising workers' education and of teaching or learning in this field.

Given these aims, the manual includes a discussion of (a) some basic concepts and principles of workers' education—"Who studies?" and "What should they study?"; (b) many practical problems of administration and organisation—"Who teaches?", "Who arranges?", "Who can help?", and "Where and when?"; and (c) a number of practical problems of teaching and learning—"How?" (in Part II). The appendices consist of (i) practical suggestions and exercises that may be useful for inexperienced teachers; (ii) a list of selected articles that have appeared in the bulletin *Labour Education* and that have now been published separately in the form of a companion volume to the present manual.¹ They are intended to illustrate the chapter on supplementary teaching aids ("Tools and materials in workers' education"); and (iii) a short summary of ILO action in this field and of the assistance the ILO provides.

¹ ILO: *How to improve workers' education: A collection of articles on methods and techniques published in "Labour Education"* (Geneva, 1976) (ISBN 92-2-101277-8).

Workers' education and its techniques

The style of the manual will be as simple, direct and concrete as possible. Where diagrams can make matters clearer we shall use them, and where repetition seems desirable to emphasise a point we shall repeat. We shall sometimes put points which are of special importance in italics, bold type or capital letters. Moreover, the manual is interspersed at strategic places with "reminder charts", which are intended as summary recapitulations of the main ideas to be remembered from each chapter, often presented from a slightly different angle and sometimes using explanatory diagrams.

Reminder chart 1. Some features of workers' education

Workers' education is **varied and varying** from place to place and from time to time, but it always has **some common features**.

Workers' education must be education **of workers for workers' needs**—and, if it is to succeed, must be supported **by workers and their organisations**.

Workers' education must aim primarily at an understanding of **labour, social and economic problems** of direct interest to workers and their organisations.

Workers' education must help workers and their leaders to assume **more industrial, civic and social responsibility**.

Reminder chart 2. Is this manual for you?

YES

- if you are involved in workers' education **in a developing country** as a teacher, a student, an organiser or an administrator,

OR

- if you wish to improve workers' education **in a developed country** and are wise enough to respect simplicity and to read selectively;
- if you are involved in literacy campaigns, community development, or technical, vocational or cultural education and you see their relationship to workers' education;
- if you appreciate that the manual cannot cover everything and can deal only with basic concepts and principles and with important problems of methodology.

PART I

BASIC CONSIDERATIONS

THE PURPOSE

1

In this chapter, after a quick glance at student motivation, we shall examine more fully the purposes workers' educators have in mind and then consider how they can inspire their students with their own aims. We do this because we need to know "why" (that is, clarify our objectives) before we can decide "what" and "how" (that is, determine our content and methods).

We might put the question "Why take part in workers' education?" either to students or to administrators and teachers working in this field, and it is likely that we would get different answers from each group.

AIMS OF WORKER-STUDENTS

Inasmuch as worker-students are usually volunteers, we can be sure that one motive is normally present: interest. But interest is a very general term and may arise for many different reasons, at which we can usually only guess. Some students may begin workers' education merely because they want company for their evenings or a pleasant weekend at a residential centre or an opportunity to make up for lack of early schooling. Others may start from a feeling of solidarity or a wish to qualify for trade union office or to understand some aspects of labour problems.

Even if systematic research were carried out into why students start to study ("student motivation"), it is doubtful whether we would learn much of value, for no workers' educators worthy of the name will leave their initial motives unchanged. If workers' education were merely a means of satisfying a number of individual, temporary and ill-defined wishes, then there would be no point in trade unions spending their scarce resources on it—and even less in our having prepared this manual. It is the vision of the social potential of these individual motives which justifies workers' education programmes.

It is in general true to say that many worker-students are interested in knowledge, not for its own sake, but as a means for social action, but this is not

Workers' education and its techniques

always the case with students having their first contact with workers' education. Part of the task of the workers' educator is to broaden individual and personal motives into urges for social action. If the student's interest remains stubbornly focused on his personal concerns, by all means let him continue with general adult education; but one cannot afford to continue spending the scarce resources available for workers' education on him. Workers' education is only for those who readily appreciate its real aims and basic purposes and are prepared to do something about them, first by studying and then by using the knowledge they have gained.

BASIC PURPOSES OF WORKERS' EDUCATION

Workers' education is designed to develop the workers' understanding of "labour problems" in the broadest sense of those words. Thus it is not an end in itself and should always be regarded as a means to useful action. In many cases the education will make clear both the need for action and the best forms the action can take. Accordingly, it may be directed to usefulness in the workshop, in the works committee, in the trade union, and in local or national affairs. Workers' education programmes should always keep this in mind.

For many years, an awareness of these basic purposes has been evident in many parts of the world. Almost all national, regional and international trade union movements have committed themselves to educating their members for economic and social responsibilities. In April 1970 the then Deputy Director-General of the ILO observed that, in addition to its traditional responsibilities, "trade unionism is confronted today with more complex and exacting challenges than it has ever known". He went on:

Trade union participation in development planning and implementation can inject greater social content and greater realism into both the conception and the execution of development plans. . . . Well-educated trade union leaders at all levels can bring to the planning process a contribution as worthwhile as it may be unique—a blend of experience, wisdom and common sense with an appreciation of what the people will accept in present hardship. . . . Have we recognised sufficiently the extent to which workers' education must equip workers to take an increasingly responsible part in securing political stability, economic growth and social justice in an ever more complex and dynamic society? ¹

When we emphasise that workers' education is a means to useful action and not an end in itself, we are not decrying other approaches to education based on the idea of "knowledge for its own sake". We are merely saying that this idea has little practical relevance to workers' education, with its present scarcity of resources. Workers' education always regards knowledge as a potential tool.

¹ C. Wilfred Jenks: "Workers' education in the coming years", in *Labour Education* (Geneva, ILO), No. 18, Apr. 1970, pp. 2-7.

Nor does this exclude from workers' education any cultural aspects, for it can certainly be argued that a man who is familiar with the literary or artistic ideas of his country will be a better trade union official than one with little cultural background—provided, of course, that both have equal ability and training in the basic subjects necessary for trade union action. In countries where it is certain that these basic subjects have been mastered by enough people, it is a good idea to add a cultural dimension ; but at the start (and for a long time in developing countries) a workers' education programme must put trade unionism before, let us say, classical music. Nor should workers' education administrators, faced with a choice between satisfying a few demands for courses in astronomy and many for courses in the principles of trade unionism, have any need to hesitate—the immediate gains in social action are the deciding factor.

These points have been stressed because workers' educators in developing countries may be uneasy if they do not copy the wide subject range of some of the programmes of industrialised countries, which claim to educate “the whole man” as distinct from the trade unionist or the worker. Before they feel concern, they should ask themselves, first, whether the more cultural aspects of education should not be the responsibility of governments and universities and, secondly, whether they are not bound to apply a strict system of priorities. In such cases the best can often be the enemy of the good, and educational opportunities may become centred on a narrow section of the population rather than on increasing numbers of rank-and-file workers.

It has been said that “the end of education is to be found in the individual's growth in power to cope with his environment”. This saying can be adapted to workers' education if we make it refer to the “working environment”, and if we add the words “through social action”, so as to stress that, in order “to cope with his working environment” the individual should best form part of a group.

SOME MAJOR OBJECTIVES

Four immediate objectives will probably be in the minds of workers' educators in planning their over-all programmes:

- I. To improve their students' ability to handle the tools of study and of social action through the provision of training in basic skills.
- II. To arouse and strengthen interest in trade unionism, which is an essential part of the process of making students aware of the basic purposes of workers' education.
- III. As a natural sequence, to give workers a better understanding of labour problems (including their political, economic and social implications).

Workers' education and its techniques

IV. To equip trade unionists (officers and rank-and-file members) for responsibility.

The stress laid on each of these four major objectives (and on other minor objectives) will vary in different situations, and this variation will affect the content of workers' education programmes.

FROM INDIVIDUAL AIMS TO SOCIAL PURPOSE

A workers' educator has three tasks: (i) arousing interest; (ii) maintaining interest; (iii) broadening interests and strengthening the motivation for study. It is time to look more closely at this third task, for, as already mentioned, the interests and motivation of individual students often fall far short of the basic purposes of workers' education. They are often too trivial, too personal and too passive to lead to the goal of "useful social action".

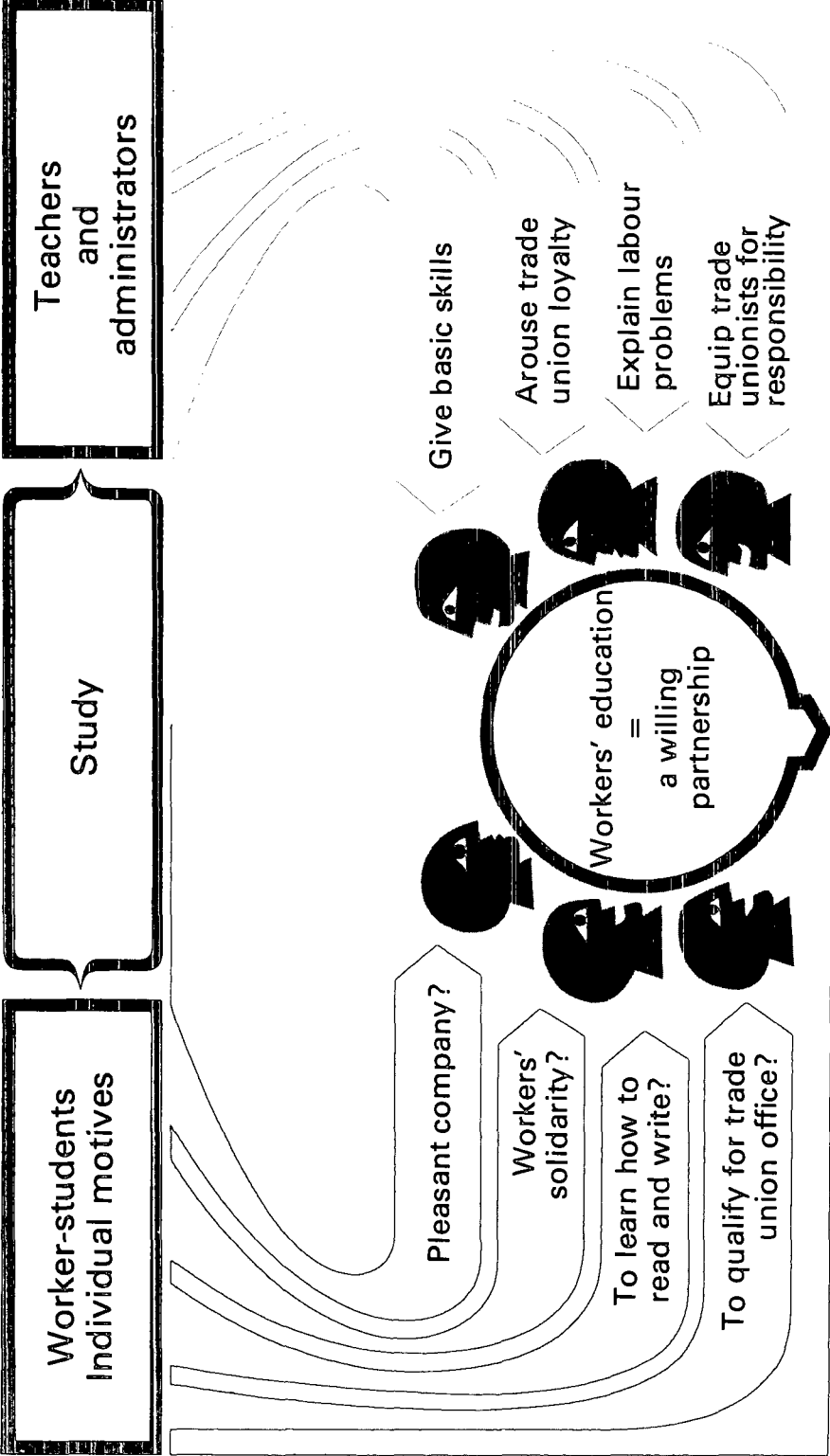
The administrator by his programme planning, the organiser by his personal attitudes and the tutor by his choice of subject-matter and his way of presenting it must all play their part in leading the student on to more important fields of study, to a less individualistic approach and to a more active role in his working environment. These were the ideas behind the resolution adopted at a trade union conference in Asia, which states:

The task of workers' education should be to help workers recover faith in themselves and to develop their personality. The conference believes that only educated, conscious and self-reliant workers having faith in their own efforts can build up and strengthen the free and democratic trade union movement.

It is not only justifiable but absolutely essential that demand should be induced in the field of workers' education, that students should be made aware of their educational needs, and that they should on occasion be helped to see what they really want. The largest trade union in Britain, the Transport and General Workers' Union, for several years created a demand for a large number of 24-week courses on "collective bargaining" and on "work study" at which much time was devoted to training in arithmetic and in the use of the slide-rule. As an extra inducement, certificates were issued at the end of the course to successful students. Scores of workers were thus led along the road towards greater efficiency in social action.

We have said that practical examples should be used wherever possible in workers' education. Figure 1 is a graphic illustration of what we have been trying to say in an abstract way throughout this chapter.

Figure 1. From individual aims to social purpose



In this manual we refer to the “scope” of workers’ education when we are considering its range and when we are concerned with defining its outer limits within the field of adult education as a whole. The distinguishing features of workers’ education and the limits of its scope are usually linked to its ultimate objective: useful social action by worker-students. As was concluded by a meeting of international experts at the ILO in 1957: “While adult education aims principally at broadening the general knowledge of the worker as an individual and as a member of the community as a whole, workers’ education is addressed to the worker as such to improve his understanding of the problems which he, together with his fellow workers, has inevitably to tackle in modern society”.

If our touchstone is to be this ultimate goal of useful social action by the worker-students, it is clear that some subjects (for example, Latin poetry, Chinese calligraphy, appreciation of painting or advanced medicine) will be outside the scope of workers’ education. There remain, however, a large number of other subjects of which it is not easy to say whether they are legitimate topics for workers’ education.

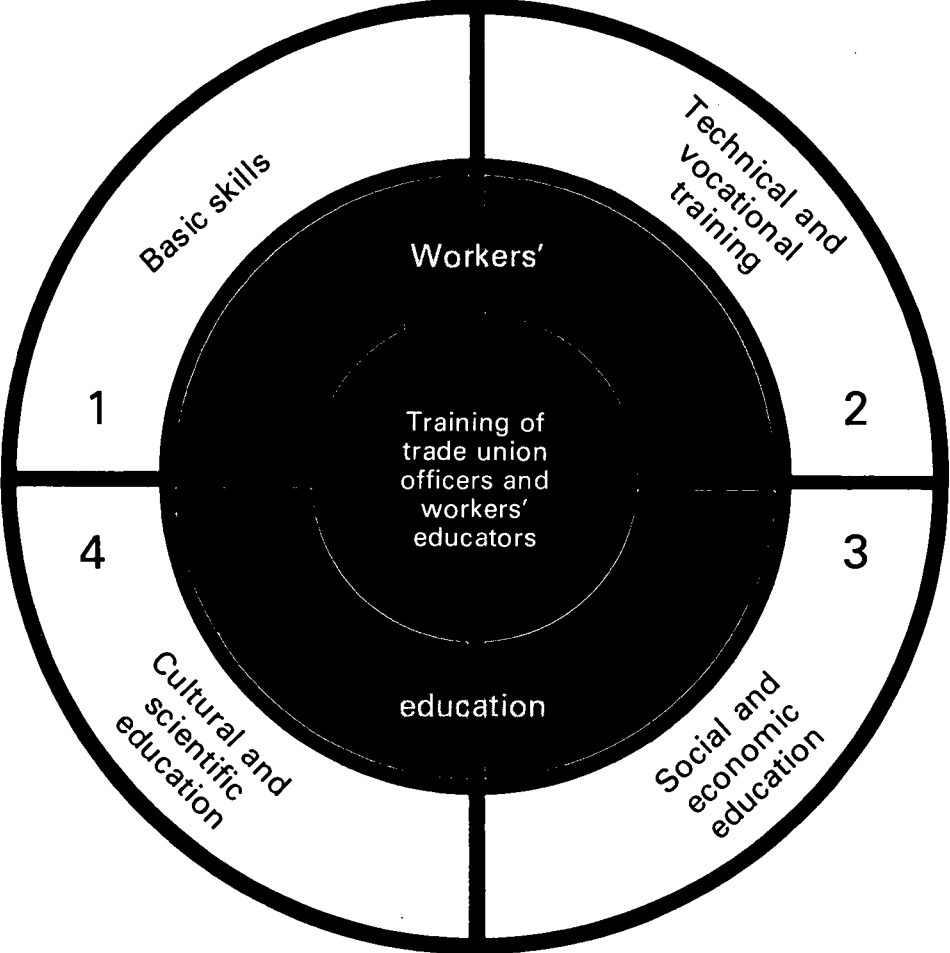
THE FOUR COMPONENTS OF WORKERS’ EDUCATION

The above-mentioned problem is reflected in the frequent overlapping of workers’ education with other types of adult education and in the difficulty of finding clear lines of demarcation. Workers’ education is part of the whole field of adult education, but it is a part which may contain elements of all the normal subdivisions of that wider field. We have illustrated this graphically in figure 2, where the big circle represents the whole of adult education. This big circle is divided into four segments to represent the main elements of adult education, which we can label as:

Workers' education and its techniques

- 1. Basic skills.
- 2. Technical and vocational training.
- 3. Social and economic education.
- 4. Cultural and scientific education.

Figure 2. Adult education as a whole and its component parts



Workers' education is a part—a very important part—of the whole field of adult education. The training of workers' educators and of trade union officers is a part—a very important part—of the field of workers' education.

Within the whole circle of adult education, there is a second large circle which represents workers' education, and within that there is a smaller circle representing the innermost core of training for trade union officers and workers' educators.

1. Basic skills

The prominence given to this element will depend largely on the school system of the country concerned since, to a great extent, it is aimed at making up for deficiencies in earlier education. But it is worth remembering that in the 1950s, even in highly industrialised countries, millions of adults had never attended school and many more millions were classified as "functionally illiterate" (obviously in real need of further training in reading, writing and arithmetic). It is also worth remembering that many of the basic skills required by a militant trade union member—for example, how to prepare an agenda and run a meeting, or quickly marshal arguing points and express them clearly—are of a kind which are not usually or adequately taught in schools. There will, therefore, be a need for this type of basic workers' education even in the best educated nations.

In countries where illiteracy is widespread, it is never easy to decide how much of the time or resources available for workers' education should be allocated specifically to literacy programmes. In the first place ministries of education and local government authorities ought to tackle this problem, and many people believe, therefore, that the role of workers' education agencies in this respect should be confined to stimulating popular pressure for more adult literacy classes and for better schooling. They argue that, since this type of education is one where public grants can eventually be expected, the scarce resources available for workers' education should be kept for other essential activities less likely to attract any public money. Finally, it is pointed out that illiterates can usefully study many workers' education subjects and that, until they have done so, it would be wrong to divert resources to basic literacy classes. Certainly illiterates can be very active in trade union and social matters.

Participants in a number of trade union meetings have shown a spirit of compromise on this question, expressing the view that nearly all the subjects taught in general and in trade union courses can be included in a course for illiterate workers. They have recognised that while it is the task of governments to eradicate illiteracy and the trade unions should bring every pressure to bear on governments for action, they too have some responsibility in this field, so that in certain circumstances eradication of illiteracy, at least among union members, should be a part of workers' education. This is particularly true for functional literacy campaigns with social as well as vocational

Workers' education and its techniques

objectives. It is usually wisest to leave the main bulk of literacy work to governments and to specialised agencies, such as UNESCO, which may send teams to help. A number of trade unions in Africa, Asia and Latin America have taken up literacy activities but, generally speaking, any direct union action can only be marginal and complementary to the official literacy campaigns.

Similarly, there will be times when it may be wise for workers' educators to co-operate in the implementation of community development schemes, which usually have the great merit of involving the students directly in social action and often call for a type of communal project work that comes very close to the ultimate goal of workers' education. In most cases, however, these schemes will not attract any notable proportion of workers' education resources, partly because they are designed for the whole community (and not just for workers) and partly because they can rarely cover in depth traditional workers' education subjects.

In general, we would advise workers' educators to concentrate on those basic skills that will produce rapid benefits for the trade unions—clear thinking, simple arithmetic and oral self-expression probably being more important than literacy.

2. Technical and vocational training

This too is a field where one can reasonably expect that governments will bear the main burden, frequently with considerable help from employers, though trade unions should have a say in the planning and implementation of technical and vocational training schemes, and they sometimes do so by securing representation in the governing bodies of those schemes. In particular, they can help to bring about increasing recognition of the need to include a component of social and labour education in vocational training schemes so that they aim at developing “the whole man” and not just a producer.

A number of trade unions, in both developed and developing countries, have engaged in technical and vocational training, usually of limited scope but having the advantage of accurately reflecting the workers' needs and using the expertise within the workers' organisations themselves. More frequently, however, workers' education is confined to the technical and vocational training of trade union officers for their normal work, and of some specialists. While the approach in the latter case is sometimes defensive, to equip union representatives better to protect workers' interests in respect of job evaluation, work study, redundancy agreements, etc., trade unions in many countries are adopting a positive attitude to productivity and are training worker-

experts in this field. United States, British and other European trade unions have intensive programmes for this purpose and technical productivity questions are included in workers' education programmes in socialist countries. In the USSR, for example, trade union committees provide courses for selected members on economic management, methods of cost reduction, work organisation, etc. In Tanzania it is the National Institute for Productivity which is responsible for much of the action taken in the field of workers' education.

3. Social and economic education

This includes not only specific labour and trade union aspects—trade union skills—but also aspects relating to the more general problems of man in society. Here it is practically impossible to draw any useful dividing line between the subjects that concern men as workers and those that concern them as citizens. The greater the resources available, the more a workers' education programme can do to educate workers as men and as citizens. The fewer the resources, the more it will tend to concentrate on rather narrow trade union subjects. It is interesting to note, however, that some of the newest and poorest workers' education bodies are among the most eager to take a broad approach to social and economic studies and to stress international aspects, thus demonstrating their interest in trade union participation in development planning or in the economic integration schemes that have been launched in certain regions.

Priorities must again be determined in the light of local conditions. No general rules can be laid down beyond, perhaps, stressing that countries wishing to encourage a high degree of workers' control or workers' participation in management and in government will have to ensure that there is a strong social element in their workers' education programmes. And in this connection it may be useful to recall what the Director-General of the ILO said in 1970:

Trade unionism ... must include within its vision the relationship between immediate trade union demands and the creation of a firm foundation for solid social progress in assured economic stability and dynamic economic growth. ... It must contribute to economic policies which protect its gains, in wages, social security and other benefits, against erosion by inflation. ... Trade unionism must now concern itself ... with the increasingly grave problem of economic growth and development. ... Unless economic and social policy develop as one, with social ends determining the economic measures, the disparities and injustices which threaten the peaceful progress of society will destroy its very foundations.

In short, social and economic education must loom very large in any workers' education programme.

4. Cultural and scientific education

Many Western workers' education associations have a long tradition of classes in music, literature and appreciation of the fine arts, and similar interests are encouraged by trade unions and governments in a number of socialist countries. Some employers also provide important facilities: the Renault factories in France, for example, have for years organised a music listening club, a choir, a brass band, a record library and theatre shows for their employees. As regards the trade unions, an account of workers' education in the United States dating from 1939 reported that "workers' education has broadened its scope beyond the classroom to include a wide variety of cultural and recreational activities . . . : dramatics, radio, recreation and music". This trend continued and has resulted in a wide range of cultural activities. For example, the International Ladies' Garment Workers' Union runs classes in sculpture, painting, music and drama, while the United Steel Workers of America, at its summer schools, has workshops in reading, art and music, besides sponsoring free concerts by the Pittsburgh Symphony Orchestra.

Another striking example of a cultural workers' education programme is that of the Cultural Centre of Histadrut (the General Federation of Labour) in Israel. This organisation involves thousands of workers in cultural pursuits, as can be seen from the fact that in 1970 it had 240 choirs (with a total of 12,000 singers), 200 drama groups, 82 orchestras and many folk-dance teams under its auspices. The leadership of Histadrut recognised that, however important the economic aspects of the task of building a new civilisation in Israel might be, the basis of the new State and of the labour movement would always be the individual. The aim of the programme is "the development of an awakened and intelligent worker who will understand that his job is not an end in itself".

Similar considerations led the Confederation of Workers of Mexico to enlarge its programme of cultural activities in 1961 to include music contests, dramatic performances and sports days, particularly for the younger workers. In Austria the Trade Union Federation encourages artistic and recreational activities, such as popular theatre and social tourism, in line with the educational policy it has systematically been pursuing for many years.

Similarly, in the space of four years between 1963 and 1968, the trade unions in the USSR built 2,000 clubs and other cultural institutions and opened about 3,000 libraries and 700 gymnastic halls. In addition, they own about 40,000 film projection units serving 830 million spectators every year, while 24 million members enjoy the activities of 29 major sports societies.

To date, not many trade unions have committed themselves to scientific education, although it is interesting to note that the German Confederation of Trade Unions (DGB) uses one of its residential colleges at Bad Kreuznach

particularly for the study of the application of science to labour. Elsewhere, trade union interest in science tends to be more specialised, concentrating on such topics as work study and the effects of automation.

Conclusion

As we have explained, the four segments of the large circle in figure 2 represent the four main subdivisions of adult education. We have seen in the last few paragraphs that the size of these four subdivisions will vary in different places and at different times, but for the sake of simplicity the four segments are shown as being of equal size. This, of course, also has the effect of making the four shaded areas (the workers' education sections of the total segments) of equal size.

Such a simplified diagram has advantages, for it reminds us forcefully that a full workers' education programme will include all four component elements of adult education; but it has the serious defect of suggesting that, on average, or typically, all four elements are of equal importance in both general adult education and workers' education. We must remember that this is not so, that the exact stress put on the different subject groups by adult educators will vary from place to place and from time to time and that workers' educators will probably have quite different priorities from general adult educators. This is illustrated in figure 3, which shows the typical situation in a rich industrialised country and in a poor developing country.

SPECIAL TRAINING SCHEMES

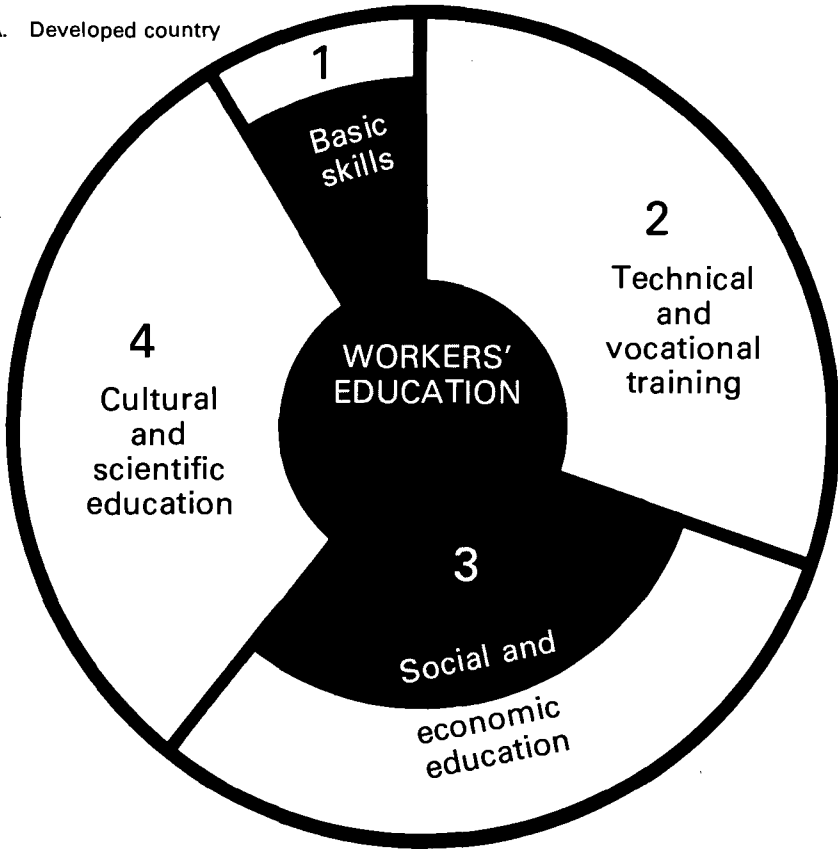
From time to time in this chapter we have referred to special types of training which will often form part of workers' education programmes. These include the technical training of "worker-experts" and the specialised training of trade union officers and workers' educators. We indicated these in figure 2 by an inner circle, shaded darker than the rest. It may be thought that it would have been better to add a fifth segment to our larger circle, but that would then have failed to show that such training schemes will almost certainly include some or all of the four components of adult education. Reminder chart 3 illustrates this point by means of a list of 11 main topics of study for trade union branch officers, which was drawn up for an adult education programme in Ceylon (now Sri Lanka).

It is unnecessary here to describe a programme for a developed country. Suffice it to say that the main change in emphasis would be to increase the group of social and economic subjects, probably at the expense of the time spent on basic skills. It is worth noting, however, that many powerful and well established trade unions in developed countries have recently decided that

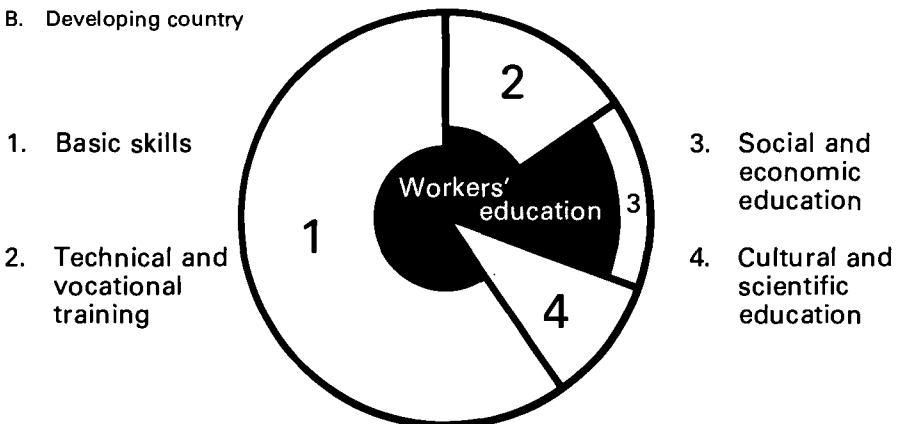
Workers' education and its techniques

Figure 3. Composition of adult education

A. Developed country



B. Developing country



Explanatory notes to figure 3

A. A developed country

In this case the outer circle (adult education as a whole) is large, because a rich, industrialised country can well afford to spend a great deal of money (both public and private) on adult education.

1. The teaching of basic skills is relatively unimportant because the school system will be good, obviating the need for literacy programmes and basic education. There will, however, be some deficiencies to remedy and, since one would expect workers' education programmes to be particularly concerned with this, a large part of the segment is shaded. (In other words workers' education programmes cover a large part of the basic skills.)

2. Technical and vocational training will be very important from the national viewpoint but will be the responsibility mainly of the government and employers. Thus the shaded workers' education section will be comparatively small and will represent technical aspects of training schemes for worker-experts.

3. Social and economic education will also be important from the national viewpoint and will presumably be well supported by other adult education agencies. However, since workers' education will be firmly established, it will be playing its part in this field and in cultural and scientific education, as well as in the training of trade union officers and workers' representatives.

4. Cultural and scientific education. The difference in size between the shaded workers' education sections in segments 3 and 4 reflects the natural preoccupation of workers' education with trade union skills.

B. A developing country

The term "developing" is used here to denote a country which has not undergone much industrialisation and therefore has not yet become fully trade union conscious. Neither the government nor any other agency has taken a serious interest in adult education, so the size of the outer circle has been reduced to indicate that much less is usually done about adult education in a developing country. In fact, if the two diagrams were drawn to scale, this circle would hardly be big enough to see.

1. The teaching of basic skills (literacy programmes and basic education) forms a much bigger part of the whole, with workers' education playing its role, though held back by lack of resources and by a hope that public money may eventually be forthcoming, at least for this sector.

2. Technical and vocational training cannot be afforded on the scale required and workers' education programmes will probably be confined to general, and some specialised, training of trade union officers.

3. Social and economic education will attract little money from other agencies, so workers' education administrators will have to concentrate their efforts here, especially on topics of immediate relevance to workers (trade union skills, co-operation, etc.).

4. As regards cultural and scientific education, neither workers' education nor other adult education bodies will be able to devote much attention to this activity because of the lack of available resources.

It should be stressed that the circles A and B in figure 3 represent the two extremes and that most countries are to be found in an intermediate stage.

Workers' education and its techniques

their educational programmes, even for their officers, do not pay enough attention to the basic skills of reading, writing and speaking effectively, and that even their most experienced officers benefit from further training in this area. The Communications Workers of America (CWA), for example, provides all its full-time officials with a seven-month training course. The course includes ten weeks at a university college to study subjects ranging from economics to music, six weeks at the CWA headquarters in Washington, four weeks on-the-job internship, plus further training in the theory and practice of union organisation.

Reminder chart 3. Topics for a trade union branch officers' programme

Subject	Component
HOW	
— to plan meetings	1 and 2
— to run meetings	1 and 2
— to speak and write better	1
— to make committees function	2
— to interpret and apply a contract	2 and 3
— to handle grievances	2 and 3
— to get smooth "shop-level" labour-management relations	2 and 3
— to keep members informed, active and loyal	2
— to win more members	2
— to collect dues	1 and 2
— to prepare for and run strikes	2 and 3

Explanatory notes to reminder chart 3

This programme is just one example and does not claim to be exhaustive or perfect. As its title indicates, it was designed for people holding trade union office at branch level but new to workers' education.

The numbers in the right-hand column refer to the four components or elements of adult and workers' education (see figure 2). It will be noted that the programme includes:

- teaching of basic skills;
- vocational (or technical) training specifically for the job of trade union officer;
- more general social and economic education.

Only the fourth component, cultural and scientific education, is missing, and its absence is logical and natural in a workers' education programme designed for a country where there is so much to be done in the first three areas and where there are many agencies active in promoting traditional culture. It is possible that in a rich, industrialised country a branch officer's curriculum would have some cultural content.

The previous chapter described the four categories of teaching that are involved in both adult and workers' education; we shall now take a look at how far workers' education goes and at what point the other kinds of adult education take over. In deciding if a subject should be included or not, our touchstone can be whether it contributes to the fundamental goal that we set ourselves: useful social action by the workers themselves. Once this choice has been made, local conditions will determine how much stress the programme is to place on the various categories of teaching and on each of the four immediate objectives referred to in Chapter 1, as well as on any minor aims of workers' education.

THE FOUR OBJECTIVES OF WORKERS' EDUCATION

Let us now leave other forms of adult education aside and concentrate on workers' education. If we represent workers' education graphically by a square (see figure 4), we can give a simplified picture by dividing the square into four equal parts, each indicating one of our four major immediate objectives:

- I. Providing basic skills (for example, by teaching people how to collect, sort out and express information and ideas).
- II. Arousing interest in and strengthening loyalty towards trade unionism (leading later to more serious study of trade unions, co-operatives and other workers' organisations).
- III. Putting labour problems in their broader social and economic setting.
- IV. Training workers for responsible tasks (as helpers in workers' education, as trade union officers, as "worker-experts", as co-operative leaders, etc.).

Workers' education and its techniques

Figure 4. Major objectives and content of workers' education

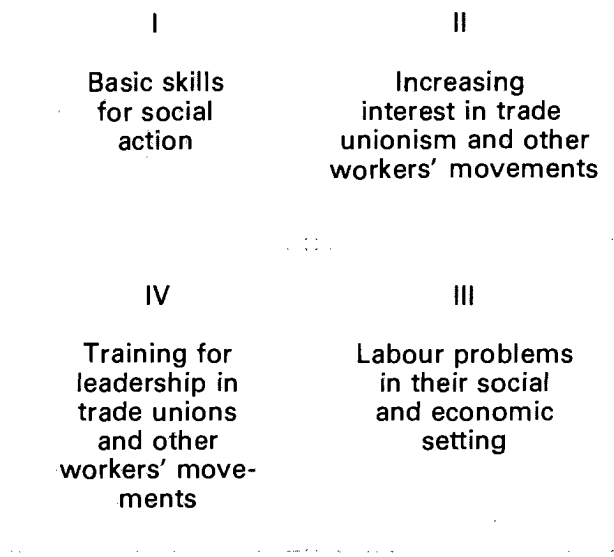
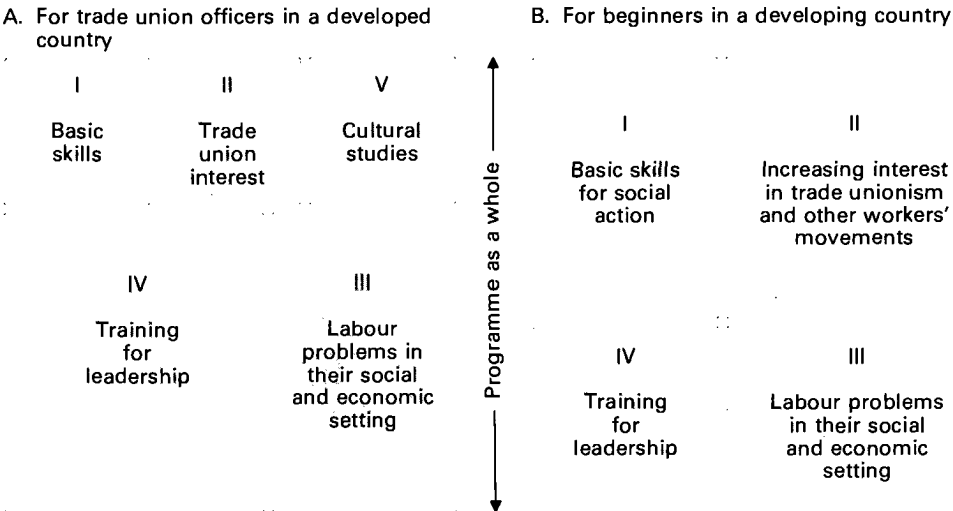


Figure 5. Emphasis on the objectives of a workers' education programme



Explanatory notes to figures 4 and 5

In order to make its point, figure 4 (like figure 2) over-simplifies the real situation. Figure 5 shows that the actual content of a workers' education programme will vary greatly in accordance with local conditions and particular student groups. In this

diagram, square A indicates the emphasis that would probably be placed on the various objectives of a workers' education programme intended for trade union officers in a rich, industrialised country; square B shows the different emphasis required in a programme for beginner students in a poor developing country.

The reason for the different stress in the two programmes will be obvious, but it is perhaps worth noting three points: first, that even trade union officers can often do with a reawakening of their interest in trade unionism, particularly as regards the international implications; second, that in the developed countries it may be possible to include some general and cultural content in a course for trade union officers; and third, that in a developing country lacking a tradition of trade unionism, most new students will be too inexperienced at first to qualify for training in leadership.

Some study of the social and economic background of the country is desirable in all workers' education programmes, whether for officers or rank-and-file members, and this is especially true of programmes for young workers.

We have shown that the content of programmes can and should vary greatly, according to the immediate needs of the workers' organisations, the resources available and the present capacities and duties and the potentialities of the students. Administrators of workers' education should weigh all these factors when they plan the actual subject content of the programmes. They must also remember the need for graded, progressive courses and the foolishness of overloading them (especially for beginner students).

SOME SAMPLE PROGRAMMES

Rather than listing and discussing all the possible workers' education subjects, we shall give in chart form some concrete examples of curricula that have either been tested in practice or been planned by groups of experienced workers' educators.

In order to remind readers of the importance of graded courses, we shall start with a three-level programme adapted from suggestions put forward at an international trade union seminar on workers' education some years ago (reminder chart 4).

Next we have reminder chart 5, which analyses another three-level type of programme launched in the early days of the Indian workers' education scheme to give a systematically graded service that was unique at the time in that it catered for three specific functional groups at very different levels, namely (i) workers' education officers who are all full-time employees of the Central Board for Workers' Education of India. They consist of well over 100 social science and/or economics graduates, with higher degrees except for a few who have wide trade union experience. They are carefully chosen on the basis of personality and commitment to workers' education and undergo a six months' training course before they are sent to man the 32 regional centres and many subregional centres, at which they themselves run training courses for worker-teachers; (ii) worker-teachers who are local trade union activists chosen by their unions and released by their employers to undergo a three-month full-time training course run by the workers' education officers at the regional centres. Afterwards they return to their normal work but

Workers' education and its techniques

Reminder chart 4. Sample three-level graded curriculum¹

Rank-and-file members	Activists	Officers
1. Basic education—reading, writing, verbal expression and arithmetic (taught with special reference to trade union situations). I	1. Basic skills: (a) more reading, writing and arithmetic; (b) oratory and meeting procedure; (c) teaching techniques. I	1. Practice in rapid analysis and selective reproduction of facts and ideas. Workers' education techniques—especially discussion. I and IV
2. Hints about and encouragement of self-education and study techniques. I	2. Organisation of self-study and community action. I and IV	2. Suggestions for local group work. I and IV
3. Basic trade union training: (a) why and how to organise; (b) basic trade union aims and functions; (c) trade union structure and democracy; (d) rights and duties of trade union officers and members; (e) basic history of trade unionism—local and national. II	3. More about trade unionism, including organisation, administration and international aspects. II	3. General training of trade union officers and worker-experts: (a) social and economic "laws"; (b) labour laws; (c) research work; (d) productivity; (e) international trade unionism. IV

Reminder chart 4 (concl.)

4. Informal education—cultural and recreational activities to strengthen group loyalty and sense of community (perhaps health and hygiene). I, IV and perhaps III	4. Labour laws—national and international. II	4. Economic, social and political questions including incomes policy, inflation, social security, productivity, etc. (analytical studies with plans for action). III
5. Economic, social and political questions (mainly descriptive). III		
6. Working conditions and wage-fixing procedure, collective bargaining. III		
7. Rights and duties of trade union members and officers. II and IV		
¹ The Roman numbers under each subject refer to the four major immediate objectives of workers' education (see figure 4). The changing stress of the programme in the different grades can be seen clearly.		

themselves run part-time courses for their fellow-workers, “multiplying” the efforts of the full-time workers’ education officers by spreading what they have learnt to the “unit level”; (iii) worker-students, who are the real target of the whole scheme. They attend part-time classes, usually at their workplace (“unit level”), and the teaching is mainly provided by the worker-teachers.

It should be noted that when the programme for worker-students summarised in the right-hand column of reminder chart 5 was carried out, the classes met over a four-month period, twice a week, after work (or sometimes half in working hours). At present classes are held for one hour every weekday over a period of three months—a total of about 60 hours of study.

Other major changes in the scheme, which is kept under constant review, have been to introduce much more varied and active methods of study and to place much more emphasis on trade unionism.

Workers' education and its techniques

Reminder chart 5. Outline of three study programmes organised by the Central Board for Workers' Education of India

Subjects	Workers' education officers (six-month course)	Worker-teachers (three-month course)	Worker-students (four-month course in two parts)
	(number of hours)		
<hr/>			
Practical training in basic skills (seminars, debates, making graphs and charts, role playing, etc.)	65	12	25
Observations and visits	(6½ weeks)	12	15
Workers' education	5	6	—
Modern industrial community	5	—	—
General labour problems	7	10	1½
Trade unions	21	28	9
Labour laws	37	30	1½
Industrial relations	20	22	7½
Wages	13	14	4½
Social security	4	6	1½
Employment and training	7	12	1½
Industrial welfare	9	10	—
Workers' participation in management and industrial discipline	9	6	1½
Co-operative movement	7	4	1½
Productivity	5	6	4½
Labour statistics	10	6	1½
Personnel management	9	—	—
Five-year plan	5	14	1½
International labour movement	4	—	—
Discipline in industry	—	8	3
General subjects	—	18	3
Guest lectures, etc.	—	40	—
<hr/>			
Total	242 (plus 6½ weeks of observation and visits)	264	83½

Under this three-tier system, 27,000 worker-teachers and over one and a quarter million workers (about 10 per cent of the industrial labour force) had undergone training by the end of 1972.

Finally, we have reminder chart 6, in which are presented side by side, to facilitate comparison, the early curricula of the ICFTU Asian Trade Union College and of the Asian Labour Education Centre in the Philippines. The general similarity (with minor differences in emphasis) between the two is evident. In both cases, the programmes involve about three months of full-time study and are designed for trade union activists holding responsible posts, who will often already have had some experience of workers' education. In particular, both curricula include field visits, practical demonstrations and other activities designed to equip the students with basic skills for social action and to help them to put labour problems in their social and economic setting. The similarity between the two courses and the fact that the programmes have been repeated with few changes seem to confirm that they do meet the needs of this particular category of worker-students.

Reminder chart 6. Comparative summary of the curricula of two Asian regional workers' education centres¹

Asian Trade Union College	Asian Labour Education Centre
(Twelve-week international courses)	(Ten-week Asian trade union leadership courses)
1. (a) "Aims and objectives of trade unions": their definition and their distinction from other working-class organisations and from political parties; political activities of trade unions and their relationship with political parties. II and III	1. "Trade unionism and democracy" (20 hours): vital contribution of trade unions in building a democratic society; right of workers to self-organisation; union objectives of raising workers' living standards and enhancing their human dignity; criteria of free trade unionism, including determination of policy and selection of officers by the members themselves; rank-and-file participation in union affairs, etc. II and IV
(b) "The ideal of democracy": its meaning and significance for the trade union movement. II and III	

Workers' education and its techniques

Reminder chart 6 (cont.)

2. "History of national and international trade union movements": history of labour movements, with elements of the history of English and United States trade union movements; role and functions of international trade secretariats and of federations or confederations of national trade union centres, with special reference to ICFTU² history, policies and programmes.

II, III and IV

2. "International labour movement" (20 hours): history, organisation, economic policies, political programmes of labour movements of Great Britain, the United States and Asian countries; structure and functions of the international trade secretariats of the ICFTU², WFTU³ and WCL⁴.

II, III and IV

3. "Organisation and administration of trade unions": day-to-day problems of trade unions, e.g. how to arrange union meetings, collect union dues, conduct union elections, maintain union accounts, organise and conduct strikes and reconcile efficient functioning of a union with democratic control.

IV

3. "Union structure, organisation and administration" (20 hours): internal structure, responsibility allocation, subdivision of authority, workshop on union finances including dues collection and budgeting, discipline, filing, record-keeping, correspondence and other administrative procedures.

IV

4. (a) "Industrial relations law": legislation on right to organise, recognition of trade unions and settlement of industrial disputes; practices obtaining in different parts of the world.

IV

4. (a) "Labour and social legislation" (20 hours): government responsibility and authority of Asian governments in regulating working conditions and labour relations; comparison of objectives, content and administration of legislation.

IV

(b) "Collective bargaining": terms of reference of the parties to collective bargaining, subject-matter of collective bargaining; collective bargaining provisions on wages and fringe benefits, seniority, union security, grievance procedure and handling; representative clauses in collective agreements of different countries.

IV

(b) "Labour-management relations" (40 hours): settlement of labour-management disputes and various approaches to labour-management relations in the area of collective bargaining, its nature, procedures and effects; conduct of negotiations, writing collective agreements and enforcement; grievance procedure; comparative government participation in the process as employer, mediator, conciliator, arbitrator or administrator.

IV

Reminder chart 6 (concl.)

5. "Wages and labour economics": level of wages, wages in relation to capacity to pay, productivity and cost of living; wages and economic development, etc.

III

5. "Labour economics" (40 hours): basic concepts of population, production, income, business organisation, agriculture and industry sectors, national resources, import and export balance, tariffs and taxation, etc.; role of trade unions in national economic problems of labour force, employment and wages; economic impact of collective bargaining; labour productivity programmes, etc.

III

6. "Workers' education": need for workers' education in Asian countries, scope and content of workers' education, its methods and techniques, agencies concerned.

I, II and IV

6. "Labour education techniques" (30 hours): philosophy and goals of workers' and adult education, organisational, promotional and financial problems, aid from international agencies, teaching and discussion methods, techniques and tools.

I, II and IV

7. Various subjects covered at certain courses, including:

(a) "Time and motion study".

IV

(b) "Job evaluation".

IV

(c) "Wage incentive methods".

III and IV

(d) "Industrial psychology".

III

(e) "Problems of economic development".

III

(f) "Workers' participation in management".

III and IV

(g) "The United Nations and its specialised agencies, such as the ILO, UNESCO, etc.".

III and IV

7. Various subjects covered at certain courses, including:

(a) "Contemporary labour problems" (20 hours).

III

(b) "Non-agricultural co-operatives and credit unions" (30 hours).

III and IV

(c) "Parliamentary procedure" (20 hours).

I and IV

(d) "Public speaking and debate" (20 hours).

I and IV

¹ The Roman numbers under each subject refer to the four major objectives of workers' education (see figure 4). ² International Confederation of Free Trade Unions. ³ World Federation of Trade Unions. ⁴ World Confederation of Labour.

Workers' education and its techniques

Reminder chart 7. Programme content for special types of worker-students

Programme component (four immediate objectives)	Specially suitable for:
I. Basic skills and techniques of learning.	Workers' education beginners, trade union rank and file, young workers, women workers, immigrants with language difficulties, and rural workers.
II. Increasing interest in trade unionism, etc.	Trade union rank and file, workers' education beginners, young workers, women workers, seafarers and transient workers, new immigrants, new migrants to industrial centres, and rural workers.
III. Labour problems in their social and economic setting.	Trade union officers and staff, trade union rank and file, new immigrants, new migrants to industrial centres, advanced students, and potential workers' education tutors.
IV. Training for leadership.	Trade union officers and staff, advanced students, potential workers' education tutors, and selected trade union rank and file.

Reminder chart 8. Guidelines for the content of the ideal workers' education programme

The ideal workers' education programme should:

- be geared to the ultimate goal of useful social action by the workers ;
- also be geared to the special immediate objectives of the particular student ;
- harness and strengthen the students' interests ;
- be suited to the present capacity of the students and use their experience ;
- develop the students' potential by careful grading of their work ;
- give every opportunity for developing basic skills and self-confidence by practical work ;
- not be overloaded with information but leave time for discussion and exercises and "real learning" ;
- end with simple testing of the value of the programme and preparations for the next one.

One of the problems of writing a handbook like this, for use in many countries, is that the same thing is called by different names in different places. Thus the person actually responsible for the educating process may be called an instructor, a teacher, a trainer, an extension worker, an education officer, a leader, an animator, a monitor or a tutor. We shall normally use “tutor”, except when one of the other terms seems to be precisely appropriate for a certain type of activity. This choice does not in any way imply that the tutor must be a person with an academic background; he may well be a worker-student himself. Nor does it imply that workers’ education is always provided in very small groups. But it does suggest an element of personal interest in the students which is not implicitly conveyed by the term “lecturer”. For the same reason we might have preferred “teacher”, if the word were not often associated with overcrowded schoolrooms. The terms “workers’ educator” and “labour educator” are often employed, but are commonly taken to include administrators and organisers as well as teachers.

It is hoped, therefore, that nobody will be misled or upset by the use of the term “tutor” to designate the man or woman who guides the various types of educational activities in workers’ education groups. If he does his job well, he will be at different times a discussion group leader, a lecturer, a chairman, and so on. In fact, a good tutor must be flexible and adaptable, but he must also have many other qualities and qualifications. Let us first examine these, before considering the training of tutors and ways in which they can improve their teaching.

QUALITIES AND QUALIFICATIONS OF A GOOD TUTOR IN WORKERS’ EDUCATION

A number of the essential attributes of a good workers’ education tutor derive from the general characteristics of worker-students. He should be at

least as interested in his students as he is in his subject, for only then will he keep their active interest in the classroom. He needs the ability to judge personalities and moods quickly and to make contact rapidly with the group so that he can soon get them to contribute. He should have the patience, tact and sensitivity necessary for training grown men in basic skills which they are sometimes ashamed to admit they lack. He needs both imagination and a practical mind to aid him in his search for the best particular examples on which to base his generalisations and for the concrete facts on which the students can slowly build abstract theories. He must be well qualified, though that does not mean that he has to have many diplomas. He certainly should not be so set in an academic mould that he is afraid to use everyday language or to cross "subject-frontiers", or that he shies away from discussing questions on which he is not an expert. Finally, he should be adventurous, flexible and experimental in his methods and techniques, always looking for ways of getting a purposeful response from his students.

So much for personal qualities, on which we have deliberately focused attention first rather than on qualifications, because it is easier for administrators to have would-be tutors trained in the subject-matter of a study course than to mould their personality. However, it is certainly a great advantage if the tutor already has both the necessary qualities and the necessary background knowledge for his task.

Opinions differ as to the qualifications desirable for tutors in workers' education. Some consider that a lack of formal qualifications can be offset by long experience in the trade union movement. Others argue that good academic qualifications are the main requirement, provided that the tutor is not positively hostile to workers' movements and their aspirations. This view, however, is not in line with the emphasis placed on personality factors in the preceding paragraph on the ground that workers will quickly realise if there is a lack of understanding and positive sympathy on the part of the tutor. Neutrality is not enough. However, one should not go to the other extreme of believing that only experienced trade unionists can (and should be allowed to) teach worker-students. There is a major shortage of first-rate tutors in every national workers' education movement, and artificial restrictions which may cut their numbers even further simply cannot be afforded.

In the search for potential tutors, trade union activists and keen worker-students should certainly be among the first to be considered, but other possibilities should be explored, though admittedly with care. Conferences, seminars and other meetings on workers' education have repeatedly emphasised that there are numerous opportunities outside the trade union movement for recruiting both full- and part-time workers' education tutors; they can be chosen, for example, from among mature university students,

post-graduate students with relevant interests, graduates employed in industry, former participants in residential long-term adult education courses or in advanced tutorial classes, staff training officials in the public services, staff members of technical colleges and so on.

The suitability of such people will depend on their personality and also on the major immediate objective of the particular study course. Obviously, trade unions cannot expect to recruit tutors from such outside sources for their own special training courses, but for teaching basic skills or general economic and social subjects they might do much worse. Given sound knowledge, intellectual integrity, sympathy with the students and an interest in teaching, many tutors can, by making the effort, often overcome the lack of an industrial background and of trade union experience. Special training schemes can certainly help in this process.

THE TRAINING OF TUTORS

The content and depth of training programmes will vary with the different tutors and the type of the work for which they are being trained, but all courses should include instruction in the techniques of adult teaching (including practical work). This is particularly necessary where the trainee-tutors are former schoolteachers, as they will probably need to revise their whole approach to their students. The factual content of the programme will largely depend upon the starting level of the potential tutors in the relevant subjects. The one cardinal rule is that every course should be planned as a step in a graded programme.

In countries with a long tradition of workers' education, regular conferences of tutors are held to enable the persons concerned jointly to examine the specific problems connected with given teaching methods or with one particular subject or group of subjects. In the United Kingdom there is now a Society of Industrial Tutors with about 100 members who are all working in fields linked to workers' education. It publishes a journal twice a year, holds an annual conference and acts as a pressure group in adult education matters. Such associations and conferences are of great value, not least because they contribute to the development of new study materials, but unfortunately they are not usually practicable for developing countries. Even there, however, every effort should be made to organise short training courses with some "follow-up" arrangements so that tutors can get together to discuss their problems.

In the developing countries the usual situation is that conferences can be held only very occasionally and that they generally include workers' education administrators and organisers (who may also be tutors) and probably some

Workers' education and its techniques

keen workers' education students who, with training, might become teachers. This diversity gives rise to difficult problems of programme planning, and we have therefore given in detail, in reminder chart 9, a suggested programme for such a group. This programme is based (with slight adaptations) on a month-long seminar for a mixed group of workers' educators in Egypt run by an ILO expert on mission there.

A sample tutor-training programme

A few comments may help to give a clearer idea of the main features of the programme outlined in reminder chart 9. It will be noted that the timetable follows the general guidelines for workers' education listed in reminder charts 1 and 8. Thus practical work in basic skills begins very sensibly with instructions about note-taking, so that as little as possible of the programme will "go in one ear and out the other" and as much as possible will go into notebooks as a permanent record. Also, by this means, the expert hopes to alter the attitude of his students. Instead of being passive listeners, they will become willing partners in an educational process who are being trained to think about what they are doing and how best they can learn—who, perhaps unconsciously, will start realising that education is more than just collecting information. Already by 11 o'clock on the first day, the students are themselves having to contribute, and this emphasis on group work continues throughout the course, the exercises being graded in difficulty but always having direct relevance to the immediate objectives of the participants. As with the earlier example given in reminder chart 6, the programme is designed for a specialised "professional" group and it therefore virtually ignores cultural matters. Otherwise, it is a skilful blend of the other three components of adult education—education in basic skills, vocational training and general social and economic education.

The gradual broadening of the subject-matter, by beginning with topics related to the process of workers' education in Egypt and then combining this basic element with occasional new subjects (trade union organisation, social insurance, industrial safety, etc.), also accords well with the rule of working "from the local to the distant and from the known to the unknown". Further, the practical group work is supplemented by three visits, the first occurring after a session on how to prepare for a visit and being followed by an "evaluation session"—both excellent features since they underline the fact that visits are not merely pleasant outings but a useful method of education. Finally, visiting lecturers are not much used until the third week, by which time the students should have formed themselves into a good working group and be better able to absorb information from set lectures.

Reminder chart 9. Programme of a one-month training course for a mixed group of workers' educators

Day 1

- | | |
|-------------|--|
| 9.00- 9.45 | Opening of the course. Introduction of the participants. The aim of the course and the programme outline are commented upon by the ILO expert. |
| 10.00-10.45 | "The importance of taking notes during lectures", lecture by the ILO expert. Exercise lecture: "Why have workers' education in Egypt?" |
| 11.00-11.45 | Group work. |
| 12.00-12.45 | The groups report. Discussion. |
| 18.00-18.45 | "Some notes on the scope of workers' education", by the ILO expert. |
| 19.00-19.45 | Group work. |

Day 2

- | | |
|-------------|---|
| 9.00- 9.45 | The groups report. |
| 10.00-10.45 | "Methods in workers' education", by the ILO expert. |
| 11.00-11.45 | Group work. |
| 12.00-12.45 | "To lecture—traditional and new techniques", by the ILO expert. |
| 18.00-18.45 | Group work. |
| 19.00-19.45 | The groups report. Discussion. |

Day 3

- | | |
|-------------|---|
| 9.00- 9.45 | "Group work—old and new techniques", by the ILO expert. |
| 10.00-10.45 | Practical exercises. |
| 11.00-11.45 | "How adults learn: some teaching hints", by the ILO expert. |
| 12.00-12.45 | "How we learn", a filmstrip commented upon by the ILO expert. |
| 18.00-18.45 | Group work. |
| 19.00-19.45 | The groups report. Discussion. |

Day 4

- | | |
|-------------|--|
| 9.00- 9.45 | "The discussion group and the study circle", by the ILO expert. |
| 10.00-10.45 | Group work. |
| 11.00-12.45 | "Trade union organisation in Egypt", by visiting local expert No. 1. |
| 18.00-19.45 | Preparing a draft for a short manual from the notes of morning lectures and from legal texts (the draft to be used in study circles later on). |

Workers' education and its techniques

Reminder chart 9 (cont.)

Day 5	
9.00-12.45	Work on the draft.
18.00-18.45	Work on the draft.
19.00-19.45	The groups present their drafts to be duplicated.
Day 6	
9.00- 9.45	"How to use our draft manual" and "How a study circle functions", by the ILO expert.
10.00-11.45	Group work: "Which methods and techniques are useful for workers' education in Egypt?"
12.00-12.45	The groups report. Discussion.
Day 7	Rest.
Day 8	
9.00-12.45	Practical exercises in organising group work.
18.00-18.45	Group work: Evaluation of methods and techniques.
19.00-19.45	The groups report. Discussion.
Day 9	
9.00- 9.45	"Agencies for workers' education", by the ILO expert.
10.00-10.45	Group work.
11.00-11.45	"How to finance workers' education", by the ILO expert.
12.00-12.45	Group work.
18.00-18.45	Group work.
19.00-19.45	The groups report. Discussion.
Day 10	
9.00- 9.45	"How to organise workers' education", by the ILO expert.
10.00-10.45	Questions to the lecturer.
11.00-11.45	Group work.
18.00-19.45	Discussion.
Day 11	
9.00- 9.45	"The tasks of an educator", by the ILO expert.
10.00-10.45	Questions and discussion.
11.00-11.45	"How to get students (publicity)", by the ILO expert.
12.00-12.45	Group work.
18.00-19.45	Group work.
Day 12	
9.00- 9.45	Group reports.
10.00-10.45	Reserved hour.
11.00-11.45	"Some notes on planning educational programmes", by the ILO expert.

Reminder chart 9 (cont.)

12.00-12.45	The groups work out programmes for (a) members of trade union boards and joint committees, and (b) rank-and-file members.
18.00-19.45	The groups work on the programmes.
Day 13	
9.00-12.45	The groups work on the programmes.
Day 14	Rest.
Day 15	
9.00- 9.45	"How to prepare for a visit", by the ILO expert.
10.00	Visit by bus to the UNESCO Arab States Fundamental Education Centre (ASFEC) at Sirs El Layyan.
Day 16	
9.00-10.45	Evaluation of the visit to Sirs El Layyan.
11.00-11.45	The groups present their programmes. Discussion.
18.00-19.45	Reserved hour.
Day 17	
9.00-11.00	"Principles of social insurance and their comparison with Egyptian law", by the Director of the ILO Branch Office in Cairo.
11.30-13.30	"Employment, training and rehabilitation", by visiting local expert No. 1.
18.00-20.00	"The Department of Social Insurance" and "The general items in the law on social insurance", by the Director of the ILO Branch Office in Cairo.
Day 18	
9.00-13.30	Visit to the Eastern Company (cigarette firm).
18.00-20.00	"How to form a trade union and its conditions" and "The aims of the trade union", by visiting local expert No. 1.
Day 19	
9.00-11.00	"How the trade union works" and "The financial and administrative tasks", by visiting local expert No. 1.
11.30-13.30	"Industrial safety", by visiting local expert No. 2.
18.00-20.00	"The individual labour contract", by the Director of the ILO Branch Office in Cairo.
Day 20	
9.00-11.00	"Health education", by visiting local expert No. 3.
11.30-13.30	Visit to a rehabilitation centre.

Workers' education and its techniques

Reminder chart 9 (concl.)

Day 21	Rest.
Day 22	
9.00-11.00	"The tasks and duties of trade union leaders" and "The federation", by visiting local expert No. 1.
11.30-12.30	"Health education", by visiting local expert No. 3.
12.30-13.30	"Industrial safety", by visiting local expert No. 2.
18.00-20.00	"Death and invalidity insurance, etc." and "Arbitration in labour disputes", by the Director of the ILO Branch Office in Cairo.
Day 23	
9.00-11.00	"Wages and committees for wage disputes", by the Director of the ILO Branch Office in Cairo.
11.30-13.30	Visit to a training centre for metalworkers at Dukki.
18.00-20.00	"The collective labour contract and joint committees", by the Director of the ILO Branch Office in Cairo.
Day 24	
9.00-12.00	"National information and education", by visiting local expert No. 4.
12.30-13.30	"The Labour Department", by visiting local expert No. 1.
18.00-20.00	"Hours of work, young and female workers and workers in mines", by the Director of the ILO Branch Office in Cairo.
Day 25	
9.00-10.45	Continued work on the planning of educational programmes (ILO expert).
11.00-12.45	The groups present their programmes for local centres in Cairo, Alexandria, Kafr El-Dawar, Suez and Mahalla El Kubra.
18.00-20.45	The groups answer a duplicated test.
Day 26	
9.00-12.45	Discussion of the test and problems arising from it.
18.00-19.45	Evaluation of the training course by means of duplicated forms.
Day 27	
9.00-11.45	Oral evaluation of the course: open forum discussion.
12.00-14.00	Informal review by official visitors from trade unions, government and other interested bodies. Closing of the course.

In order to underline the practical value of such a programme for potential tutors and administrators, reminder chart 10 recapitulates the components of the educational method used in the Egyptian course.

Nobody should copy this (or any other) programme slavishly, but such a training course, if wisely adapted to local conditions and efficiently run and loyally supported by the students, could lay the foundations for real and rapid progress in workers' education in any country. It should perhaps be pointed out that the programme would have been even better if a final session had been arranged to discuss proposals for future action. Definite commitments should be made about follow-up activities if at all possible.

Reminder chart 10. Components of the educational method used in the one-month training course for a mixed group

During the course participants have:

- been exposed to different teaching methods: lectures, discussions, study circles, project work, practical visits;
- assessed the value of these methods under local conditions;
- prepared, discussed and used a manual on the legal position of trade unions;
- evaluated note-taking, writing, speaking, etc., as educational "tools";
- discussed the philosophy and theory of workers' education;
- examined practical problems of workers' education: programme planning, financing, national and local organisation;
- seen their individual progress by means of the informal test at the end of the course;
- evaluated the effectiveness of the course for the group as a whole.

Reminder chart 11. Suitability of worker-teachers

Worker-teachers teach best when:

- they have the right basic **attitudes**, and
 - (a) act as guide, counsellor and friend;
 - (b) avoid school-type teacher-pupil relationships;
 - (c) understand the aims and difficulties of worker-students.

and so, they should:

- meet the group informally to learn their names, experience, interests and aims;
- make their own interests and aims clear;
- take as much interest in the students as in the subject.

Workers' education and its techniques

Reminder chart 11 (concl.)

<ul style="list-style-type: none">— they have the right basic objectives, and<ul style="list-style-type: none">(a) realise that the aim is to develop people, not just to give information;(b) remember that the long-term aim is useful social action.	<ul style="list-style-type: none">— prepare a draft plan for the course, outlining objectives as well as subject-matter;— keep the plan under review and amend it, if desirable, as the course continues.
<ul style="list-style-type: none">— they have the necessary factual information.	<ul style="list-style-type: none">— find, understand, select and mentally order the information;— prepare essential summaries, but also provide students with ways of finding out things for themselves.
<ul style="list-style-type: none">— they are thoroughly aware of the available range of methods and techniques and know how to choose them.	<ul style="list-style-type: none">— select wisely the different combinations of methods and tools for each step in the process;— give every opportunity for developing skills, obtaining information, analysing, judging and expressing ideas clearly.
<ul style="list-style-type: none">— they engage in continuous evaluation of the teaching-learning process in conjunction with the students.	<ul style="list-style-type: none">— make students aware of the reasons for the choice of techniques, tools or materials;— obtain their views on the success or failure of the techniques used, etc.;— get the group to evaluate its own progress as a group.
<ul style="list-style-type: none">— they help the students to plan follow-up activities.	<ul style="list-style-type: none">— discuss the matter well before the end of the course, with workers' education administrators also present if possible.

Although much of the educational process is dependent upon the teacher and even more upon the students, it would be foolish to underestimate the importance of the administrative aspects. In fact, it is the administrator, in collaboration with the tutor, who has to persuade students to see beyond their sometimes trivial personal objectives and to develop an awareness of the broader purpose of workers' education, as well as to guide them from their basic studies to more advanced work.

This means that he has not only to run his programme efficiently, but also to see that it is on the true path of workers' education by skilfully graded planning of the various activities. Efficiency is not enough. He must also have a proper appreciation of the value and ends of the whole educational process, which can spring only from genuine sympathy for and understanding of the workers' movements.

The persons most likely to possess these qualities are full-time trade union officers, particularly those who have devoted special attention to the question of workers' education, and in the countries with the longest trade union tradition they are often to be found in charge of workers' education activities. In the United States, for example, the International Ladies' Garment Workers' Union has a national education department, a staff training institute and well over 20 full-time educational directors in the field. The United Automobile Workers' Union has about 40 "education and citizenship representatives" in the field, in addition to its large central education department.

Most trade unions cannot afford such large-scale arrangements, but if they can find the resources to appoint one full-time director of education they will have taken a crucial step, as the right man will ensure continuing progress. It is quite different—and not good enough—to assign educational duties to a general trade union officer who already has too much to do, however willing and able he may be. It has been proved time and time again that, if it is to

Workers' education and its techniques

be done properly, the task of providing workers' education requires the full-time attention of a specialised administrator, who can then set about training part-time or full-time helpers to operate at district and local levels.

This may sound impossible for some newly-formed trade unions in developing countries, but they may gain encouragement from the fact that the powerful Canadian Labour Congress did not have a full-time education director until 1951; after that date, its educational programme developed quickly.

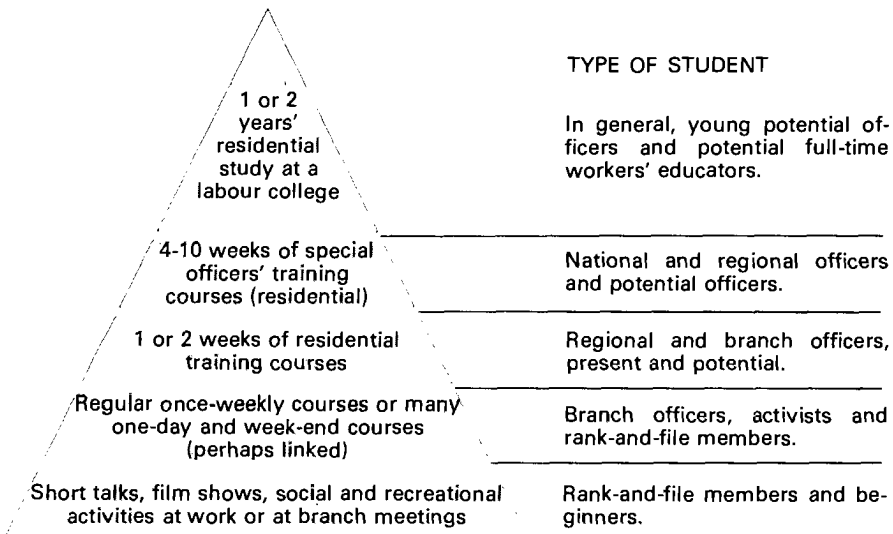
DUTIES OF THE WORKERS' EDUCATION DIRECTOR

The person in charge of workers' education activities at the national level, or even at trade union level (in which case he is usually known as a trade union education secretary), has a vast and important set of duties. He must first assess the workers' education needs of the country (or union) and the general purposes for which the programme will be run. These have been indicated in Chapter 3 and need not be repeated here. He will then have to translate these general goals into long- and short-term programme objectives, deciding which are the priority tasks. (At this point he would be wise to get the general approval of his executive committee to go ahead.)

He will have to identify the different categories of workers whom he plans to educate and to begin to prepare programmes and tutors to meet their needs (see reminder charts 17, 20 and 29). At this stage he should try to see the programme as a whole so that, instead of finding himself with a collection of unrelated activities, he establishes a varied but graded system. This should make it possible for worker-students to advance from basic studies to increasingly higher levels in a guided, systematic way. In fact the absence of such a progressive system for really keen students is a major weakness of many workers' education programmes. Too often enthusiastic trade unionists find themselves attending one-day, week-end or longer courses that keep covering roughly the same topics at roughly the same level—a great waste of effort and potential. An outline of what we have in mind is contained in figure 6, "A pyramid of workers' education". This is followed by the organisational chart for the education scheme of the German Confederation of Trade Unions (figure 7).

Once he has determined what programmes he intends to organise, a workers' education director must apply himself to the problem of part-time tutors. He will have to select the tutors and probably train them, or arrange for their training, in workers' education methods, and possibly in the subjects to be covered, too. This may well be the first operational course he has organised and he may require the use of visiting experts. Even if suitable tutors are readily available, they will need to be briefed about the particular programmes

Figure 6. A pyramid of workers' education



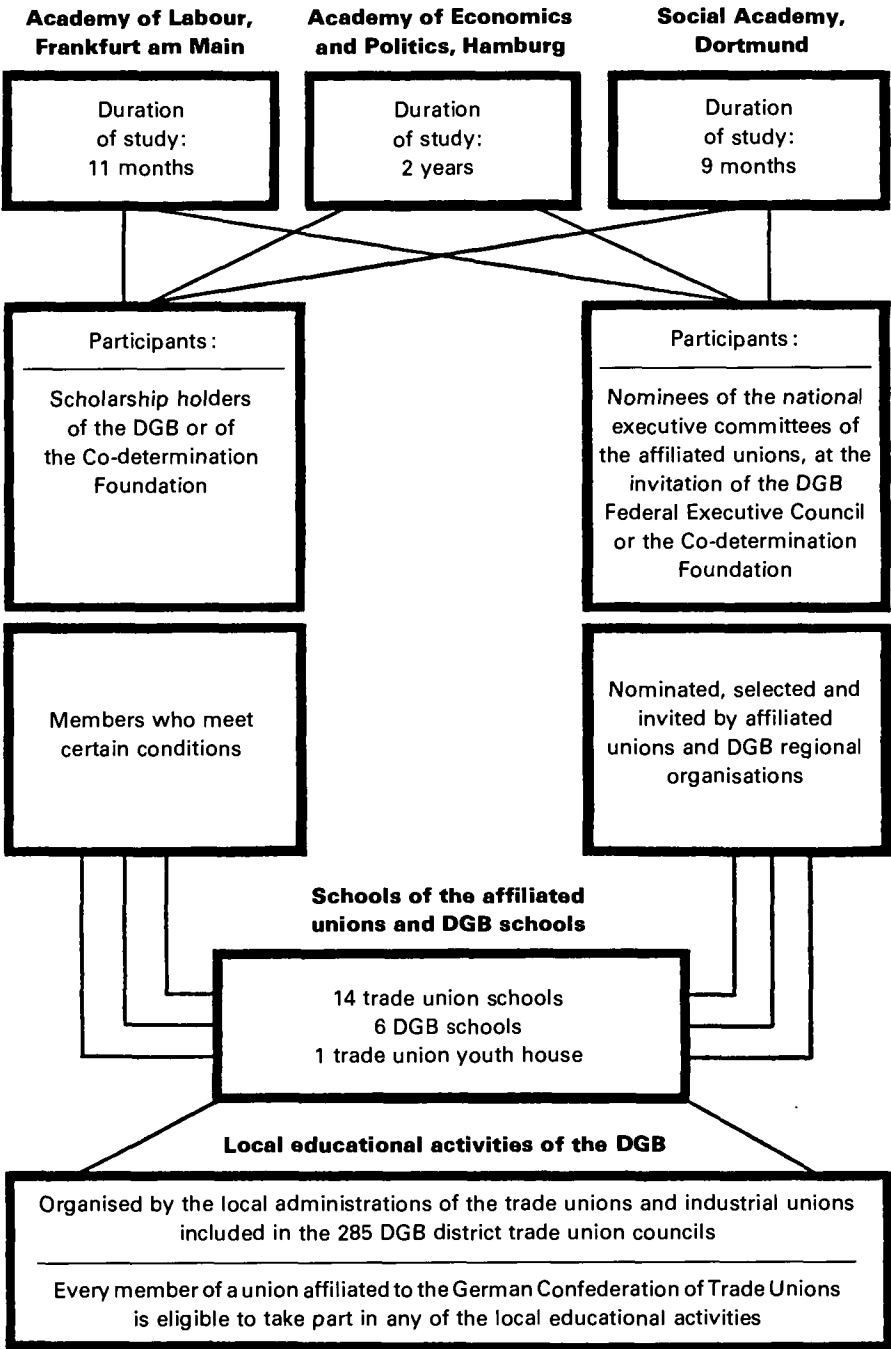
in which they are to be involved. Simultaneously, the director will have to make decisions about when and where the activities will take place and how the potential students are to be informed and recruited.

Assuming that the students and the tutor make contact satisfactorily, the director will then have to supervise the progress of the course so as to ensure that sound techniques are being used and that the necessary tools and materials are available as far as possible (see Chapters 10 and 11). Since he should at the same time be arranging for evaluation and follow-up activities, for building up a workers' library and a documentation centre and service, for encouraging research, for issuing a small newsletter or magazine and, above all, for obtaining at least one central workers' education building, it will be appreciated that he will also need to set about recruiting a team of willing and capable helpers to whom he can delegate some of his responsibilities.

As we have said, it is clearly not good enough to assign the job of running workers' education to a general trade union officer with other duties. (See reminder chart 12.)

Workers' education and its techniques

Figure 7. A pyramid of workers' education: The scheme of the German Confederation of Trade Unions (DGB)



Reminder chart 12. Some duties of a director of workers' education

Under the mandate given to him by his executive body, he should:

- assess national (or union) needs;
- fix general purposes or objectives (see Chapter 3);
- fix long-term programme objectives;
- fix short-term priorities;
- identify different types of worker-students;
- plan graded, progressive programmes for the students;
- select and train suitable tutors;
- brief tutors specifically;
- determine and organise activities—time, place, etc. (see Chapter 8);
- arrange publicity;
- supervise educational activities;
- arrange evaluation and follow-up activities;
- create a library;
- create a documentation centre and service, providing study materials;
- publish a small magazine or newsletter;
- obtain a central workers' education building;
- plan the creation of regional subcentres;
- find willing and able helpers;
- delegate duties within reasonable limits;
- supervise and plan on a continuing basis.

EVALUATION OF PROGRAMMES

It may be wondered why we have decided to examine in depth just one of the essential duties of a workers' education director listed above and, moreover, if it is not even unfair to expect an administrator so overloaded with work to engage, in addition, in serious evaluation. But if it were found that the results of his efforts were negligible or even negative, then it would be as well to transfer him to other trade union duties. Some evaluation is, therefore, clearly desirable. However, anyone who has experience of general education evaluation and has studied the literature on the subject will know that it is beset with difficulties and open to ambiguity.

Workers' education certainly cannot be evaluated in terms of examination success rates or of increased income earned by the student after following a course, which are the two most common methods of assessing the value of education even though they have been discredited by the demonstrable

Workers' education and its techniques

absurdity of the assumption of “other things being equal” on which they are based—people’s chances in life are unequal for many other reasons besides the level of their education.

To measure the success of workers’ education, we need something other than examination results or subsequent income increases. Indeed, we need to go back to the ultimate objective: a training programme has been successful if a good percentage of its members play a more active and informed part in their trade union, in their working environment and in local and national affairs.

But even then, when we probe deeper, we run into difficulties. What is a “good percentage”? Should we expect increased activity at once, or within a certain time limit? If not immediately, in how much time? Is workers’ education a success if a worker-student becomes a member of parliament and a Cabinet minister? Most people would say “Yes”, but many trade unionists in developing and industrialised countries regret this “drain” into politics. And what if he becomes a personnel manager or an industrialist? Should we adopt the measure which some Indian newspapers have applied to the Central Board for Workers’ Education scheme: how many strikes have there been since the scheme started? They suggest that many strikes indicate the failure of workers’ education; but the ILO defends freedom of association and freedom to withhold labour, and one can well imagine circumstances where education will bring about strikes, as it did, for example, in Western Europe in the nineteenth century. In any case, how can we evaluate the influence of the other (non-educational) factors involved in strike situations—economic, industrial and political factors? Have “other things” been at all equal? Can “other things” ever be equal in modern fast-changing societies, with so many interdependent variable factors?

In other words evaluation is very complicated and cannot be in any way exact. But this does not mean to say that it can be ignored (although a leading American adult educator recently wrote that “evaluation has become a much overemphasised sacred cow!”).

Workers’ educators must have some general indicators of success (or failure), among which the following are perhaps the most helpful:

1. The continuous “feedback” during the course (see Chapter 9): the enthusiasm and the level of discussion, the level of student interest and involvement, the willingness to undertake group activities, etc. Some tutors refer to this as a “built-in spiral of evaluation feedback” on the basis of which they plan future sessions.

2. The level of attendance at courses. Most books on adult education have a chapter on the reasons why students “drop out”. This is very rarely a

problem in workers' education but if the group is getting smaller, then something must be wrong.

3. If the above indicators sound a warning note, a simple individual evaluation questionnaire can be distributed at the next session by means of which students can grade the various components of the course—content, methods used, audio-visual aids, group participation, discussion, progress towards objectives—according to a four or five point rating, for example: “Very good”, “Good”, “Fair”, “Poor”, and “Very poor”. The answers may prove embarrassing to the tutor, but it is better to embarrass one tutor temporarily than to lose a group of worker-students for ever.

4. In any case a questionnaire at the end of the course can be helpful to all concerned and, in particular, to the workers' education director. This questionnaire should aim to ascertain the students' interest in follow-up studies and should ask for news to be sent of any union work undertaken in the future.

5. The same or other forms should be used to establish statistics on the number of students completing the course, as well as a record of the participants' names and addresses and trade union functions, so that follow-up activities and a fuller evaluation can be carried out in subsequent years.

6. Finally there should be systematic follow-up surveys of former students—for example at two-yearly and five-yearly intervals after their completion of a course. Since, unfortunately, many workers' education offices lack the resources for such surveys, this is an area where outside assistance would be of value. With the growing interest in adult education and the increasing availability of post-graduate research grants, recourse might be had to the universities, and the pioneering studies on education procedures that may be undertaken by organisations such as the Canadian Labour Congress and the ILO could provide useful guidance.

POSSIBLE HELP WITH ADMINISTRATION AND ORGANISATION

The heavy workload outlined above and the trade unions' lack of both financial and human resources make it prudent to consider the possibility of obtaining help from other bodies, not just with research but also with administrative functions. In fact a survey made in 1958 of the extent to which non-union agencies were concerned with workers' education in Western Europe and the United States showed that, even in the industrialised countries, workers' education owed a great deal to bodies other than trade unions. Many of the administrative burdens were shouldered by universities,

Reminder chart 13. Five forms of administration of workers' education

Bodies principally responsible for administration	Advantages	Disadvantages	Conclusion
Trade unions	<p>Can rely on workers' support since:</p> <ul style="list-style-type: none"> (a) can appeal to solidarity; (b) objectives have a clear relevance for the workers; (c) likely to select sympathetic tutors, teaching at right level; (d) likely to deepen interest in trade unions and in workers' education. 	<p>May be short of money. May become too narrow or shallow in approach. May lack well-qualified tutors.</p>	<p>Best system when unions capable of applying it. Even so, should consider co-operating with other bodies for more advanced courses and pressing the government to give courses in basic skills.</p>
Government and public bodies	<p>Comparatively large amounts of public funds. Can use local government facilities and civil servants as administrators. Can make over-all plans on long-term basis, with graded programmes. Can often enlist foreign help. Can undertake large-scale preparation of teaching materials. More likely to gain support of employers. Can overcome trade union factionalism. Wider choice of tutors.</p>	<p>May be suspect to workers. May be tempted to use workers' education for government propaganda. May be out of touch with worker-students.</p>	<p>The government should also encourage trade unions or workers' education associations to develop programmes. In the meantime, should set up a "joint committee" with strong trade union representation. The government should also give courses in literacy and basic skills.</p>
Workers' education associations	<p>Make it possible to combine grants from the government with academic independence. Offer better chance of co-operation with universities, if required. Can encourage rank-and-file control of workers' education. May overcome trade union factionalism.</p>	<p>May also be suspect to trade unions because of government grants or non-working-class students. Sometimes too dependent on voluntary helpers. Sometimes lose touch with trade union needs.</p>	<p>Should take great pains to maintain trade union links, showing that major workers' education objectives are still paramount. Must have real partnership with trade unions on "joint committees".</p>

Universities	<p>Relatively efficient and honest administration. Good academic standards, good teaching conditions, aids, etc. University prestige may serve to attract students and government funds and as protection against criticism. Can overcome trade union factionalism.</p>	<p>Standards may be too academic and teaching too remote from workers' life. Often suspected of being too neutral and "lifeless". May lack knowledge of and sympathy for trade unions.</p>	<p>Must have real working partnership on "joint committees" and consultation at all levels. There should be a plan for training trade unions to run their own elementary courses, leaving universities to run advanced and cultural courses.</p>
Employers	<p>Large resources. Can use facilities of the enterprise. Can involve employers in welfare of workers.</p>	<p>May be suspect to workers. Risk of emphasis on schooling and vocational training, with a minimum of workers' education. Small employers likely to evade their legal responsibilities.</p>	<p>Should be operated by a "joint worker-management committee" with strong trade union representation.</p>

Workers' education and its techniques

broadly-based workers' education associations, or governments. How much more important this kind of assistance will be where trade unions are poor, weak or not encouraged by the government!

The possibilities for such co-operation will be examined in Chapter 6. For the moment it should merely be noted that the workers will inevitably be suspicious of such an approach, about which they will feel less at ease than about schemes organised by their unions. Such an attitude may sometimes be unreasonable, but it cannot be ignored, for unless the workers' minds are set at rest, it will completely undermine the value of any programme that is undertaken.

The following safeguards may help to dispel the workers' suspicions:

1. It must be clearly stated by the trade unions that they are not yet ready to administer the programme.
2. One of the major aims of the programme should be to develop responsible and independent trade unions, with trained cadres capable of taking over the administrative duties.
3. It must be definitely promised that, when these cadres are able and willing, the transfer of administrative duties to them will be automatic.
4. In the meantime workers' movements should be guaranteed adequate representation on any administrative boards.

This question of safeguards is obviously of importance, as will be seen in the next chapter, which is devoted to the question of co-operation with other bodies.

Before moving on to that, however, let us look at these administrative questions from a different angle. Reminder chart 13 analyses five situations in which different bodies assume the major administrative responsibility. (It should be noted, however, that in a given country several or all five of these bodies might share the responsibility.)

The best people to administer workers' education are trade unionists with the right interests, training and experience, but it should be clear from the last chapter that very few countries have trade unions strong enough to handle all aspects of workers' education by themselves. This means that the question of co-operation with other agencies is one of practical importance almost everywhere. We shall therefore survey rapidly the advantages and disadvantages of various agencies, ending the chapter with a reminder chart indicating the respects in which they can, and those in which they cannot, contribute to workers' education.

GOVERNMENT AND OTHER PUBLIC AGENCIES (LIBRARIES, RADIO AND TELEVISION NETWORKS, ETC.)

We have already referred to the suspicions workers may harbour about education schemes provided by public bodies. These suspicions are particularly strong in countries where democracy is of recent date and where the trade union movement is nascent. Yet such countries are precisely the ones where some public support would be most helpful for workers' education programmes, especially at the beginning. It is accepted procedure, on the other hand, in most countries with long-established, powerful unions, that the State should subsidise at least some aspects of workers' education. In the United Kingdom, for example, much public money is provided for this purpose and in the Scandinavian countries the State gives grants to many workers' groups, mainly through the workers' education associations and other voluntary agencies.

State aid may take the form of the direct arrangement and financing of courses, of a cash grant, of legislation giving worker-students time off from work (as discussed in Chapter 7), or of the provision of meeting rooms, tutors and equipment free of charge or at a low cost. Grants and other contributions

may go directly to the unions and workers' education associations or be channelled through the universities and local education authorities, but in all cases where there is a long tradition of state aid, the assistance is organised so as to allow the maximum amount of freedom of action to the beneficiaries. There are usually a few basic requirements—for example, a minimum number of students and sometimes a minimum number of teaching sessions during a specified period—but normally there is no (or very little) interference regarding the choice of subjects, methods, materials and teachers.

Excellent working relations can evolve, provided there is the right general attitude on the part of the government, engendered by its awareness of the importance of workers' education to the community as a whole, and a strong and active voluntary association that makes good use of state facilities. Maintaining pressure on the public authorities is in itself a stimulus to the voluntary association, and this can often best be done through participation in "joint committees" of various kinds. Thus workers' representation on the management committees and executive boards of public libraries and radio and television services can bring about big improvements in the educational activities of these bodies. This is what happened in the United States, for example, when the American Library Association formed special "joint committees on library service to labour groups".

Where the trade unions are new, or the government is lukewarm about workers' education, the chances of a fruitful partnership are considerably reduced. In the latter case any hope of genuine improvement will depend upon a sustained effort by the labour movement to marshal public opinion in its favour—a slow process. In the former case, with an enlightened government, the situation could be rectified more rapidly, inasmuch as early education schemes imposed in all likelihood from above could soon produce men and women capable of assuming some responsibility for the running of future schemes.

Handing over control to workers' organisations will, however, be difficult once bureaucratic traditions are firmly established. A genuinely enlightened government should therefore, at the outset, set up a joint advisory committee with generous workers' representation and fix target dates for when the committee's functions should be extended from advice to direction and the workers' representation should become dominant. The Government of India has tried to go even further. It established the Central Board for Workers' Education (see reminder chart 5) to formulate and administer policy, allocate funds, inspect and co-ordinate activities, arrange for the provision of educational materials, establish standards, and generally promote workers' education. The Central Board and its regional committees include representatives of the Government, of educational bodies, of employers and

of trade unions, the trade unions forming the largest single group. Further, the Central Board gives grants-in-aid to trade unions and other voluntary institutions amounting to up to 90 per cent of the cost of their respective workers' education activities. Many Indians are disappointed that the trade unions have not yet taken over much more of the work, but the fact remains that one in every ten industrial workers has attended a 60-hour course of workers' education.

In Tunisia a formula has been devised whereby government-organised workers' education is closely co-ordinated with that offered by the trade unions themselves. The government vocational training department offers courses throughout the country for shop stewards and works council delegates. The trade unions operate a parallel programme for the training of trade union officers. The two programmes are co-ordinated by a tripartite advisory board and by the seconding of trade union leaders to act as administrators in the government programme.

In the Caribbean area, in recent years, the Governments of Guyana and of Trinidad and Tobago have provided funds for labour institutes or colleges which are run by autonomous boards with substantial trade union representation and whose programmes are established without government intervention.

It is clear, therefore, that co-operation is feasible. Unfortunately, not all governments are equally convinced of the value of workers' education and not all trade union movements are willing to curb their suspicions concerning the implications of state assistance, even for a trial period.

UNIVERSITIES, TECHNICAL COLLEGES, SCHOOLS

In several countries special "people's" or "workers'" universities have been founded, sometimes with outstanding success. Those in Yugoslavia and Poland seem to be well worth studying, as are the German workers' academies at Hamburg and Frankfurt, which offer selected workers one- or two-year courses that may enable them subsequently to attend university graduate courses. In the United Kingdom the residential colleges giving long-term courses (Ruskin, Fircroft, Hillcroft, Plater, Newbattle Abbey and Harlech) provide a valuable supplement to what can be offered by the trade union organisations. But all of these examples are from countries with strong trade unions or with governments fully committed to developing the capacity of the workers; in many other countries, it is a matter of exploring the possibilities of collaboration with the normal universities.

Such collaboration is by no means new, since it goes back at least 100 years to the first "extension courses" run by the University of Cambridge in the United Kingdom in 1873 or, some would say, to the United States Land

Workers' education and its techniques

Grant Act of 1862, which committed that country's new universities to serving the farmers in the states where they were located. In some countries university help in workers' education was well established before the Second World War. In the United Kingdom, for example, the Cambridge experiment led to the setting up, as from 1919, of "joint committees of adult education", by means of which workers' education associations and local education authorities co-operate with the universities' extra-mural departments in organising classes for adults. After having launched a large programme of three-year tuition classes (24 two-hour class meetings a year) these committees, in recent years, have tended to concentrate on "day-release" courses for miners, dockworkers and industrial workers.

The British classes combine the objectivity and high academic standards of the universities with the practical and purposeful enthusiasm underlying workers' education; many university lecturers welcome the contact with the outside world and practical problems, and improve their teaching techniques in the process. However, there are those who complain that the emphasis on university standards has made the content of the courses and the methods used too abstract and that too much objectivity can induce in the worker-students a mood of neutrality, indifference and apathy. Such criticisms are expressed even more strongly in the Federal Republic of Germany and in the Scandinavian countries, where, until recently, universities restricted their extra-mural activities to public lectures addressed to large audiences.

Between the two world wars, the United States developed a different pattern of university-union co-operation, and there are now at least 27 universities running workers' education programmes, often in the form of three- or four-week seminars but sometimes in the form of weekly evening courses. Such programmes tend to be carried out in association either with the extension departments of universities or with special institutes of labour studies or of industrial relations—a pattern which has spread since the Second World War to the Philippines (Asian Labour Education Centre) and to Puerto Rico and Hawaii.

The seven university labour institutes of France, some of which were founded over 20 years ago, have retained their particular structure and system of trade union representation as they have grown. In some ways the French pattern of labour institutes resembles that of the United States, as does the Canadian Labour College, set up through co-operation between the Canadian Labour Congress, McGill University and the University of Montreal.

The English-speaking Caribbean countries, on the other hand, developed their own pattern (incorporating United States and British features), of which an example is the Trade Union Education Institute in Jamaica, set up under the extra-mural wing of the University of the West Indies.

We have given these examples to show that universities in many parts of the world are active in the field of workers' education, a point which is underlined by the following quotation from the report of an ILO seminar held in Africa in 1969:

In many African countries, universities had shown interest in workers' education. Special university-connected bodies such as institutes of adult education, university extension sections and extra-mural departments, as well as continuing education centres, had been established in countries such as Kenya, Nigeria, Ghana, Sierra Leone, Zambia and Tanzania. In the United Arab Republic, seven universities made a total yearly contribution of E£10,000 to the Workers' Education Association, and 40 per cent of the members of the advisory committee of the Association were university professors. In general, universities had helped considerably in preparing study materials, conducting advanced courses in various subjects for trade unionists, carrying out research related to workers' education, and guiding, upon unions' request, in the planning of their education programmes. The advisability of organising a common university level workers' education programme in countries such as Nigeria and the United Arab Republic was being explored.

There is, then, already plenty of help being given by universities, and the general climate is propitious for further expansion. However, there is a world-wide feeling that education has become too theoretical, and universities in every country are under pressure to relate their programmes more closely to the needs of society and to the solution of practical problems. Governments and trade unions are also becoming more aware of the importance of workers' education, and of the lack of trade union resources for it. It thus seems a good time for those in charge of national workers' education programmes to review the situation and see whether further help from the universities is desirable and obtainable.

In any such appraisal it will be wise to bear in mind the points made in Chapter 5 regarding the value of universities in the field of research and evaluation, but also the list of "safeguards" against arousing an attitude of distrust and suspicion on the part of the trade unions. As long ago as 1958, an Asian seminar on workers' education laid down a number of principles:

For any university-sponsored programme to succeed and be accepted by the unions, certain conditions must exist, namely:

- (a) that the university enjoys academic freedom;
- (b) that the teaching staff should have experience of the labour movement;
- (c) that organised labour should have a voice and be consulted on its policies and programme;
- (d) that its programme must be carried out with objectivity.

These four basic conditions have the advantage of offering some protection to all the parties concerned, including the governments, which in most instances will be the source of the university finances allocated to workers' education, but each proviso needs to be interpreted in detail in the context of the particular country involved. In the case of the famous

Workers' education and its techniques

St. Francis Xavier University (Nova Scotia, Canada) organised labour makes its voice heard, as required under (c), through having nine members on the advisory board, whereas there are only two university members.

This is, however, an exceptional case, and a more common pattern is that of the eleven-member advisory committee of the Canadian Labour College, made up of five representatives from the trade unions, five from the university and one from the Adult Education Association. In a country where, in any event, the trade union can withdraw from the partnership if it wishes, this type of roughly equal representation would seem to be enough to remove trade union fears of interference by the government or of an over-academic approach by the university.

The whole question of the role of the university in workers' education is being examined in depth by the ILO, and in 1973 it held a special symposium to study the many factors determining the type of collaboration that may exist between universities and trade union organisations in the field of workers' education.

Polytechnics and technical colleges are also becoming increasingly helpful in some countries. Some polytechnics are setting up special departments for adult and workers' education, and technical colleges are taking measures to involve apprentices and young workers in the study of general labour education topics. Workers' educators should be alert to these developments and could perhaps offer occasionally to give classes on trade union and labour subjects in the institutions concerned. Israel's General Federation of Labour (Histadrut) and many United States unions co-operate in this manner with technical colleges and also with secondary schools. By this means, youth is introduced to the world of work and the idea of trade unionism. Useful relationships are also established with school authorities who may help those responsible for normal workers' education by providing them with rooms and equipment.

In some cases, however, union collaboration with universities and other public education bodies is handicapped by deep-rooted prejudices, occasionally on both sides. Where this is so, a workers' education association can sometimes help to reconcile the two sides.

WORKERS' EDUCATION ASSOCIATIONS

These are special bodies formed specifically for educational purposes, the idea having originated in Great Britain in 1903. There are now over 20 member organisations of the International Federation of Workers' Education Associations. Although many of them have their own special characteristics, two features common to all of them are their voluntary nature and their concern with education for the workers. Their main functions are to

make society education-conscious, to ascertain needs and see that they are met, to stimulate new aspirations and, generally, to promote a favourable climate for workers' education. In many countries (especially in Scandinavia) the workers' education associations have done excellent work as the main agents for workers' education, and they often receive willing support from governments and universities while retaining their independence and their control over the content and method of programmes and commanding the loyal support of the trade unions.

This is not to say that there have been no difficulties. In some countries workers' education associations have aroused the distrust of the government. In others they have failed to obtain the support of all the trade unions.

OTHER VOLUNTARY AGENCIES

A host of other voluntary agencies have contributed in varying degree to workers' education. Of these, the largest is undoubtedly the co-operative movement, which has always had active educational interests. Frequently, formal classes are arranged by co-operative societies and a striking feature of their effort has been the organisation of a combination of formal and informal education within the women's groups. But quite apart from strictly educational programmes, the whole concept of co-operation is in tune with the ultimate goal of workers' education. As the Director of the Swiss Consumers' Co-operatives Union rightly pointed out: "If educating implies first and foremost providing an opportunity for action, i.e. for trial and error and ultimate success, then the co-operative is a great educator—the co-operatives are the prototype of the active school in democracy".

It is not enough, however, that the various voluntary agencies should complement each other's educational programmes. There is a need, sometimes, for collaboration in the use of physical facilities. Generally speaking there should be a close relationship between trade unions and co-operatives (which does in fact exist in several European countries), because of their common objective to defend and improve the economic and social conditions of their members. In many countries, however, effective collaboration between the two movements is lacking. The ILO is trying to remedy this situation by organising seminars on co-operation and trade unionism, attended by members of co-operatives and trade unions from developing countries.

Similarly, social institutions, cultural societies, youth groups and various other bodies are contributing formally and informally to workers' education. It is among young people that there has been the least impact, yet the efforts of social organisations to inculcate some social values into youth can be of great value to workers' education administrators, especially when geared to their

Workers' education and its techniques

own goal of "useful social action by the workers". Workers' educators should therefore look for opportunities to co-operate with other groups in social education which can prepare youth for constructive participation in society and leadership.

INDUSTRIAL AND COMMERCIAL ENTERPRISES AND ASSOCIATIONS

Here again, the range of educational facilities of possible value to workers' educators is so great that any generalisation is impossible. In some countries employers are obliged by law to contribute money to, and organise, workers' education, while in others many of them help voluntarily by permitting time off and providing meeting-places for study in the factory during working hours. This can be of immense value, for if education is easily available a greater number of workers will try it and acquire a taste for more. The laboratories, reading rooms and study corners to be found in the enterprises of certain socialist countries are other applications of the same idea. Elsewhere, many employers agree to release selected workers on full pay for several weeks to attend vocational training courses organised under workers' education schemes. Some organise unit-level classes in properly equipped rooms furnished with blackboards, and others even provide refreshments for the students and allowances for industrial study tours.

Such generosity on the part of employers and willingness to take an interest in and some responsibility for the health, hygiene, recreation and cultural education of the workers should be welcomed by workers' educators, as it will relieve them of part of their heavy burden. They should, however, always be on their guard against any attempt to influence the content of the studies.

INTERNATIONAL AND REGIONAL ORGANISATIONS

A workers' education administrator does not work in isolation in his national setting. Those in charge of programmes in the less developed countries, struggling against severe difficulties, can be encouraged by the fact that there is some chance of help from outside.

This help will only occasionally be in the form of money, since international financial resources for education are regrettably small. Help will more often be available in the form of advice, teaching materials, visiting experts and, perhaps, opportunities for training outside the country. Aid programmes may be sponsored by international workers' organisations such as the International Confederation of Free Trade Unions, the World Confederation of Labour, the World Federation of Trade Unions, the international trade secretariats, the International Federation of Workers' Education Associa-

tions, the International Co-operative Alliance, or by specialised agencies of the United Nations such as UNESCO and the ILO.

Naturally, the exact nature of the aid varies with the approach and the resources of each organisation, but in all cases their programmes are particularly designed to help the less developed countries, where the problems of workers' education are most acute and the scope for progress most pronounced.

Reminder chart 14 provides a review of some of the main ideas that have been dealt with in this chapter. We would end by stressing that, with the tasks involved in workers' education being so great and the resources so comparatively small, it would be unwise to reject out of hand any offer of assistance and co-operation from non-trade union bodies. If good working relations can be arranged, a few hours of negotiation to obtain the safeguards listed at the end of Chapter 5 will be well worth while.

Whatever happens, it is important to remember that the main bulk of workers' education will be (and should be) the responsibility of the trade unions.

Reminder chart 14. Different agencies and their possible contribution to workers' education

Agency	Funds	Administration and organisation	Tutors	Teaching materials	Research and advice	Accommodation	General comments
The State	Yes	Yes	Yes	Yes (sometimes books and films, projectors)	Yes	Yes (often schools and colleges)	There must be genuine partnership with the trade unions and workers' movements, and workers' representation on joint committees. Should take special responsibility for immigrant workers.
Local government bodies	Yes	Yes	Yes	Yes	Yes	Yes (often schools and colleges)	As above.
Libraries	No	No	No	Yes	Yes	Yes	Can contribute greatly to serious study by providing useful meeting places or encouraging reading.
Radio and television	No	No	No	Yes	No	No	As a rule only short occasional programmes can be devoted to workers' education. Excellent for stimulating interest and publicising other activities.
Universities, colleges, etc.	No direct funds, but may save trade union money	Yes	Yes	Yes	Yes	Yes	There must be genuine partnership with the trade unions and workers' movements. Best used for advanced social and economic studies and for cultural subjects.

Workers' education associations	No, but may save trade union money	Yes	Yes	Yes	No, in general	Get their funds partly from trade unions and partly from students; can usually also obtain public grants. Must be careful to serve the needs of all interested workers.
Co-operatives and other voluntary bodies	Perhaps	Perhaps	Perhaps	Sometimes	Rarely	Mainly useful for recruiting interested workers.
Industrial and commercial enterprises and associations	Perhaps	Perhaps	Perhaps	(sometimes good films)	No	Can contribute much useful assistance if a careful choice is made. Safest material on technical and cultural subjects.
International agencies	Perhaps some funds	No, except international conferences	Sometimes	Yes	Yes	Mainly useful as clearing houses for ideas, sources of overseas training, etc.

There are certain characteristics that are common to worker-students all over the world. They are important because they influence the methods and techniques used in workers' education.

CHARACTERISTICS OF WORKER-STUDENTS

A volunteer

The most important single feature of workers' education is that it is undertaken voluntarily. Attendance at workers' classes is not usually compulsory as in the case of school attendance; nor is there the challenge of examinations with a view to graduation that exists in university and technical education. It is true that, in developing countries, the need for trade union officers may be so great that potential leaders undergo training with the specific aim of qualifying for a trade union post. It is also true that in some advanced countries the award of certificates may be used as an added incentive to study but in general, throughout the world, the motive for engaging in workers' education is natural interest or curiosity.

There is, of course, the danger that this interest may be short-lived and limited in scope. The workers' education administrator therefore has the following three tasks:

1. to arouse interest wherever possible;
2. to ensure that the education provided is such that interest will be maintained and that studies will be continued;
3. to broaden limited fields of interest and strengthen the motives for study.

In this way the worker attending a week-end conference merely because it makes a change from routine will find his imagination gripped and want to take advantage of the possibilities revealed to him.

Workers' education and its techniques

The voluntary nature of workers' education is by no means a liability. Adult educators have noted time and time again what rapid progress a group of willing adults with practical experience can make. In the space of three to five months they can acquire the same amount of information that it takes a half-grown youth dozing on the school benches three to five years to assimilate. This keenness on learning and on learning quickly makes itself particularly felt when trainees can clearly see the jobs to be done that demand the information and skills they are acquiring, as in many developing countries. With the right approach and the right teaching methods, great progress can be made. With the wrong approach and the wrong teaching methods, no students will stay.

Experience of life

Two things are needed for rapid progress in adult education—keenness and practical experience—and the second is certainly as important as the first. Even young workers after only two or three years at work have a broader background than schoolchildren into which to fit the facts and ideas of workers' education courses on, for example, collective bargaining, economic history or labour laws. Probably they will also already have had frustrating experiences which will have convinced them of the need to be able to express themselves clearly and forcefully. Such experiences may well add to their willingness to learn, and an able tutor will turn them to good account.

It follows that workers' education should start from and be related to actual experience of the students. A course or a talk for new worker-students about the development of trade unionism should begin not with a historical survey of the workers' movement throughout the world but with a discussion about the present position of the local unions, going on to explain how the present has developed from the past, and only later coming to the national and the world situations. Workers' education should proceed from the known to the unknown, from the local to the distant, from the present to the past and the future and from the concrete to the abstract.

For worker-students, unlike normal students, life has not been neatly divided into compartments, labelled "psychology", "history", "economics", "geography", etc. The artificial subject barriers of the schoolroom and the university have often been proved meaningless by daily existence, and so workers' education must attempt to deal with problems across the board.

In other words workers' educators should not copy school instruction, either in content or in method, because the students come in a different spirit and with different "equipment" in the form of their experience of life. Any sensible workers' educator will make the most of the practical experience of his students. He will insist on the "two-way" nature of the educational process

and on the value of the students' contribution deriving from their personal observations.

Lack of learning experience

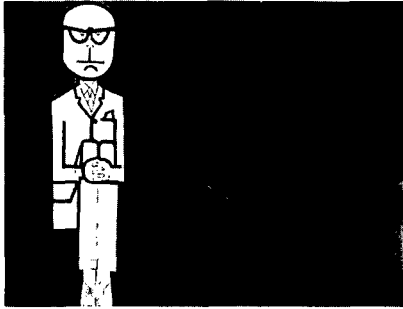
The wide experience of life of many worker-students must not, however, blind us to the fact that most of them will not be skilled in the techniques of studying, and to handling the "tools" of learning: words, ideas, books, simple mathematical concepts and abstract thought. This is perfectly natural. They themselves would be the last to expect newcomers to their own occupation to engage in it without having been taught how to use the tools of the trade. Participants in workers' education courses thus require practical training in how to be students. The need is often strongly felt, both by teachers and students, for a class on the techniques of intellectual work. Some trade union training centres therefore provide instruction in how to read books and use libraries, how to prepare speeches, how to run debates, how to conduct social investigations, how to prepare reports, etc. In other words, they try to train the "apprentices" by showing them the tools and explaining how to handle them.

This type of training scheme is becoming increasingly popular in countries with a long tradition of workers' education, where it was found that earlier education programmes which assumed that the students already had this basic knowledge tended to appeal only to an élite and failed to attract the rank-and-file worker.

Figure 8 and reminder chart 15 look at these points from a different angle.

Workers' education and its techniques

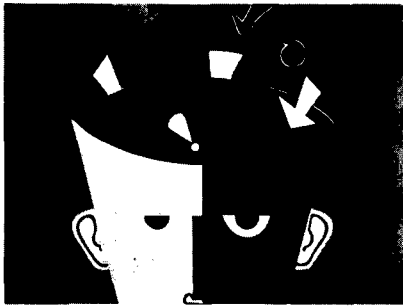
Figure 8. Advice to tutors about worker-students



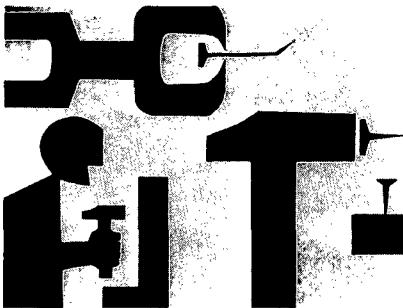
Do not try to squeeze an adult worker into a school desk, and do not treat him like a child...



... because he is a volunteer and, unlike the school pupil, can walk out.

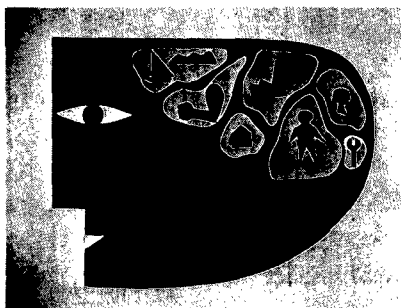


Do not bombard him with too many new facts too soon. Take things steadily and step by step.



Make the studies as practical as possible, especially at first. Work from the practical to the theoretical, from the concrete to the abstract.

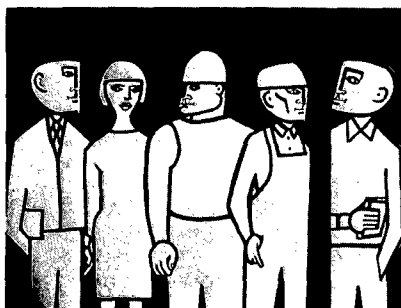
The students



Remember that every adult has considerable experience of life—of being a fisherman, a manual worker, a factory-hand, and so on. He may have a home, a wife, a child. Use his experience of life, which may be richer than yours.



Fit the new ideas and information into his range of experience. It is only in this way that a person can digest and assimilate new knowledge.



Each workers' education group will have a wide range of people of different ages, backgrounds, educational levels, etc. Get to know them as individuals so that you can use their different personalities and experience in the group.



Remember that workers are used to working in groups, whether on simple or complicated tasks.

Remember that the final goal of workers' education is useful social action.

Workers' education and its techniques

Reminder chart 15. Characteristics of worker-students and their implications

Characteristics	Implications
1. The worker-student is a volunteer.	The education must be "student-centred", to arouse and maintain the student's interest. This does not imply any lowering of standards but means ensuring that the student plays his part in the educational process.
2. The worker-student has experience of life.	The tutor should get to know the background of his students and use their experience, relating his teaching to it whenever possible. He should work from the known to the unknown, from the local to the distant and from the present to the past and the future.
3. The worker-student is often new to studying.	Special attention should be paid to training in the techniques of studying: how to think logically, how to express thoughts orally and on paper, how to use books, how to take notes, how to write letters, how to make reports.
4. The worker-student is seldom used to abstract ideas.	Whenever possible, theories should be approached via concrete examples, preferably reflecting the personal experience of one of the group. Work from the concrete to the abstract.
5. The worker-student is interested in situations and problems and not in examination subjects.	Subject boundaries must be ignored in the attempt to look at problems from all relevant angles. This is often difficult for academic tutors.
6. Many worker-students are interested in knowledge not for its own sake but as a means for social action.	"Learning by doing" should be the class motto, with the stress on group activities and group-consciousness. See Chapters 4 and 9.

THE "IDEAL" STUDENT: GUIDELINES FOR HIS SELECTION

Let us imagine a situation in which there are many students wanting to undergo workers' education but where the resources available are unfortunately limited, as, for example, when special leadership-training schemes (at home or abroad), for a limited number of workers, are being planned in newly developing countries, or when local branches of a union are required to nominate two or three members to participate in a national two-week residential course. In such circumstances it could be useful to have a model of an "ideal" student against which to measure the applicants, though it must be emphasised that different qualities may become more or less important under different conditions and that, of course, the ideal student has not yet been born.

With these reservations, the model is described in reminder chart 16.

Reminder chart 16. The "ideal" worker-student

The ideal worker-student should:

- have experience of trade union work;
- enjoy the confidence of his fellow-workers;
- be truly interested in workers' education;
- be truly interested in new ideas;
- have a good level of general intelligence;
- have some general education;
- be between 20 and 50 years old;
- have spare time for further study;
- be willing to participate actively in a round of questions, discussions, written work, etc.;
- not be afraid to make mistakes;
- not be slow to correct mistakes;
- be willing to listen to theories;
- always be testing theories against experience;
- have the will and the ability to pass on to others what he has learned.

Worker-students who can claim to have half or more of these qualities deserve to be popular with their tutors.

Workers' education and its techniques

Reminder chart 17. Types of worker-students and their special needs and problems

Type	Needs and problems
1. Trade union officers and staff	Need (a) thorough factual grounding, often in complex matters; (b) training in clear self-expression; (c) much practical work in human relations.
2. Trade union rank and file	Need knowledge, but also need to develop a sense of responsibility and an awareness of the problems of leadership.
3. Workers' education beginners	Need clear proof of the relevance of education to their own problems in order to increase their interest. Great diversity of ability and in the degree of their keenness to learn.
4. Young workers	Of vital importance for the future. Need outlets for their energy, idealism and interest in modern trends—e.g. music, sports and technology. Regular evening-class commitments often unpopular with them, especially as many have technical classes. Need special social and labour education programmes, with opportunities for community service.
5. Women workers	Family ties and housework make it difficult for them to attend evening classes and residential schools. They are often badly organised, especially if engaging in part-time work or working at home. Sometimes they are handicapped by their traditional inferior status. Much unused potential.
6. Heavy manual workers	Physically tired at the end of a day's work. Need days off for study.
7. Seafarers and transient workers	Difficult to arrange regular timetables for them and to convince them that workers' education is important. Appealing to them on grounds of group loyalty may have little effect.
8. Shift workers	Difficult to arrange study schedules for them. They are often unsettled in their outlook.

Reminder chart 17 (concl.)

Type	Needs and problems
9. New immigrants	Often have language problems and sometimes have problems of religious or racial prejudice. Often lack any feeling of group loyalty towards their fellow workers.
10. New arrivals in industrial areas or in new population centres (e.g. plantations, oil fields)	Often completely unsettled and "lost". May require "adjustment programmes" just as much as new immigrants. Need to change their traditional attitudes and patterns of behaviour to fit in with industrial life.
11. Rural workers	Have the problem of inhabiting sparsely populated areas, with few townships separated by great distances. Suspicious of outside tutors. (There is, however, often much hidden talent in view of the small opportunity for schooling in rural areas.)
12. Advanced students	Risk becoming bored by the repetition of facts with which they are familiar. Can become cynical nuisances in the trade union movement. Need progressively graded courses. Should be treated in the same way as type 13.
13. Potential workers' education tutors	Should be easier to educate than the average student, but are often busy activists. Often difficult to convince them that teaching is a "trade" with its own skills which have to be learnt.
<p>Note. See also reminder chart 20 (Content, time and place of workers' education meetings for special types of worker-students) and reminder chart 26 (Different techniques in workers' education).</p>	

SPECIAL TYPES OF WORKER-STUDENTS

Some categories of students give rise to particular problems, and it would be nice to be able to make special arrangements for them. Mostly, however, workers' classes will consist of a mixture of categories, in which case the tutor should be aware of some of their respective needs.

Workers' education and its techniques

The particular problems raised by different types of worker-student are outlined in reminder chart 17. We would suggest that particular attention be paid to types 4 and 5—young workers and women workers—both of which are large groups with great potential.

THE TIME AND PLACE

8

So far in this manual we have discussed the purpose, the scope and the content of workers' education. We have considered who is to teach, who is to arrange the workers' education programmes, what sort of students are to participate in them. Now we shall deal with the various ways in which the students may be brought together for education, and when and where the activities should take place.

THE CANDIDATES

We have tended to assume that there is never a shortage of students and that the problem is always one of a short supply of administrators and tutors. However, a demand for education often has to be stimulated in the first place, though once this is done and provided the demand is properly satisfied, it will usually continue to grow. Much of the action to be taken will depend on local conditions and our suggestions will not necessarily apply in every case.

One safe generalisation, however, is that administrators should always be on the look-out for burning topics and offer opportunities for discussion of them as promptly as possible. The vital issues of trade union life (for example, wage claims, strikes, redundancy) can all be used as pegs on which to hang a simple educational activity. Whether a follow-up is then requested will depend upon the skill of the tutor. The essential thing is that the workers should see the importance and relevance of the topic and the way in which education will increase their understanding and their capacity to act.

This raises the problem of publicity. In some countries trade unions are able to use radio and television networks and their own magazines, but in others they have to rely on word of mouth—a means which can be more effective in the long run. Whatever method of publicity is used, an attractive, simple title and a lively short summary of the subject should be prepared, again with the object of showing its relevance to everyday experience.

Workers' education and its techniques

"Is your job safe?" is a more striking title than "Redundancy agreements" or "The economic requirements for full employment". "Your new vote" will make more impact than "The imminent extension of the franchise".

Where film projectors are available, films can be shown as an initial means of inducing workers to attend workers' education meetings, but this device should be used with discretion and at least one film with a good educational content should be included even in the first programme. If this is not done, the impression may be created that both films and workers' education meetings are meant for passive entertainment and the workers' whole notion of the purposes of workers' education and of the use of visual aids may be distorted. In countries where films are in common use, there is now a fair supply of suitable documentaries, some with particular relevance for trade union audiences (see Appendix 2, No. 11).

Subject to these reservations, it is certainly true that initial interest can often be aroused by films and in other ways which are not normally thought of as being educational. In fact, a great deal of informal but extremely valuable workers' education is carried on without the intervention of workers' educators. Much is learned, without any conscious effort on the part of the persons concerned, from part-time voluntary work in co-operatives, social clubs and neighbourhood committees, and undoubtedly workers' day-to-day activities in their jobs, in trade unions or on works' committees greatly contribute to their education in the true sense of the word. They are "learning by doing".

Likewise, it is now more widely appreciated that informal group activities such as socials, folk dancing or a simple sing-song can help to produce a community spirit which is useful in encouraging further study. It is not by coincidence that many workers' organisations and trade union colleges begin and end their courses with an evening of singing and that several trade unions publish union song books. Poetry recitals are also sometimes organised—a reminder of the cultural differences between countries. All these activities can create a good atmosphere, help recruitment and contribute towards the development of the group consciousness that is so vital for effective workers' education.

THE TIMING OF WORKERS' EDUCATION MEETINGS

In many cases there is not much choice concerning the time of day at which to hold workers' education meetings, since working hours limit the possibilities. Even so, a workers' education administrator may find that he has to decide between holding the meetings during the midday break, immediately after work, late enough in the evening to allow for a meal and a change of clothes beforehand, during the week-end, during vacations or

during periods of special release from work. This problem is linked to that of where to hold the meetings, since at midday or immediately after work they can be arranged only at or near the workplace. We have therefore summarised the advantages and disadvantages of possible alternatives in reminder chart 18, which should be carefully examined by workers' education administrators.

Certainly the organising of educational talks at the workplace and at trade union branch meetings is now being tried out in many places, and the general feeling is that the shorter time available is often compensated for by larger audiences.

Most of the comments in reminder chart 18 are applicable to isolated sessions as well as to periodic courses. At the same time it is to be hoped that many of those attending an isolated session will be persuaded to switch to more sustained study. In fact, this should normally be the aim of a single talk, and should take precedence over brilliant oratory, for little real education can be given in such a short time to students who are almost bound to be fairly passive.

There is probably now no workers' education programme in the world which is limited to single meetings. To begin with, follow up nearly always took the form of weekly evening classes varying, according to the teaching method, from simple lectures to study circles spread over a period of from 3 to 72 weeks. In recent years there have been an increasing number of experiments with other types of follow up—for example with short "schools" and study courses. More and more, the system of one-, two- or three-day conferences, or of week-long schools, is replacing the weekly class. It is generally easier for active trade unionists to get away for a few consecutive days, and such "study weeks" lend themselves to more intensive educational techniques. Thanks to the continuity, a group spirit is more easily evoked and sustained, even if the course is not residential. If residential facilities can also be arranged, the conditions are ideal for both formal and informal education.

For some years past certain trade unions have successfully combined the benefits of residence and of longer study by arranging for series of week-end schools. They normally function once a month, the interval being used for guided private reading and writing connected with the course. These schools are more costly to organise than the traditional weekly lectures, but they have been found worth while, partly because of their suitability for activists (who are busy during the week) and for workers from rural areas (where workers' education is usually hard to arrange). Less ambitious series of non-residential, one-day schools have also proved successful, and this further strengthens the argument that the weekly evening class is not the best way of attracting workers.

Reminder chart 18. When and where to hold meetings

Time	Place	Advantages	Disadvantages	Comments
Lunch hour	Must be at or near the workplace	<ol style="list-style-type: none"> 1. Group consciousness already exists, which makes it easy to find relevant issues to discuss. 2. More chance of reaching the goal of useful social action. 3. Should help to strengthen trade unionism. 4. The time available would otherwise probably be wasted. 5. No family commitments to interfere; evenings and week-ends left clear for the family, etc. 6. Union activists, otherwise too busy, can attend. 7. Particularly helpful for women workers with home duties to attend to after work. 	<ol style="list-style-type: none"> 1. May be resented because of the need for a rest. 2. Many workers prefer to separate work from the rest of their lives. 3. The employer may not co-operate by providing a room, etc. 4. May be impossible because of staggered hours of work, a shift system, filthy working conditions, no suitable meeting place, no privacy. 5. Often there is not enough time. 6. The workers may be too exhausted to concentrate. 	<ol style="list-style-type: none"> 1. Has obvious advantages. 2. Should never be tried without full consultation with the trade unions at all levels, or without the co-operation of the employer. 3. Some employers get interested and allow time off for study—perhaps at first for special groups such as apprentices or young workers, but subsequently for anyone seriously interested in undergoing workers' education.

Immediately after work	Must be at or near the workplace	As indicated under 1, 2 and 3 above, and perhaps under 5, 6 and 7 too, but to a lesser extent.	As indicated under 1, 2 and 3 above.	<p>4. Not so attractive as lunch-hour sessions but may be more practicable as there will be less pressure in terms of available time.</p> <p>5. Employers may perhaps grant working time off for study.</p>
Evening meetings	Not tied to the work-place	<p>8. The workers feel more free and relaxed, having washed and eaten, etc.</p> <p>9. There will be no feeling of being watched by the employer or being dependent upon his co-operation.</p> <p>10. The group will probably be more mixed and thus offer a broader range of interests and experience.</p>	<p>8. May be resented as constituting interference with free time.</p> <p>9. There are plenty of attractive alternatives. Family men and trade union activists are less likely to attend.</p> <p>10. Because the group will be more mixed, there will be little group consciousness at first, and less common experience on which to build.</p> <p>11. It will be harder to devise simple forms of useful social action.</p>	<p>6. Regular weekly evening meetings were for many years the most common means of providing workers' education. They gave good results with really keen students, but often did not attract enough of the rank and file.</p> <p>7. More participants may be attracted by combining these meetings with trade union branch meetings or by linking them to some specific local project.</p>

Reminder chart 18 (concl.)

Time	Place	Advantages	Disadvantages	Comments
Single meetings at week-ends	Not tied to the work-place: clubs, schools, trade union halls, etc., can be used.	As indicated under 8, 9 and 10 above. 11. Should be easier to find a time suitable for enough people.	As indicated under 8, 9, 10 and 11 above. 12. There is often a feeling that the week-end should be kept for "special activities".	8. If people are prepared to give up any time at all at the week-end, they can usually be persuaded to give up three hours or even the whole week-end.
Week-end schools and other continuous periods	Continuous periods raise problems but open up the possibility of residential study—for example in universities and colleges during the vacations, in hotels, labour colleges, etc.	12. Group consciousness can be ensured at once by selective enrolment or fairly quickly developed as a result of continuous contact. 13. Continuity permits more intensive study. 14. There is greater opportunity for "informal education". 15. Can be run in pleasant surroundings. Also, as indicated under 10 above.	13. As indicated under 10 above. May also meet with resentment from the family. 14. Because of the contrast with home surroundings, the group may suffer from initial shyness.	9. Opens up great possibilities for more serious study. 10. The best results can be obtained if week-end schools are organised in series and if they are residential.

Before leaving the question of timing, it may be worth recalling that certain jobs have peak and slack periods which can greatly affect course attendance. It would be foolish in most countries to arrange a week's school for bank clerks around the end of the month or to run schools for agricultural workers at harvest time.

Evidence from all over the world is proving that the workers' thirst for knowledge is constantly growing. It is the duty of the trade unions (with the aid of other bodies if necessary) to satisfy that thirst by providing as varied an educational programme as possible, which caters for all workers—from the youngster who attends a single documentary film show to the activist struggling with labour legislation during a two-year residential course. The essential features of such a programme, broad at the base but rising to a "peak" of intensive study on the part of a few selected members, were shown in simplified form in figure 6, and are to be found in the programmes of some unions in the advanced countries. Here, again, success depends on carefully graded instruction combined with guidance for the students.

Finally, it may be noted that for many years there has been mounting trade union pressure for the granting of paid educational leave to workers to enable them to attend courses. Although progress was slow at first, measures to this effect have been taken in countries as different as the Syrian Arab Republic and France or the Congo and the Federal Republic of Germany. At the International Labour Conference in June 1974 a Convention and Recommendation were adopted which, in addition to establishing the principle of paid educational leave, lay down detailed guarantees and conditions in this connection. Now that the way has been paved by these two international instruments, there should be an increase in the number of countries where workers are given paid leave to attend workers' education courses, without any loss of entitlement as regards normal holidays, social security and family benefits, seniority rights, etc. This should contribute greatly to the expansion of workers' education, as it will permit much more flexibility in the arranging of courses.

THE PLACE TO HOLD WORKERS' EDUCATION MEETINGS

The factors of time and place are so bound up in the present context that many of the possibilities concerning where to hold workers' education meetings have already been covered. It is clear from reminder chart 18 that the choice between holding a trade union meeting at the workplace or at a "neutral" site is by no means easy. Every effort should be made, however, to ensure that there are clean, cheerful and comfortable surroundings. Rooms for workers' education should have at least a blackboard, a wall for displaying posters and, preferably, equipment and facilities for other audio-visual aids.

Workers' education and its techniques

Even more important for all but the smallest groups is to have a building or a room large enough for the class to split up into different working parties.

The ideal solution is to have a properly planned and equipped workers' education centre, with several small, quiet rooms for group discussions, in every locality where courses are likely to be organised. This can hardly be expected to be achieved for a long time yet, but the decision of the Ahmedabad Textile Labour Association of India to establish 25 cultural and social centres (including libraries and reading rooms), each in the charge of a full-time social worker, is encouraging. Such a lead could well be followed by many other trade unions.

Where the trade unions themselves are unable to provide suitable meeting-places, recourse may be had to the facilities of local schools or libraries. The schools often have cramped desks but useful equipment, while the libraries lack general equipment but usually offer an atmosphere suitable for adult study. However, such arrangements are at best makeshift and it may prove wiser to make use of a less satisfactory room in a club or trade union office, if it is more homely and is connected in the participants' minds with the efforts of workers' movements. In such cases, administrators should not forget about equipment and should explore the idea of using easily portable, roll-up blackboards and other visual aids.

They should at the same time try hard to establish at least one well-equipped workers' education centre in each of the largest towns, beginning with the capital city. Cheering examples are now to be found all over the world. In Kenya the Central Organisation of Trade Unions has arranged for many one-day conferences at the central building in Nairobi, and the Continental Congress of the Latin American Central of Workers (CLAT) has decided that each of the affiliated organisations is to establish at least one trade union school offering permanent courses.

As already mentioned, in workers' education the best is sometimes the enemy of the good, so one must be careful not to aim too high. Excellent work has been going on for many years at such non-residential workers' institutions as the Workers' University in Zagreb (Yugoslavia) or the Ecole ouvrière supérieure in Brussels. However, it is worth running the risk of over-straining resources in order to provide residential accommodation for the maximum number of students attending courses lasting more than one day, because the resulting advantages—including the opportunities for closer contacts among students and between tutors and students, for more searching discussions, for serious reading or writing under friendly supervision, for practising democracy in a small community, and for many informal educational activities—will more than compensate for the heavy outlay involved. These considerations, together with the success of the folk schools in neighbouring

Denmark and the need to rebuild the trade unions after the Second World War, led the German DGB to build 20 residential centres.

The high cost of residential colleges has certainly retarded their establishment in the poorer parts of the world, except where either governmental or international help has been made available, as has, fortunately, happened increasingly in recent years.

In India, of the 30 regional centres that had been established by the Central Board for Workers' Education by 1967, 13 are residential. India is also the home of the first ICFTU residential institution to be set up, the Asian Trade Union College. The second one, the Inter-American Residential Institute of Trade Union Studies, is located at Cuernavaca, near Mexico City. Recently, CLAT founded a Latin American Workers' University. Ghana has a Labour College, operated by the Ghana Trades Union Congress, at Accra. The Cipriani Labour College was opened at Port-of-Spain, in Trinidad and Tobago, in 1966. While the Government provides the necessary funds, the college is administered by a 10-member Board of Governors including five trade unionists and five other persons representing the Government, the university and other institutions. Subsequently Critchlow College was opened in Guyana. These new national colleges and such regional (multinational) institutes as the Asian Labour Education Centre in the Philippines are invaluable for training the more gifted workers to be instructors and administrators in their own countries. It is also worth noting that some residential workers' colleges in industrialised countries (such as Ruskin and Fircroft in England, the folk schools in the Scandinavian countries and in the Federal Republic of Germany, and the Higher Trade Union School of Moscow) offer a number of scholarships to overseas worker-students.

Since young workers are a special challenge, it is surprising that more countries have not followed the lead given by the Federal Republic of Germany, where special residential hostel-colleges have been established for young, unmarried workers. They provide good college-type accommodation at a low price, the condition of admission being attendance at a set number of classes. In this era of rapidly expanding industrial cities and of relatively high wages for young workers, the idea could be widely applied by trade unions (perhaps in collaboration with co-operatives or with the government) without financial loss and with much educational gain.

Finally, the workers' home is frequently a good place for education. Thousands of workers study at home for courses of the type described in previous pages and thousands more are engaged in correspondence courses. In such cases the role of the workers' educator is essentially limited to ensuring that the persons concerned are helped with materials and given advice on how best to study alone (for example in comparative silence).

THE SIZE OF STUDY GROUPS

One final element to be considered in arranging for workers' education is the size of the study group, which may range from a very few students to a hundred or more. Generalisations are again risky, but it is safe to say that the best size is between six and sixteen. Below six, discussion tends to suffer from a lack of variety in approach, and above sixteen personal contacts within the group tend to become looser and less stimulating. Obviously it will often be necessary, for reasons of economy, to have larger classes, but wherever feasible a maximum of 20 should be set.

There are, of course, occasions when a mass meeting may be useful for stirring up popular feeling or "floating" ideas, but true education depends upon active participation and the exchange of ideas. There may also be occasions when a tutor gets students to work in pairs or in threes; this can be an excellent arrangement for certain purposes but should be followed by an opportunity for reporting to the whole group.

This chapter on the arrangement of workers' education concludes with reminder charts 19 and 20. Reminder chart 19 contains two sets of pointers which together are intended to provide useful guidance for new organisers, as they indicate the basic rules for running one-day meetings. Reminder chart 20 is intended for administrators and pinpoints the implications of the particular requirements of special types of worker-students.

Reminder charts 17 (Types of worker-students and their special needs and problems) and 29 (Tools and materials for workers' education) also contain relevant information in this connection.

Reminder chart 19. How to run one-day meetings

A. Basic rules

If you are given the job of starting workers' education in a trade union or a district where nothing of this kind has been done before, you will probably be wise to begin with a "one-day school". You will have to take decisions with the following considerations in mind:

The subject should be topical and clearly relevant to the workers' lives.

The speaker(s) should be able to express himself (themselves) in a clear and lively way. Unless you can obtain a national figure whose name will attract a crowd, it is better to choose one or two local men who you know are competent and respected.

The chairman should be capable and not too talkative.

The title (and subtitles) must be attractive and simple.

Reminder chart 19 (concl.)

The meeting place should be central, easily reached, comfortable and pleasant, with a blackboard and, if required, a black-out screen, electricity, plug sockets, etc.

The date and time should be fixed to fit in with transport facilities and to avoid overlapping with other attractions and commitments.

The programme should allow for questions and discussion. There should be audio-visual aids if at all possible and refreshments between sessions. Sessions should not be too long. (Perhaps some activity of interest to wives and families should be arranged also at the meeting-place or nearby.)

The charges should be as low as possible, and the "school" subsidised if necessary. (If the meeting is very successful, a collection could be taken at the end.)

There must be a carefully planned publicity campaign, involving personal contacts (those who know about the meeting should be asked to tell ten others about it), wall-posters, trade union meeting announcements and any traditional local forms of publicity.

Literature about the subject(s), about trade unionism and about possible future activities should be displayed at a bookstall.

The names and addresses of participants should be recorded and due note taken if they are interested in further study.

The time and date of the next meeting should be discussed, fixed and announced before the participants leave.

B. List of things to be done before the meeting

Do not forget to:

1. book the room or hall, check with the caretaker about the key, chairs, etc.;
2. check that any equipment required is available (projector, screens, plugs, sockets, blackboards, etc.);
3. check any refreshment arrangements;
4. wind up the publicity campaign;
5. remind the speaker and the chairman of their engagement;
6. check their overnight accommodation (if necessary);
7. plan an alternative programme in case the speaker does not arrive (e.g. filmstrip, or short talk and discussion);
8. think about "follow-up" activities.

Each workers' education activity should lead to another one.

Workers' education and its techniques

Reminder chart 20. Content, time and place of workers' education meetings for special types of worker-students

Type	Special considerations
1. Trade union officers and staff	"Natural leaders" may need to be better informed. Intelligent but less forceful people may require leadership training. The emphasis should be on labour problems. Centrally located residential courses, organised during week-ends or longer periods, give the best results.
2. Trade union rank and file	The emphasis should be on practical problems of trade unionism. Scattered evening meetings are suitable. Short sessions could be arranged during trade union meetings, or at the enterprise if the employer is helpful.
3. Workers' education beginners	The emphasis should be on the relevance to their own problems of trade unions and work. Brief factory meetings could be arranged, even during the midday break. It is important for the tutor to be able to recognise the brightest talent. Help with basic skills is essential.
4. Young workers	A start should be made with things of natural interest to them (e.g. practical work problems, sports, jazz), their attention subsequently being directed to study and community service. The best results are usually obtained away from work, in bright surroundings. Residential study hostels are a good idea for young workers employed away from home.
5. Women workers	It is often necessary to start with primarily recreational and social activities, and then to go on to problems of work and social life. There is usually a special need for trade union training. Meetings at the workplace, during the midday break, are often the most convenient, as family ties make evening and residential courses difficult to attend. Should eventually be merged with normal classes.
6. Heavy manual workers	Fatigue prejudices evening study or attendance at factory classes. Residential schools are best, if possible of at least two weeks' duration. Otherwise, day-release schemes should be arranged in agreement with the employer.
7. Seafarers and transient workers	There is usually a special need for study of workers' movements in general. It is advisable to organise either short residential courses when the workers are available, or correspondence courses and study circles.

Reminder chart 20 (concl.)

Type	Special considerations
8. Shift workers	Special timing and special publicity about the timing are required. Residential schools lasting one or two weeks, or series of week-end schools are often best. Factory classes are sometimes helpful.
9. New immigrants	Orientation courses, providing instruction in languages, civics, etc., are required. They should be financed, if not organised, by the government. There should also be special courses on trade unionism. Since continuity is important residential courses are desirable. To begin with these students should form separate groups, gradually being merged with the normal classes.
10. New arrivals in industrial areas or in new population centres	These students also require to start out in separate groups, undergoing adjustment courses. Health and hygiene in cities is often an essential subject. Courses on factory life, industrial relations and trade unionism are also important.
11. Rural workers	Topics stressing their connection with urban and industrial life, as well as the need for trade unions and co-operatives, are often required. The fact that they are scattered throughout the countryside may imply irregular class meetings, study by correspondence, study circles or residential courses. Winter schools should be organised for agricultural workers.
12. Advanced students	They also raise problems because there are not many of them and they may be widely dispersed (except in the largest cities), so residential courses with tutorial aid are best. Repeated study of the same topics must be avoided, so some students should specialise and others should study cultural subjects.
13. Potential workers' education tutors	Whatever the subjects studied, particular attention should be devoted to methods of teaching and learning. Subsequently, there should be plenty of practice in teaching during union branch meetings. Since close tutorial supervision and much teaching practice is required, some residential study is essential. Special correspondence courses, refresher courses and teaching aids are needed to ensure continued progress.

PART II

METHODS AND TECHNIQUES

In many ways this is a most important chapter. So far we have dealt with the objectives, content and organisation of workers' education. In Chapters 10 and 11, we shall discuss the various methods, techniques and tools which workers' educators may use for teaching purposes. But wise choices between the different methods and tools can be made only on the basis of an understanding of the learning process. Moreover, since workers' education should be a "willing partnership", the students as well as the workers' educators should be clearly conscious of what is going on. A little advice and discussion about the learning process at the beginning can avoid unnecessary worry and disappointment.

Up until the last fifty years very little was known about how human beings actually do learn, and even now there is still much that is unknown, despite extensive research and literature on the subject. At first this research was mainly concerned with children, but in recent years considerable attention has been devoted to adults in the fields of communication theory and group dynamics. As a result, valuable insights have been provided not only into education but into all human relations and we shall try to make use of them in this section of the manual. Some group dynamics experts get so involved with how groups operate that what they do sometimes becomes of little importance, while some communication theorists concentrate so hard on the effective transmission of ideas or information that the social use to which the information may be put becomes of secondary importance. Workers' educators should avoid extremes but should use the findings of communication theory and group dynamics to equip their students for useful social action.

CAN ADULTS LEARN?

Fortunately the answer to the above question is a loud and clear "Yes", and the more research that is done, the more confident the answer becomes.

The popular saying that "You can't teach an old dog new tricks" may, in the past, have discouraged many workers, who felt that they were too old to learn, but it has now been proved that there is no truth in this claim.

The earliest reports of research on this subject, which has been going on in the United States and other countries since the 1920s, seemed to suggest that there was a drop in learning capacity of about 1 per cent a year after the age of 25, but later studies have proved that it is the speed of learning and not the capacity to learn which declines. In some tests without time limits, men and women between 40 and 70 years old did as well as younger people. In five other tests with time limits, the scores did get somewhat lower as the age of the group increased, but even then older individuals who had kept up their learning in various ways showed hardly any drop in efficiency.

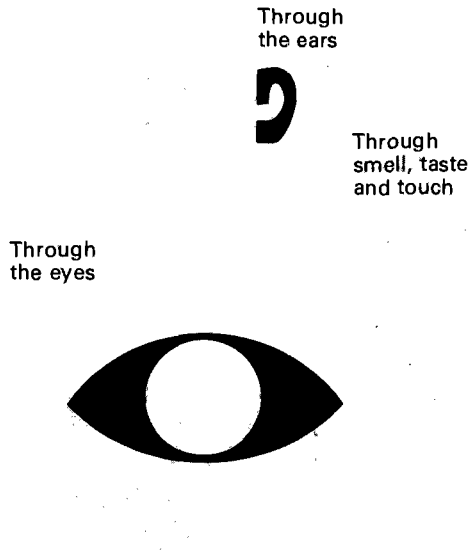
As far as is known, then, the ability to learn does not decline with age, even if the speed at which we assimilate may be a little less.

This does not mean that workers have no problems about learning. Those who have never (or not for many years) had any systematic education may feel that they will not be able to cope; if so, this lack of confidence will affect their progress, unless it can be dispelled by a friendly tutor and by the support of their fellow students. Also, physiological changes, such as poorer sight or hearing, can hold back an adult's progress without anybody realising the cause. The good tutor will look for signs of difficulty with seeing or hearing, and he will try to help by ensuring that all oral communications (other students' and his own) and all visual aids are clear. But above all the potentialities and problems of adult learning should be freely discussed in workers' groups so as to build up confidence.

If we compare the advantages and disadvantages of adults and of school children as regards studying, the balance is by no means on the side of the children. It is true that at school they can develop the habit of systematic study and that they have much more time at their disposal, but usually they have no clear, conscious objectives. They attend school because they are told to do so. Perhaps they study in primary school in order to get to secondary school and then eventually to get a better job—but this is all remote. The schoolchild often sees little relevance to everyday life in what he is studying.

A well taught worker-student, on the other hand, sees the value of what he is studying for solving problems connected with his daily life: problems of the family, of the workshop, of the union and of local and central government. He appreciates that learning involves him in more than taking in information, that it will afford him the opportunity to improve his qualifications and may cause him to change many of his attitudes. For this reason, the adult student is much more capable of self-directed activity, both during a course and afterwards.

Figure 9. How information is received



In boxing it is said that "One in the eye is worth two in the ear".
In teaching it could be said that "One in the eye is worth six in the ear".

LEARNING : A PROCESS OF ASSIMILATING INFORMATION

While we may not know exactly what goes on in our brains when we learn, there are certainly two basic processes. In the first place new ideas and information are received and "taken in" by the student; but, secondly, they are "digested" or assimilated so that they become part of his mental make-up, probably causing modifications in what he had already learnt. It is important to realise that the first process can often occur in a superficial way, without leading to the second, in which case there has not been "true learning".

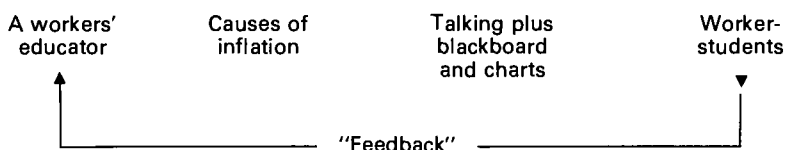
Figure 9 is based on a number of studies of how adults take in information, through their different senses. The proportions are inevitably approximate and represent an average of what happens with many different people in different situations; however, all research points roughly to the same conclusion: our eyes are by far the most important channel through which we take in information—about six times as important as our ears. The other senses, of taste, touch and smell, together account for only approximately

Workers' education and its techniques

Figure 10. The communication process



For example:



the same proportion as our ears. Yet the normal teacher, even in the field of workers' education, tends to use talking as the medium for most of his instruction and to ignore the very important channel of sight. What makes matters worse is that people are most easily distracted from listening by something that catches the eye—a fly on the man in front or a pretty girl passing the window. The good workers' educator, knowing this, captures wandering eyes by making use of judiciously chosen visual aids (see Chapter 11).

Studies of communication theory have also been revealing about how we take in information. In particular they have underlined that it is dangerous for the communicator or teacher to assume that the message he sends out is correctly received. Experts in communication theory have demonstrated the process in chart form (see figure 10). They point out that communication has four aspects: there is somebody (the sender) with information to give (the message), for which he chooses a medium (the channel) for passing it on to the target audience (the receiver).

In the example given in figure 10, the sender is a workers' educator who wants to give information about inflation (or the duties of a trade union finance officer or whatever you wish) to his class of worker-students (the receiver). Having studied the previous section of this manual and figure 9, he decides that his "channel" will not be confined to talking but will include visual material on the blackboard and on turnover charts. By using two or three channels, he increases his chances of getting the message across, which is by no means as easy as it appears in the diagram.

To transfer a stone from one bucket to another is easy, provided the stone is not too big or too heavy. To move an idea from one head into another is much harder, even if it is quite a small idea. Let us suppose that person A

(the sender) wants to convey the idea of a “tree” to person B (the receiver), and A uses the printed word “tree” as his channel of communication. Will B receive A’s message? He has it safely? So he knows what A really means . . . or does he? The tree A is looking at is a tall slender cedar tree, about 50 feet high. That was A’s message. Did B receive it correctly? Or was B’s tree a date-palm, an apple tree, or a fir tree?

Of course, the point we are making is that B, as the receiver, has already had all sorts of experiences which will affect his interpretation of A’s message. To return to the workers’ educator with his information about inflation: his message is addressed to a group of worker-students who already have their own ideas about wages, profits and prices, and about government policy. How can he be sure that what he has in his mind as he talks is also what is in their minds when they hear him and see his visual aids, that their “perception” is the same as his, that their “tree” is the same as his? The short answer is that he cannot be sure, as long as the communication remains one way only. He must get reactions from his students, by questions and answers and by discussion. Only thus can he learn what they have made of his message. This checking process is known as “feedback” and, on the basis of the feedback, the good tutor decides whether he needs to send his message again with additional explanations and more illustrations or whether he can move on to the next point.

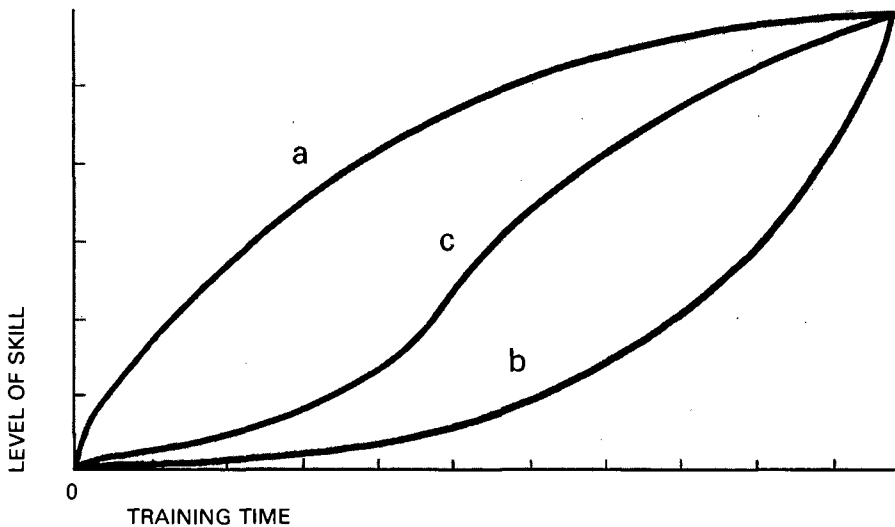
That is why Chapter 11 criticises the formal lecture as a teaching technique: it implies one-way communication only, and the message sent out is often not received at all or is received in a distorted form. That is also why, in this manual where no feedback from the reader is possible, the messages are repeated in various ways—by reminder charts, diagrams, etc.

THE RATE OF LEARNING, ASSIMILATION AND FORGETTING

It is useful for worker-students as well as workers’ educators to know why discussions and questions are so important in the learning process. It is also important for the students to know that the full learning process (of taking in and assimilating information) can occur at very different rates for different persons and, for the same person, as regards different subjects and from one time to another.

Figure 11 shows three possible variations of the rate of learning in the form of a graph (one of the visual symbols referred to in Chapter 11). Along the straight bottom line (or horizontal axis) are marks indicating periods of time (hours, days or weeks) spent in learning; the further one moves to the right of the graph, the longer the student has been studying (the longer his “training time”). Along the straight upward line (or vertical axis) are marks indicating the level of skill attained by the student; the further up one goes, the greater

Figure 11. Learning speeds



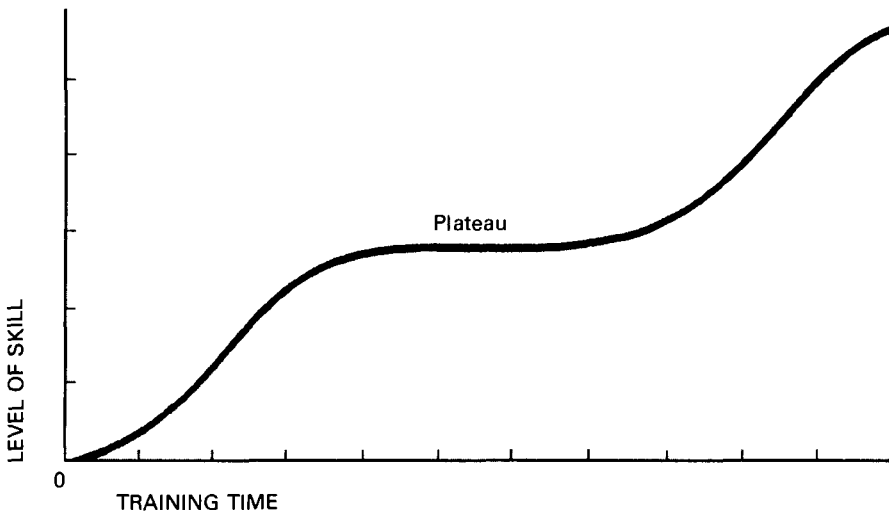
the student's ability in the subject (the higher his "level of skill"). Thus, when a student is completely new to a subject, his position on the graph will be at zero, for at zero he has moved neither to the right along the horizontal axis of training time nor upwards along the vertical axis of level of skill. As soon as he begins to study, his position on the diagram must move to the right to indicate the time he has spent in study, and it is to be hoped that it will also move upwards, showing that he has improved his skill in the subject.

To illustrate the different types of learning rate, the top curve "a" in figure 11 is that of a student who increases his knowledge very quickly at the start, but who then begins to slacken off, until he is spending a long time studying (i.e. moving more and more to the right of the graph) and achieving hardly any improvement in his skill (i.e. hardly moving upwards at all). This sort of learning rate will generally occur when the subject is one which, to begin with, involves taking in some easily understandable facts and ideas and then covers more complex issues. It is also a rate typical of people who tend to approach new subjects with a burst of enthusiasm that carries them along for some time and then begins to fade.

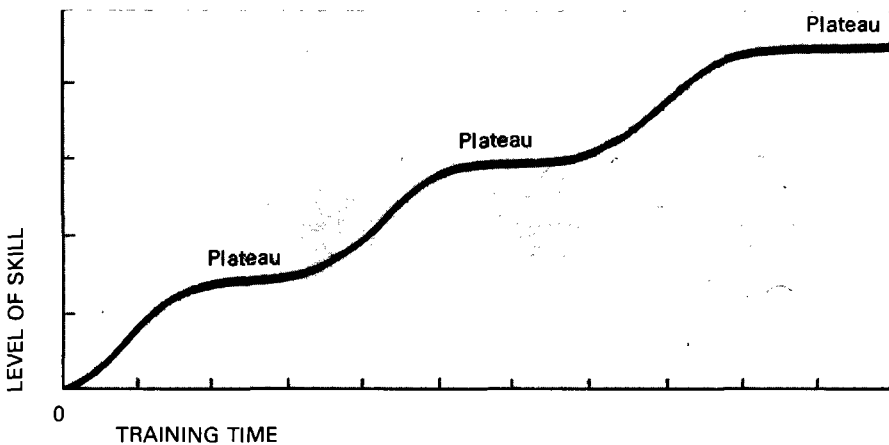
Curve "b" (the bottom curve) is that of a student who has a very different rate of learning: he makes slow progress at first, but then begins to find things easier and improves so rapidly that he catches up student "a". This often happens with the "slow but sure" type of student and with the study of more complex abstract subjects, when it takes time before ideas can be properly grasped.

Figure 12. Plateaus of learning

A. The plateau



B. Successive plateaus



Curve "c" (the middle curve) depicts the most common learning rate. The student progresses slowly at first, then has a period of rapid improvement (when the curve is rising steeply) only to find after a time that things become difficult again and he can make little headway. This is a painful and discouraging period for the student.

The reader's own experience of studying may make him see himself as student "a", "b" or "c" but he will certainly at some time or another have

Workers' education and its techniques

shared student “c”’s feeling of disappointment and frustration at not being able to make much headway. It is important that new students should know how common this stage is—so common, indeed, that psychologists have given it a special name: “the plateau of learning”. Thus one could write the words “plateau of learning” along the top part of curve “c”, and also of curve “a”. However, since a basic rule in the use of visual symbols is that they should be kept as simple as possible, we shall illustrate this idea separately, in graph A of figure 12.

The graphs in figure 12 also show “training time” along the horizontal axis and “level of skill” along the vertical axis; the progress of the student is again represented by a line going from left to right (as the time spent in study increases) but rising irregularly to show how the rate of progress varies. In graph A we have an example of a plateau of learning in which the student gradually slows down and remains at the same level of skill for quite a long period. Because time is going by, we have to move his position to the right on the graph, but since he is not making progress the line cannot continue to move upwards but has to be a flat line to the right, giving a plateau effect in his learning curve. In some cases, the student may suddenly reach the plateau, almost as if he had encountered a “road block”, but a gradual slowing down to an eventual standstill is more common.

Many worker-students then decide that study is not for them, and give up after spending a few hours on the plateau. If tutors were to warn them in advance that this stage will be reached and convince them that, if they persevere, it will be only a temporary pause, much discouragement and wasted effort would be avoided. It will be noted that the curve in graph A ends on a note of optimism—the student has begun to make rapid progress again. Such optimism is justified by experience.

Nevertheless, the renewed progress will not last for ever and will be followed up by another pause or learning plateau. In other words it is normal for learning to proceed in a series of fits and starts, as shown in graph B of figure 12. The more a student is aware of this, the less likely he is to be put off by frustrating pauses. In fact, it is almost certain that such pauses are necessary for the assimilation and digestion of all the ideas and information that have been taken in during the spurts of progress. The learning process probably goes on in the subconscious mind, with the knowledge imparted gradually becoming part of a person’s mental make-up, in much the same way as it takes time to digest a quickly eaten meal.

This leads us to another concept about learning developed by psychologists which is of great value to adult students, who like to know what is happening to them: the concept of the threshold of reproduction. When we begin to learn something new, at first we have to concentrate on taking in the

new facts and new ideas and on fitting them into the pattern of knowledge we already have. We test these new ideas against our previous experience, often finding that the old pattern needs to be modified and enlarged to accommodate the new things learnt. After a time, this new pattern is set sufficiently firmly in our minds for us to be able to reproduce the new knowledge in our own words and as part of our own experience. It must be stressed that this is quite different from “parrot-reproduction”, when words or facts are learned superficially for later repetition.

When, in learning a particular subject, we have reached the stage of being able to reproduce the knowledge in our own words, it is said that we have “crossed the threshold of reproduction”. This idea is illustrated very simply in figure 13. The threshold of reproduction is shown clearly as being at a particular level of skill. This time the curve in the figure is not concerned with a particular student but with the average rate of learning. Two average students, A and B, are shown on their way up the “curve of learning”. Both have reached the threshold of reproduction and have made the knowledge gained so far their own and are able to reproduce it in their own words.

The top student, A, has continued to climb after passing the threshold. He has discussed what he has learned, or perhaps put it into practice, and, by viewing the subject-matter from different angles, he has engaged in some extra learning, or “over-learning”. (Such over-learning also takes place at school through the many sums and exercises that have to be done after learning a rule of arithmetic, for example.) The bottom student, B, is satisfied with having reached the threshold of reproduction and has decided to stop there without doing any of the practical exercises that are needed to consolidate or reinforce his learning.

Unfortunately, student B, who has stopped just on the threshold of reproduction, has overlooked the fact that there is another mental process besides learning—the process of forgetting. This happens to all of us, and therefore in figure 14 we have shown what happens to the two students when the forgetting process affects them. Student B was bound to slip below the threshold of reproduction as soon as he forgot anything at all and, because he failed to consolidate his knowledge by extra learning, he has fallen rapidly a long way down “the hill of forgetting”. He is now far from being able to reproduce in his own words what he once knew. He never made the knowledge thoroughly his own or really part of his mental make-up. Student A, on the other hand, because he consolidated his knowledge by extra learning exercises, did not forget so quickly, and in any case he could afford to slip some distance and still remain above the threshold of reproduction.

If a student is learning a subject solely to pass an examination, it may be enough for him to ensure that he has just reached the threshold and can

Figure 13. The threshold of reproduction and "over-learning"

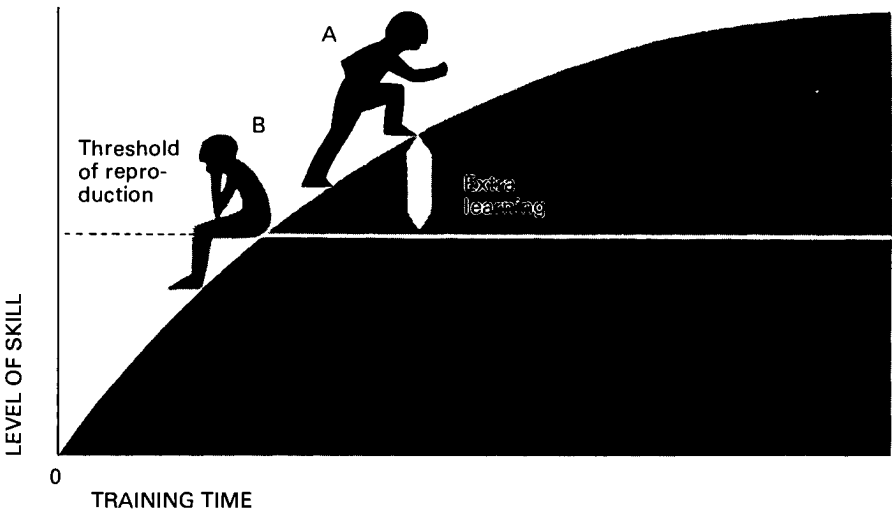
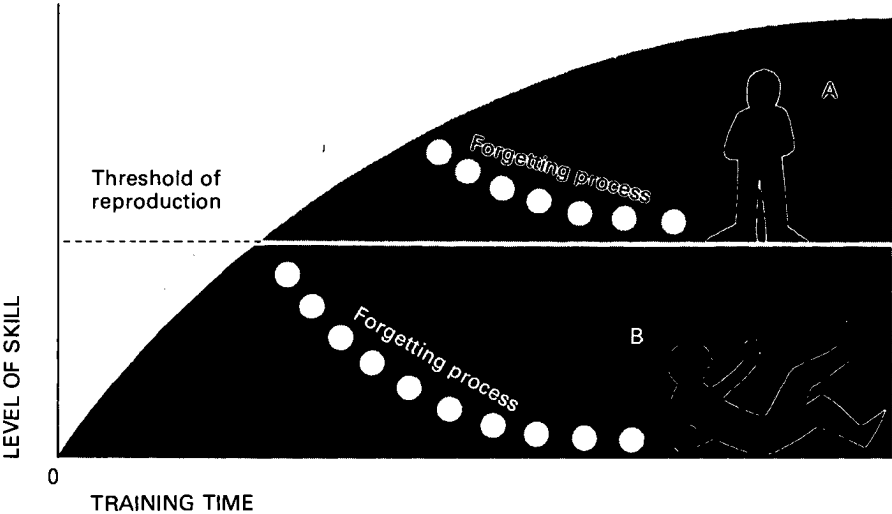


Figure 14. The threshold of learning and the forgetting process



reproduce the required information on the day of the examination—though that would be very bad education. In workers' education the intention is not to make the students interested in examinations but in making their new learning so much a part of themselves that it can help them to take useful social action. They must therefore climb well above the threshold of reproduction in their

studies—otherwise they might as well not study at all. What they have learned must really be digested, assimilated and consolidated, and this makes it necessary for students and tutors alike to ensure that an integral part of workers' education consists of discussion, revision work, looking at problems from different angles and, above all, practical exercises. These will not be the apparently pointless exercises of the schoolroom. They can be group activities related to everyday life and can themselves produce positive social benefits.

RETAINING NEW INFORMATION AND IDEAS

Earlier in this chapter it was explained that most of the information we take in comes through our eyes and that the ears are a much less important channel. As regards the capacity to assimilate and to retain new ideas and information, all research shows that the channels by which we take in the new material strongly influence how much we remember. Here again, the eyes are a more efficient channel than the ears, and this is something which needs to be probed into more deeply, as many researchers have now shown.

Figure 15 illustrates their findings, indicating the rough average percentage of retention (that is, the ability to remember and reproduce something) after a given period of time. Exact percentages do not matter, and in fact they vary a good deal with different people and different subjects. What is significant is that all researchers agree that we learn least permanently (that is to say, we retain for the shortest time, or forget quickest) what we have taken in through our ears only, at a lecture or listening to the radio (sketch No. 1 in figure 15); that our retention is slightly better if we have taken the information in through our eyes only, by reading books or looking at pictures (sketch No. 2); and that a combination of the two methods (hearing and seeing) definitely increases the permanence of our learning (sketch No. 3). These three ways of learning may be called passive methods in that we are only taking in information and are not working on it in ways which will help us to digest it. We are not "over-learning" or reinforcing our new knowledge.

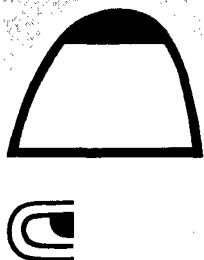
When we take deliberate steps to consolidate what has been learned by active learning methods, we lose much less by forgetting. Thus (as illustrated in sketch No. 4 in figure 15) merely discussing the information received tends to fix it more firmly in our minds because, as we discuss, we clarify particular points, correct others and reconsider the issues from several different angles. Such discussion can be organised in any of the ways described in sections 4 and 5 of Chapter 10 and can cover a subject as a whole or concentrate on the key issues. This method is conducive to consolidation or reinforcement of knowledge and nearly three-quarters of what has been learnt may be retained.

Finally, as is shown in sketch No. 5 in figure 15, even less is forgotten (perhaps only 10 per cent) if learning through the eyes and ears is combined

Workers' education and its techniques

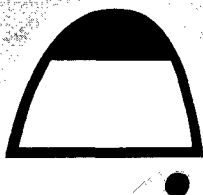
Figure 15. Memory and learning methods

1. Ears only



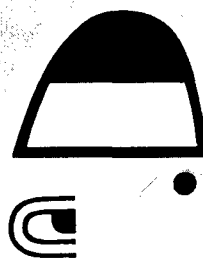
20%
retained

2. Eyes only



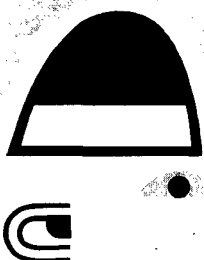
30%
retained

3. Ears + eyes



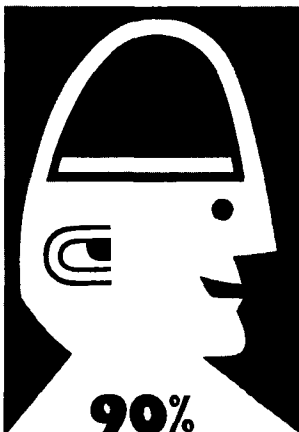
50%
retained

4. Ears + eyes
+ discussion



70%
retained

5. Ears + eyes + discussion
+ reproduction + use



90%
retained

with well planned discussion, practical work and exercises. This is the best one can hope to achieve, for all human beings forget to some extent.

Since examples are always helpful, let us consider a group trying to learn about the duties and work of a trade union treasurer. The tutor, instead of introducing the subject by a talk outlining the general activities of a treasurer,

could ask each student to say, in a small subgroup of the class, what he or she feels to be the main duties involved; alternatively, one subgroup could take this as a theme for discussion while another was discussing the difficulties that arise most frequently in connection with trade union finances. Each subgroup could then report to the full group. In this way the students themselves would, at least to some extent, have identified the problems; they would have already become involved and active. The tutor, having guided the reporting session and noted omissions or wrong statements or half-truths, could very well at this point give a short lecture summarising the duties and the difficulties of the treasurer. He would already have prepared an outline of his talk and, during the discussion and reporting sessions, he could mark items that he thought needed extra emphasis or explanation. He would, it is to be hoped, also have prepared some visual aids—perhaps a turnover chart showing receipts and counterfoils, an income account book page, an expenditure account book page, a statement of accounts, etc. His talk should be followed by questions and further discussion so that the group would again become involved in active participation. They might then engage in role playing through an actual accounting exercise or an “in-tray exercise” in which the daily incoming mail of a trade union treasurer would be given to them to handle (see Chapter 11, section 7).

Through such methods, the danger that the students will forget quickly what has been learnt will be greatly reduced; even more important, they will broaden their experience and be better prepared for useful action in the trade union.

To take another example, let us imagine a group studying how local government works. This could be done partly through small group discussions and short talks, but the group could also visit actual institutions run by the local authority and engage in a campaign for specific improvements. At this stage in the learning process, we are approaching the ultimate objective of useful social action. The means are beginning to merge with the ends and learning is becoming part of the students' everyday life.

This is the wisdom summed up in the ancient Chinese saying: “If I hear it, I forget. If I see it, I remember. If I do it, I know” (or I understand).

To some people, including a few workers' education tutors, the idea of linking practical action, in the manner described above, to education seems strange and even slightly immoral. They may be used to an old-fashioned schoolroom atmosphere where knowledge is not expected to be immediately useful. There is no need to worry about such people, unless they are responsible for some part of workers' education, for example either as administrators in universities co-operating in workers' education programmes or as tutors in workers' education groups; in that case they must be persuaded

Reminder chart 21. The ladder of experience¹

Physical senses involved	Educational medium	Comments
Direct experience		
All senses	8. Purposeful experience. Action in trade union or civic affairs, etc.	Real life and participation.
All senses	7. Purposeful observation of actual experience. Field work, study visits, etc.	Real life, but observation, not participation.
All senses	6. Active dramatised experience. Participation in role playing, demonstrations, in-tray exercises.	Imaginary, but with participation.
Maybe all senses	5. Passive dramatised experience. Observation of role playing, working models, demonstrations.	Imaginary and without participation. Only observation, but possibly with some involvement.
Sight, and maybe other senses	4. Passive static actual experience. Personal observation of static models, exhibitions, etc.	Real life, but observation only.

[illegible]

Workers' education and its techniques

beyond any shadow of doubt that, for workers' education, knowledge is always regarded as a potential tool. Who is to persuade them will depend on local circumstances. The obvious person is the educational director of the trade union body concerned, where there is such a person, but if there is nobody else, then the worker-students themselves must do it—in the last resort by boycotting the classes. Any tutors who find practical activities rather strange in the context of education can take heart from the many opportunities for “learning by doing” that exist for adults.

One educational psychologist has said that “all permanent learning is intimately related to rich experience”, going on to fit the various learning methods into what he has called “the cone of experience”. We have adapted and altered his idea in reminder chart 21, which is in the form of a ladder of experience, the idea being that the top rung of the ladder (No. 8: “Purposeful experience”) is what we should try to reach in workers' education. However, like many concrete illustrations of abstract ideas, the ladder metaphor can be slightly misleading. In the first place, we normally use every rung as we climb a ladder, whereas it is most unlikely that any single workers' education group will ever use all the educational media listed in reminder chart 21. Secondly, any climbing metaphor may convey the impression of increasing difficulty as one climbs, whereas in our ladder there is no question of increasing difficulty, whichever way one reads the list; if anything, some of the verbal symbols (rung No. 1) may be more difficult for a workers' education group to grasp than some of the activities described at the top of the ladder, which are easier for them to understand because they are not new and because their obvious practical relevance intensifies student interest. The ladder will, in any case, serve to remind workers' educators that there are many educational channels besides lecturing and books. Too great a preoccupation with verbal symbols has been typical of much traditional education, and such an attitude has become a hindrance in the planning of workers' education programmes suitable for the developing countries. This is not to suggest that verbal symbols should be avoided in workers' education. Indeed, most of the other media make use of them. But they should be seen as aids towards the goal of worthwhile education and purposeful experience, as a means and not as an end in themselves.

This whole chapter has been rather theoretical, but it is a necessary introduction to the techniques and tools examined in Chapters 10 and 11 and serves to supplement and define more accurately the “rules” of workers' education, which are recapitulated and summarised in reminder charts 22 and 23.

Reminder chart 22. Methods of teaching and study

Workers' education methods should:

1. Be student-centred and not subject-centred.
2. Deal with whole problems regardless of subject divisions.
3. Build up the confidence of the students.
4. Train students systematically in the basic skills and the techniques of study.
5. Make use of the students' personal experiences.
6. Work from the known to the unknown.
7. Allow for the fact that different students will learn at different rates.
8. Work from the concrete to the abstract.
9. Allow for the fact that there are "plateaus of learning" which, it is to be hoped, are periods of subconscious consolidation.
10. Allow for the need to "over-learn" (i.e. to revise and reinforce).
11. Stress especially the "reproduction" of what has been learnt.
12. Make use of all suitable media, tools and techniques.
13. Allow for the fact that things that are only heard and seen are forgotten sooner than things done.
14. Always entail a co-operative partnership between tutor and students, with active participation by the whole group.
15. Use every opportunity for practical work, especially work with clear social value.

Reminder chart 23. Prerequisites of workers' education methods

Worker-students learn best when:

1. They want to learn, are highly motivated and have clear objectives.

2. They know their tutors are sympathetic to their objectives.

3. They are treated as adults and equals.

And so, workers' educators should:

Discuss students' interests and objectives and the aims of workers' education during the recruitment process and early sessions.

Get to know the students personally and learn about their work and lives.

Create a friendly and informal atmosphere right from the start: engage in cheerful greetings; arrange chairs in a semi-circle or circle, etc.; continue to treat learning as a partnership.

Workers' education and its techniques

Reminder chart 23 (concl.)

4. They see that the subject-matter and the methods are relevant to their lives.	Plan carefully all examples, illustrations and exercises so as to make them relevant to the students' existing knowledge.
5. They can use their experience and existing knowledge in the learning process.	Arrange frequent discussions, especially when moving on to abstract or remote topics.
6. They find that new information and concepts are presented in logical order and step by step.	Plan carefully any information-giving sessions, making use of visual aids and taking advantage of breaks for questions and explanations.
7. They are encouraged to ask questions and argue freely.	Remember that a tutor's general skill in asking questions and analysing the answers is of greater value to the students than flooding them with a mass of information they can get elsewhere.
8. They are active and doing things with a conscious purpose.	Make definite and careful use of direct practice, role playing or simulation exercises (see Chapters 10 and 11).
9. They can practise as they learn, and there is repetition and revision.	Use exercises, questions and quizzes, which should never be competitive.
10. They get a feeling of success and progress.	Develop the self-confidence of the students by creating a feeling of co-operative group partnership.

In this chapter the word “techniques” is used to describe the methods of communication and interaction adopted in studying and learning, that is, the “human relationships framework” in which learning occurs. It refers to the normal channels of communication, such as discussions, lectures, study circles and other forms of group work, as well as to correspondence courses. For the sake of simplicity an effort is made to distinguish between “techniques” and “tools and materials”, which is how the various devices that can facilitate the educational process are described.

1. PERSONAL SELF-DIRECTED STUDY

Recent research in the United States and Canada has shown that many more adults and young people engage in “self-directed learning” than was expected. In many cases they do join some class or group as part of the process, but often they are entirely on their own. Although it is not possible to know in any given country how many workers are studying in this way it is, again, probably many more than was thought.

Workers’ education bodies have so many calls on their scarce resources that they cannot consider doing much for such individual worker-students, but clearly they should give what help they can. Indeed, it can be argued that all normal workers’ education group activities should be carried out in such a way as to help and encourage the participants to continue learning by themselves. This makes good sense, as no workers’ education programme can ever be “complete”.

Accordingly, courses should be conducted so as to develop the capacity for private study, and facilities then provided for follow-up. The same facilities could be made available to the completely “self-directed” worker-student. They could take the form of free use from libraries of basic and background books and even of the free distribution of basic pamphlets and programmed

Workers' education and its techniques

learning booklets, of the provision of opportunities for meeting and discussing with specialists, of arrangements for observing important activities in the world of labour (for example a meeting of a wages tribunal, a trade union conference or a local council meeting). In this way, what have been called "learning webs or networks" could be created both for normal worker-students and for self-directed students.

In this connection the development of "programmed instruction" and of "modular study kits", as strongly recommended by a meeting of the ILO Panel of Consultants on Workers' Education held in 1971, could also be of great value.

Perhaps the biggest problem in attempting to help individuals studying on their own is that of publicising learning opportunities once they have been created.

2. CORRESPONDENCE COURSES

It is certain that better publicity about available opportunities could serve the interests of many of the solitary students following correspondence courses—a learning method which, for the person concerned, combines outside guidance with the advantage of being able to choose the time and place for his studies and to go more or less at his own pace.

Many correspondence courses exist in the field of workers' education. Well supported schemes have been run for many years in the Federal Republic of Germany by Briefschule (a joint organisation of the DGB and the consumers' co-operatives), in Great Britain by the Trades Union Congress and by several individual trade unions, and in the United States by many university extension divisions and trade unions.

The Belgian General Federation of Labour has run correspondence courses with considerable success as far as enrolment, completion of the course and final examination results are concerned. An attempt was made to increase personal contact with the students by encouraging them to send specific questions with their written work and to attend occasional regional conferences and students' meetings. These ideas should be considered carefully by workers' education administrators, as they help to reduce the feeling of isolation inherent in this method of study and to develop some sort of group consciousness.

Perhaps the most advanced national system of study by correspondence is in the USSR, where workers can take a four- or five-year course, at the end of which they receive a diploma from either the Moscow or the Leningrad trade union college. Enrolment in these courses, despite the full curriculum, has been very high—for example at the time of writing over 5,000 workers were taking the Leningrad college four-year correspondence course.

The work of the Brevskolan Institute in Sweden also deserves special mention. This Institute, which is owned by the trade unions and the co-operative movement, specialises in correspondence courses for study circles rather than for individual students; between 1919 and 1950 it organised over 66,000 study circles. The procedure is not always the same, but there are a number of constant features: for example, each circle has a democratically elected leader who is responsible for ensuring that preparatory work and written exercises are properly done and for organising discussions in connection with the excellent study material provided by the Institute. Many of its study guides are indeed model textbooks. The titles are simple yet striking, and the material is well selected and presented in lively terms with many useful charts and diagrams; it is often illustrated by witty cartoons. The Institute also makes a point of encouraging all students to think seriously about methods of study, by providing examples of how to take notes, how to underline useful passages in books, and so on. One of its most successful study courses was called "The member plays his part"; this was an introductory course on trade unions at work, aimed at new or inactive trade unionists, with appendices prepared by 16 different unions about their own particular problems.

Perhaps the largest single contribution of the Brevskolan Institute has been to prove the great benefits of group, as opposed to individual, study by correspondence. Its influence has now spread to other countries, whose unions have likewise introduced correspondence courses for groups which meet regularly under a leader elected with the approval of the union education department. Course summaries are supplied by the department to the leader, who distributes them at each meeting and who generally conducts the discussion and acts as secretary, noting and sending in to the department any questions which the group cannot itself settle satisfactorily. Practical exercises are arranged during class meetings and there are written or oral examinations at the end of the course.

We have gone into detail about correspondence courses because they have some obvious advantages for developing countries, where it is often hard to find qualified tutors and suitable meeting places. However, the general level of education in these countries may exclude many workers from being able to follow, on their own, even the simplest courses. The first correspondence courses offered to Latin American workers by ORIT (the Inter-American Regional Organisation of Workers of the ICFTU) generally met with a disappointing response and encountered serious problems, but if, instead, the Swedish idea of a correspondence study circle or discussion group, with one able leader, had been adopted, the results might have been much more encouraging. The application of this idea calls for careful local planning and selection of participants, and perhaps for brief training of the right leaders, but

Workers' education and its techniques

a suitable volunteer ought to be available in most places. This sort of self-help, involving group co-operation, is very much in keeping with the aims and principles of workers' education. Radio and television programmes can also be of service in this connection and we will look at some examples in Chapter 11. The advantages and disadvantages of correspondence courses are summarised and commented upon in reminder chart 26.

3. LECTURES

For many years the normal technique (indeed, almost the only technique) used in workers' education was the formal lecture, particularly in the United Kingdom, where co-operation with the universities led to the spread of lecturing methods outside their walls, and in Denmark, where Bishop Grundtvig, who inspired the folk school movement, was a great believer in "the living word". The influence of Denmark and the United Kingdom on adult education everywhere has been great, but by now it should no longer be necessary to remind workers' educators that lectures are only one of the many possible techniques of communication. This fact was, moreover, recognised in Great Britain as early as 1908, when a report on "Oxford and working-class education" explained to tutors that lecturing would not be the most important or difficult part of their task and that they should encourage discussion, guide the students' reading and written work and get to know the students in their homes and elsewhere. However, all too often in evening classes the formal lecture proved to be much the easiest method for the tutor and the importance of active participation by the group was forgotten.

In recent years most countries have switched to more active techniques. It has been recognised that, as a leading Norwegian educator pointed out, "the living word in large doses does not inspire: it sends one to sleep". Some educators, in their enthusiasm for active methods, have even made a rule of having no lectures. The widespread reaction against the set lecture is understandable and in many ways completely justified. The formal lecture has the following disadvantages:

1. The most one can hope for is that the audience will be listening and thinking. Too often they will only be listening and, often, not even that. There is much truth in the remark that "a lecturer is someone who talks in other people's sleep".
2. Although an experienced lecturer can usually tell when a large part of his audience has stopped listening, he has no way of knowing what effect his words are having on those who do listen. In other words, the lecture, at best, is only a means of "one-way communication": there is no feedback.

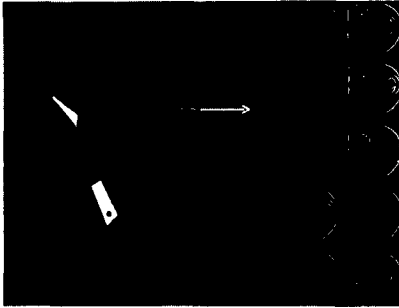
3. Therefore, a lecture cannot be “student-centred” in the way we have said that workers’ education ought to be. Materials and methods cannot be adapted to the needs of the individual student during a formal lecture. The lecturer has no means of knowing how or when he is talking over the heads of his audience, or when a little extra explanation could clear up a great deal of confusion.
4. Formal lectures put too much mental and physical strain on the students. Especially after a hard day’s work, the capacity of the average worker-student for listening is much less than the capacity of the average lecturer for talking. As one writer recently said: “No more than three points can be retained by a general audience at a lecture . . . ; few audiences can focus attention for more than ten minutes at a time”. There is no need to accept the precise figures, but one can certainly accept the general sense of this statement. In fact, careful checks have shown that almost all the questions asked at the end of a long lecture refer to points made by the speaker either in the first or the last five minutes.

It would be foolish, however, to emphasise the defects of the lecture to the extent of shutting our eyes to the fact that lectures are bound to remain one of the most common techniques in workers’ education and that they have some good points. There can be great value in a short, lucid, logical explanation of a topic new to a student, or in a short talk which systematically reviews the various aspects of a topic previously dealt with by other methods. Occasionally, there is much to be said for an inspiring lecture addressed to a large audience, but for workers’ education groups lectures must always be given in direct, simple, imaginative language, adapted to the experience and needs of the group.

A further practical advantage of the lecture is that the audience can be much larger than in any study circle or other group using active methods, so that the information can, as it were, be spread over a large area, even if it is spread more thinly. Indeed, with the aid of a tape recorder or record player, isolated workers’ groups or individuals (seamen, for instance) can hear lectures which may stimulate them greatly in their studies. However, such an approach again serves to remind us of the fundamental weakness of the lecture—the fact that giving information does not automatically imply its assimilation and there is no feedback. If workers’ educators in developing countries should decide to make use of recorded lectures (which would certainly ease some of their difficulties), they should try to distribute brief summaries to the audience, together with notes and questions, so that the local leader can then organise active study in the form of a discussion of the points

Workers' education and its techniques

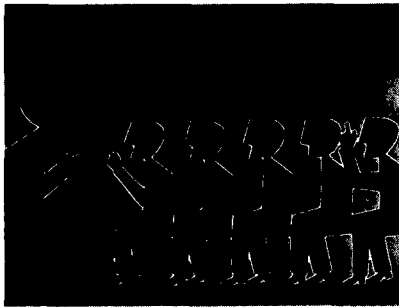
Figure 16. Pictorial recapitulation : Lectures



The lecture is, at best, a means of one-way communication only. We do not know whether the message is really being received.



Too often a lecturer is "someone who talks in other people's sleep". Remember that people can "sleep" sitting up and with their eyes open.)



An "active lecture" provokes questions and arguments.

dealt with. Lecturing by itself is not enough. In workers' education, the lecture does not make sense unless it is used to introduce a discussion (see reminder chart 26).

4. DISCUSSION

In workers' education discussion has one basic advantage over lecturing. It in itself already constitutes "social action" and it provides a training ground for the future, because, for social action to be successful, the people concerned must be fairly skilled in expressing themselves and have some experience of

human relations. These conditions are achieved rapidly in a workers' education discussion group. The atmosphere in, for example, a Swedish study circle, a United States community project group or a Tanzanian radio discussion group is one where ignorance, prejudice and intolerance cannot happily survive. In such an atmosphere a competent tutor or leader can help the students to absorb new information and new ideas which will influence their thoughts, feelings and beliefs.

Group discussion, when skilfully handled, draws the adult student into the teaching-learning process and stimulates his enthusiasm for further study. It requires a minimum of aids and equipment and can be adapted to a great variety of learning situations. It can be combined with lectures, film shows and visits and can be used in almost any kind of course, long or short, at any level of education, for all kinds of participants, and for any size of class. It is especially useful for dealing with topics close to the interests and experience of adult students and may often be used to overcome the initial shyness of a group.

The role of a discussion leader

Opinions differ as to how big a part the tutor should play in guiding the discussion. In ancient Greece Socrates himself was always in control of the discussion, steering it to the heart of the matter, in order to arrive at broad areas of truth on which he and his students could agree. However, not many workers' education discussion leaders will be as competent as Socrates. And in any case a situation in which too much influence is exercised by one man could be rejected as being anti-democratic and as failing to allow the abilities of the group members to be fully developed.

The ideal degree of control of a discussion can be argued about, but in workers' education groups the quiet guidance of a skilful, experienced tutor or leader can be of great value in achieving fruitful results. The student must, of course, have an undisputed right to question, to criticise and, if need be, "to agree to disagree". If this right is guaranteed, an able leader can select carefully relevant individual contributions and build them into a logical pattern, preferably summarised on the blackboard or on a screen by means of an overhead projector. His skill will lie partly in his selection of ideas but also in how successful he is in steering the debate away from irrelevant notions, encouraging the more silent members of the group to participate and quietening the over-talkative ones. He must know when to listen and when to talk himself, but he should only intervene occasionally, as his job is to activate the group and not to supply all the answers.

"Of the best leaders the people only know they exist; when their task is accomplished, their work done, the people all say: 'We have done it ourselves'." (Lao Tse, Chinese philosopher of the 5th century BC.)

The qualities of a good discussion leader

This is an interesting topic for discussion by a workers' education group. Most final lists will include such qualities as:

- sympathy and understanding;
- willingness to listen;
- skill in drawing out the shy;
- tact in silencing the over-talkative;
- skill in bringing the discussion back to the point;
- ability to summarise clearly;
- patience and a lively sense of humour;
- knowledge of the subject under discussion.

Some people will put "expert knowledge of the subject" high on the list but it is usually appreciated that a "knowledge of people" is even more important.

Discussion of this particular subject should also make the students more keenly aware of the "group processes" in which they are taking part, and a good tutor can then lead them to see that exactly the same qualities are required by the good discussion-group member as by the leader. (These insights into human relations are, moreover, equally relevant for trade union meetings, meetings of works' councils and other practical social activities.)

The ideal leader, then, is one who can develop and bring out the good qualities of a group while quietly restraining anti-social tendencies, so that a collection of possibly ill-assorted individuals can become a real working team.

Have you ever seen a group like the one in figure 17, with the same kind of constituents? Whether you have or not, it is a fact that every group is composed of members with different personalities, attitudes, values and habits which the good tutor tries to understand as quickly as possible, and to use or modify for the benefit of all.

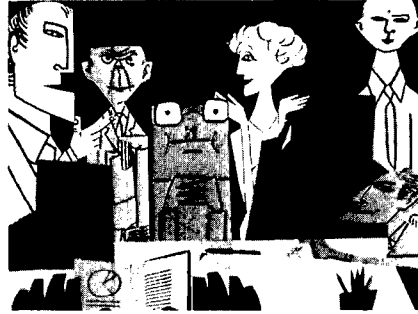
Moving from left to right of the group in figure 17, we see the following symbolical characters:

- Student No. 1, the dog, is aggressive and snappy.
- Student No. 2, the horse, is the type who has read books about the subject but is too proud to join in the discussion.
- Student No. 3, the monkey, is the excitable type who wants to be in on every argument, to read something quite irrelevant and generally to do everything except listen to others and take notes.
- Student No. 4, the frog, is always making a noise but never says anything new.
- Student No. 5, the lamb, is shy and lacks the confidence even to look at the others, let alone contribute to the discussion.
- Student No. 6, the hippo, is heavy and sleepy and cannot be bothered.

Figure 17. The first meeting of a discussion group



Figure 18. The group after the tutor has improved it



- Student No. 7, the giraffe, has his head “in the clouds” and does not as yet involve himself at all with the group.
- Student No. 8, the fox, involves himself all right, but not because he is interested in the subject under discussion or in the good of his colleagues. He just likes to score sly points at the expense of the other participants.

These are some of the characteristics which a good tutor tries to understand, modify and blend together so as to give the group greater cohesion.

In figure 18 we see the same group several meetings later. The tutor has been quietly at work, using the mechanism of the group itself to improve and “humanise” the members, and their initial awkwardness has gone.

- Now the dog has lost his aggressiveness; he is listening alertly, with a friendly smile.
- The horse has unbent a little; he is helping the group by sharing his thoughts and the experience gained from his previous studies.
- The monkey is now able to restrain himself and to listen to others.
- The frog, too, knows how to keep silent.
- So now the lamb has a chance to speak and to gain self-confidence, even to the extent of arguing with the knowledgeable horse.
- The hippo is no longer asleep and is waiting for a chance to make a weighty contribution.
- The giraffe is gradually relating himself more to the group, although perhaps he is still silent and a little aloof.
- Finally, the fox has lost his urge to score off the others and is taking notes about what the horse and the lamb are saying.

The leader and the group together have become a team and achieved personal development—much more important than an increase in factual knowledge.

Questions for use in a discussion about figures 17 and 18

These two drawings have been used, often successfully, in many different parts of the world. What are your personal views about them?

Can they be helpful in training discussion leaders in your country?

Will the comparison with animals be unpopular with your trainees? Or does it help to get the ideas across?

Workers' education and its techniques

Reminder chart 24. Advantages of discussion

It gets people involved and makes them active participants.
It gives practice in self-expression.
It builds self-confidence.
It encourages a sense of responsibility.
It permits a pooling of experiences, views and knowledge.
It ensures a fuller understanding of problems.
It can prepare the way for solving problems.
It can increase tolerance and sympathy.
It can lead to useful social action.

Note: When training workers' educators, never show them this reminder chart. Get the trainees to discuss the subject and discover the advantages for themselves!

Reminder chart 25. Conditions for fruitful discussion

Subject	Of interest and importance to the group.
Place, premises	Convenient, comfortable and relaxed.
Seats	Fairly close together, but in a circle so that all the faces are visible; the leader should be one of the circle, too.
Available time	Adequate, but with a clearly fixed ending hour.
Numbers	Small group(s) of between 6 and 13 people.
Facilities	A blackboard for summaries; writing paper for the participants.
Discussion leader	Should have: <ul style="list-style-type: none">— sympathy and understanding;— patience and a sense of humour;— preferably a good knowledge of the subject;— the ability to keep a discussion to the point;— the ability to produce or correct facts when necessary;— the ability to listen and to summarise clearly, and enough tact to do all this discreetly.
Result	When the job is done everyone will say: "We have done it ourselves!"

5. VARIANTS OF LECTURES AND DISCUSSIONS

So far, attention has been concentrated on two quite different approaches to workers' education—formal lecturing and group discussion—but in fact it is never a case of making a choice between them.

Each method has its advantages and weaknesses so that a combination of the two is often called for. What is important is to make a careful and conscious choice of the method or methods best suited to each particular educational situation. In practice, it may be desirable to use one of the many teaching techniques that fall somewhere between lecturing and discussing. These include—

- (1) active lectures;
- (2) discussion subgroups;
- (3) step-by-step (or cumulative) discussion;
- (4) dialogues, debates, panels and brains trusts;
- (5) forums, symposiums and colloquies;
- (6) active group work.

(1) Active lectures

Despite the lingering influence of university lecturing and the Danish belief in Bishop Grundtvig's "living word" (noted in section 3 of this chapter), it is now very rare for a lecturer to give his talk and then disappear without answering any questions at all from his audience. Indeed, there are few workers' groups who would allow this to happen, and it is claimed that in some countries it is often the worker-students themselves who have educated visiting university lecturers in this respect.

What is being advocated here, as an alternative, could be called "active lectures". These, like a well planned school lesson, consist of short talks interspersed with question and answer periods, or exercises, or discussion, or oral reports by those present, all combined with a skilful use of visual aids. This technique gives the group an opportunity to clarify issues, to test the statements of the tutor in the light of their adult experience and to be responsibly active. It allows for a change of voice and the presentation of new angles on the topic under review, and, generally, it guards against boredom and ensures more active participation by the group, whose interest can be further stimulated by suggestions for follow-up activities or reading.

Some people fear that such interruptions will interfere with continuity of thought, but the truth of the matter is that, after 15 minutes of any lecture, the thoughts of most students are already wandering. In fact, this technique is one way of recapturing their attention; in any case the problem of continuity can easily be solved if the tutor summarises the discussion, preferably by

means of a few words on the blackboard, at the end of each "break". This will redirect the students' thoughts to the main theme and, by the end of the session, the logical pattern of the talk will have been built up on the blackboard for all to see.

The technique of active lectures makes it possible to retain most of the assets and overcome most of the drawbacks of the two extremes of "all lecture" and "all discussion". It can be used flexibly (depending on the topic, the time available, the background and response of the group, etc.). It can be combined easily with other techniques and tools. And it is in accordance with the "prerequisites of workers' education methods" outlined in reminder chart 23 at the end of Chapter 9.

(2) Discussion subgroups

The technique of discussion subgroups (which are sometimes referred to as "buzz sessions", "beehives" or "cluster discussions") consists of the simple device of dividing a large class or meeting into several smaller groups, usually 4-13 people, early in a session, in order to find out the problems uppermost in the participants' minds, or after a general presentation of a given topic, in order to identify and clarify more easily the questions to which the topic gives rise.

The advantage of the subgroups lies in the smaller numbers involved, the sense of greater intimacy that this creates and the consequent lessening of tension and nervousness. It is astonishing how much people who are always silent in full sessions will sometimes talk in the more homely atmosphere of a small group, making sensible and original observations.

Each subgroup may be given a different question to discuss or they may all examine the same topic, but the three essential features of the method are freer discussion, preparation of a report, and presentation of the report by the subgroup to the full session. In a course or "school", the role of chairman and reporter in the different subgroups may be assumed by each member in turn, so that this valuable training experience is more widely shared. Much of the advantage of the technique will be lost if the report stage is omitted or treated casually. Bad reporting may occur, but mainly as a result of inadequate forethought by the tutor, a poor choice or poor definition of the topics for discussion, or unwise selection of the reporter; it does not indicate a defect in the technique itself. In short, experiments with "cluster" discussions are to be strongly recommended whenever a tutor has a group of more than a dozen students and wishes to encourage them to work by themselves.

(3) Step-by-step (or cumulative) discussion

This is a special technique combining the advantages of discussion subgroups with some of the assets of lectures.

It can be used conveniently only with groups which will meet at least twice, because (as the term “cumulative” suggests) there are several steps in this learning process, each reinforcing what went before and paving the way for what is to follow, so that ideas are repeated, refined and consolidated. When used in its fullest and most effective form, many hours may be spent discussing just one topic of the kind usually covered in a single lecture (or even part of a lecture). The enthusiasm of the students for this method of discussion in depth, and the results obtained, indicate that it is by no means a waste of time, especially if the theme discussed involves consideration of attitudes or of long-term policies related to the interests and experience of the participants.

A fuller account of the technique will be found in Appendix 1, so only its basic features are summarised here. First of all, it requires an experienced director of studies to select and pre-test a series of specific questions, each one of which leads on logically to the next. He must also select from among the participants leaders and reporters for the number of small groups there will be, and train them briefly.

The same list of questions is discussed in all of the subgroups and reports are prepared. These are presented at a plenary session, with the director of studies acting as co-ordinating chairman. Outside experts are invited to attend this reporting session and, either then or at a subsequent full session, to comment on the subgroup reports and to reply to any further questions.

This technique, when well operated, ensures that the participants are active and learn from one another by pooling and organising their existing knowledge and experience, and it also provides for an input of expert information which can be very necessary in many cases. In addition, films, filmstrips, short lectures and reading matter may be used to make available extra information, but normally after, rather than before, the discussion periods. Of course it is also possible to use the step-by-step method to obtain the participants' impressions of a film show or a group visit or a lecture.

Step-by-step discussion is, in fact, no more than a modern application of what Plato had in mind when he said: “If men are required to answer wisely chosen questions, they can find out the truth about each thing for themselves” (and indeed this is equally true of most group work techniques).

(4) Dialogues, debates, panels and brains trusts

This group of intermediate techniques resemble the lecture more than discussion, the feature common to them all being that, instead of there being one speaker, there are usually two or more experts presenting their views on one or more subjects. This does not give the audience much opportunity to participate, although in some cases it may choose the topic for the session and ask questions or make comments. It is also possible, after the main speakers

Workers' education and its techniques

have finished, to have a general discussion. However, the main value of this group of techniques is that they enable the students to witness the interplay of good or specialised minds. A change of voice and of approach makes it possible for the students to concentrate for longer periods and the clash of views should stimulate their thought and train their judgement. Properly conducted panels, dialogues or brains trusts can be useful in demonstrating how an informal discussion should proceed, as opposed to a formal debate. They may thus be helpful to new trade unionists who might otherwise feel at a loss when they attend branch meetings for the first time.

It must be admitted, though, that all these techniques have the same weakness as formal lectures. They provide for only one-way communication between the platform and a passive audience, and the whole activity is topic-centred rather than student-centred. The group can, of course, provide the main speakers itself. In this case the level of discussion may be lower but the educational value will be higher.

(5) Forums, symposiums and colloquies

These are variants of the panel system and the terms tend to be almost interchangeable; at least all of these devices try to ensure a certain amount of audience participation. In most cases the audience puts the questions and can make comments. In the colloquy (as the term suggests) there should be a real interchange of views between the visiting experts and either the whole student group or a selected team representing the group.

The occasional use of these devices can add variety to a well developed programme of workers' education, but the difficulty of finding suitable experts and the danger of the students being inactive lessen their value. It is usually better to make use of the talents within the group; for example, three or four participants can be asked to study a topic for some time in order to form their own brains trust or panel, or two pairs of speakers can prepare for a debate. The more the worker-students do themselves, the better.

(6) Active group work

This may involve workshop projects, the use of laboratory methods, case studies, study circles, or other things, according to the country and current fashion. What is important is that many experiments have been made to stimulate group activity, with considerable success in recent years as the emphasis has shifted from teaching to learning. In most of the experiments the group work has been combined with the application of other techniques, some of them involving the use of the teaching tools and materials described in Chapter 11.

Perhaps the earliest form of active group work in the field of workers' education was the study-circle method, tried in Sweden in 1902 by

Oscar Olsson. He later described it as “the organised form of self-education adopted by the Swedish working class: first and foremost, a library association and a social club”. These study circles are still an important part of the programme of the Swedish Workers’ Education Association. They may be reading circles, radio listening circles, television viewing groups, correspondence circles and discussion groups, and are all provided with excellent background documentation by the Association. In 1970-71 over one-and-a-half million Swedes were members of study circles, though not all of these were in the field of workers’ education.

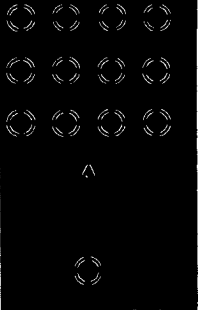
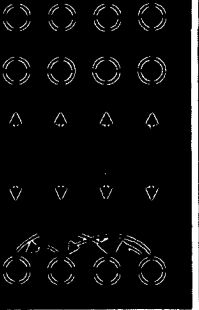
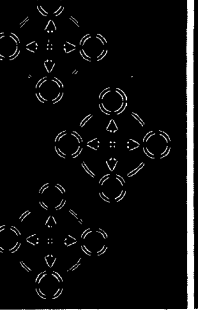
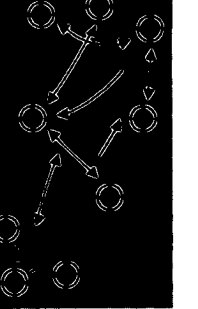
Rather more elaborate group activities have been developed in recent years in the United States, where they are sometimes described as workshops, workshop projects or laboratory activities. The use made of a battery of different tools and devices has produced many variations in approach, but in all cases the idea is to work as a group to find out the truth by trial and error and by drawing conclusions from experiences, as in a laboratory. Sometimes this group action is related to a specific local or national problem, as in the case of the community projects of the United Automobile Workers of America (UAW) in Detroit, which centred on “city problems” and led to the establishment of the Detroit UAW Committee on Municipal Affairs; the one-week “political action workshop” of the International Ladies’ Garment Workers’ Union (ILGWU) at the Wisconsin School for Workers, which staged an elaborate mock political campaign; the Legislative Workshop Institute of the United Textile Workers of America (UTWA), which brings local union leaders to Washington from time to time for four-day “action courses” that probe into the operations of the Government; and the workshops for trade unionists organised by the University of California at Los Angeles, to enable the participants to survey local public health facilities.

Similarly, in Norway 800 workers’ education association groups made a detailed study of different aspects of local government during 1958-59, and produced a joint report which was then used as a manual on the subject. Other kinds of workshop may involve more academic activities, for example analysing case studies, which is one of the methods of workers’ education systematically used by the Transport and General Workers’ Union (TGWU) in Great Britain. The in-depth examination of a well-documented case study (for example of the wage structure of particular industries or even of the background of particular wage claims) can be a wonderfully rewarding educational experience.

Whatever their scope and objectives, the workshop techniques have the following in common:

- careful preparation of materials and provision to the students of all relevant documentation;

Figure 19. Main group methods and participation patterns

Method	Participation pattern	Active stages	Consequences
Formal lecture		Easy to arrange and ideal for systematic presentation of facts. Most time is spent on the main lecture. It is one-sided and one-way. The audience has to listen and understand by experienced lecturers using notes.	The students are passive and are over-whelmed by information. Information is one-way and nothing new is being absorbed. There should always be a discussion and a discussion period.
Symposium, panel, etc.		Widespread to be the present. The students are in a comfortable position. It is a comfortable way to have a relaxed, enjoyable exchange of views. Can stimulate the students' desire for group action.	Many students may still be passive. It is perhaps students that are having a good experience and a varied, lively pattern.
Discussion in big group		Many students have said "I wish to be more actively engaged when they are studied. It is a useful exercise."	The level of discussion may not be high. There is a need for careful planning and good structuring of the pattern and order.
Study circle, workshop, etc.		The students are active and are encouraged by doing. Small study groups can make specific studies and the rest of the group can be handled by correspondence, if necessary.	Not a good method for beginners or for learning. It is too basic for a class. A good, well-structured learning should cover a wide field.

- subdivision of the work so that all the individuals and subgroups concerned have suitable tasks involving research and action;
- a system of drawing together the conclusions of the various work teams.

Group work techniques may be used throughout a course or just occasionally. They can be very useful in making worker-students more aware of their own and other people's attitudes and behaviour by getting them not only to work together but also to analyse that process together. Frequently, a group exercise is used early in a course to make people less nervous, to encourage team work and to clarify the objectives of the course.

If it is accepted that the basic aim of workers' education is personal development for useful social action, then clearly it is important to make good use of group work techniques wherever adequate materials and facilities exist. As always, however, the problem of finding trained staff and providing materials is greatest in those areas where progress is most urgently required.

Reminder chart 26 is a summary of the whole of this chapter. It should be noted that the order in which the techniques are presented is slightly different, in that correspondence courses come at the end. Figure 19 attempts to summarise some of the main group methods discussed in this chapter, the different patterns of group participation which they evoke, and their advantages and limitations.

Reminder chart 26. Different techniques in workers' education

Method	Main advantages	Main disadvantages	Specially suited for	Other comments
Formal lecture	Easy to arrange. Reaches a large audience. Listening is easier than reading for many people. May be inspiring.	One-way communication only. The students are passive. It is difficult to assess the degree of assimilation. Protracted listening is hard for the student. The level of retention of information is low. A lecture has little effect on the personality of the students. It rarely leads to action.	An experienced audience of good note takers. Presenting new material to people who need information in a hurry.	Set lectures should rarely be used for workers' education. Any talk should be clear, simple, concrete and short, making use of audio-visual aids if possible.
Discussion	Develops group-consciousness. The students are active; they gain self-confidence, learn to express themselves fluently, etc. Promotes tolerance and understanding.	Hard to guide and control. Some participants talk too much; others know too little to join in the discussion. Takes more time than a lecture but does not usually waste time.	Keen groups interested in specific problems. Solving problems as opposed to presenting factual information.	The procedure should be flexible, informal and friendly. A summary of the conclusions presented on a blackboard or by means of an overhead projector during or at the end of the session is invaluable.
Lecture with questions and discussion ("active lecture")	Gives information but also tests assimilation. Two-way communication. Encourages group activity. Avoids boredom. Is flexible and informal. Combines the advantages	Needs a good tutor; without one, ideas may become disconnected.	Small groups willing to attend several meetings and prepared to talk. Students with different backgrounds.	A blackboard summary should be established as the session progresses. A bad "active lecture" is usually better than a bad standard lecture or a bad discussion. Must be organised for

small groups, if need be by the creation of subgroups (see below).

of both the above-mentioned techniques.

Dialogue, debate, panel, brains trust	<p>Facts and opinions can be presented from different viewpoints, stimulating reflection and judgement. Should exemplify logic and tolerance. A debate can demonstrate parliamentary procedure and show two sides of a question.</p> <p>One-way communication. The students are passive. It is difficult to arrange for well-balanced panels or good debates.</p> <p>Dealing with highly controversial issues. Stimulating interest in longer courses or schools.</p> <p>A good chairman is invaluable. Less developed countries cannot often hope to organise good panels for workers' groups, except in the case of courses organised at the national level. The students themselves can be used to form a panel.</p>
Forum, symposium, colloquy	<p>Has the same advantages as panels (see above), but provides for a little more student participation.</p> <p>Many students are still passive. Good experts are rare. The arguments tend to be disconnected.</p> <p>Dealing with a controversial topic of local concern in respect of which information and opinions are needed before group action is taken.</p> <p>Same as for panels (see above).</p>
Discussion subgroup, step-by-step discussion	<p>Everyone can be active and help to analyse and synthesise. Reporting duties can be shared. Enables questions to be viewed from many angles. Develops confidence, ability and responsibility.</p> <p>Takes time (but does not really waste time). Needs good subgroup leaders. Facts may be ignored or get distorted, so they need to be summarised in plenary session.</p> <p>Larger groups containing several leaders (natural or trained). Dealing with complex or controversial questions, if they lend themselves to subdivision.</p> <p>There must be careful preparation of topics as well as of personnel and physical arrangements. It is important to have good reporting to the plenary session and a competent summary of the conclusions reached.</p>

Reminder chart 26 (concl.)

Method	Main advantages	Main disadvantages	Specially suited for	Other comments
Active group work: study circles, etc.	There is no danger of the tutor monopolising the session. The students are even more active than in a discussion (through written work, reading, etc.).	The guiding hand of an experienced tutor may be lacking. Often no audio-visual aids are readily available (but groups can make their own).	Isolated groups with determined students, especially if some are good leaders.	Can be organised in less developed countries only if skilled leaders and suitable material are available.
Active group work: workshop projects, case studies	Everyone can be active, "learning by doing". Group-consciousness and individual skills are developed through group action. Can be geared to social action. A group can analyse how groups work.	Difficult to organise because it needs much preparation. Requires either considerable skills or careful guidance by the tutor. May seem strange to the students at first.	Permanent groups meeting under good conditions, with good materials and wise supervision.	Requires comprehensive documentation and careful guidance, usually obtainable at the national level only. Should focus on one clearly defined issue.
Correspondence course	The student can choose the time, place and pace of study. Individual attention from a tutor is possible, but by post. The student is active and self-disciplined.	There is no group spirit. The social action motive is not so clear. The persons concerned must already know how to study.	Isolated workers with determination and basic skills, or study circles with a capable leader.	Unfortunately, this technique has, as yet, little relevance for less developed countries, which should preferably concentrate on organising study groups. Much research and experiment (e.g. with programmed self-study material) are needed.

For a change, we are starting this chapter with a visual aid to learning (figure 20). As you will see, it consists of four drawings with short captions, taken from an ILO workers' education filmstrip. It is hoped that they will provide both a useful recapitulation of the things that were said in the previous two chapters and an appropriate introduction to this long chapter on tools and materials for workers' education.

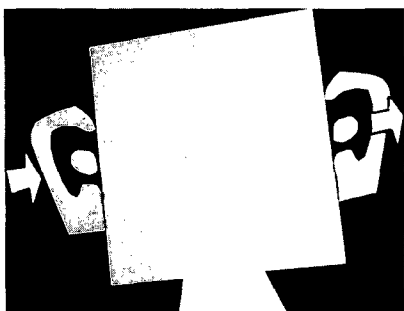
It will be recalled that the word "tools" is used in this manual to describe the various mechanical aids and devices which can be combined with the workers' education techniques recommended for adoption. Various study materials that can be used as additional aids to learning are also discussed.

Sometimes the tool or study material plays a subordinate role in the learning process: for example, a filmstrip may be used during a workshop or a lecture to introduce a topic, or a drawing may be made on a blackboard to illustrate a single point. Sometimes, however, the tool or study material will be the main channel of communication, as is the case with many film shows; in such cases, the tutor must remember that when a tool is used all by itself there is no analysis of the students' reactions and consequently no feedback. He must, therefore, be specially careful in organising the introductory part of the session and the discussion periods when using tools as a major teaching aid.

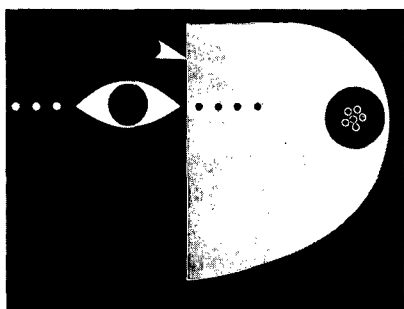
The fact that techniques and tools are dealt with in two separate chapters has some disadvantages. It should not be taken to mean that there are clear distinctions between them or that they belong in separate compartments. Indeed role playing, simulation exercises, field work and study visits (which are dealt with towards the end of this chapter) might well have been included in the section on active group work in Chapter 10, since these activities have much in common with workshop projects; however, since they are normally used only occasionally during a course, they are probably better classified as tools than as techniques. In any case, it is not important whereabouts in the

Workers' education and its techniques

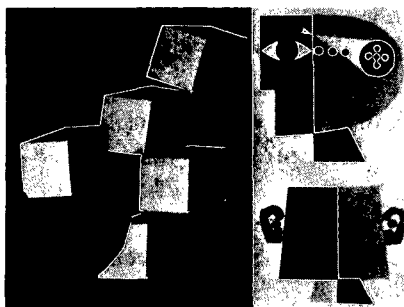
Figure 20. Pictorial recapitulation of the basic principles of learning



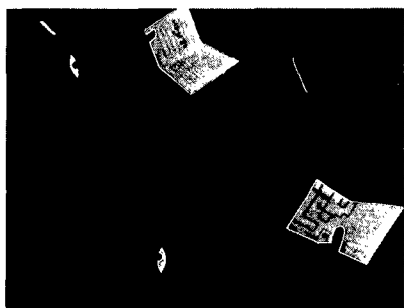
"If I hear it, I forget".



"If I see it, I remember".



"If I do it, I know" (or I understand).



The passive student will not learn much and will forget quickly.

All workers' education should be active!

manual they are discussed. What matters is that workers' educators should know about them and make use of them when they can help the learning process.

One final introductory point: in this survey of various tools and materials, we shall keep roughly to the order of reminder chart 21 ("The ladder of experience"), starting (at the bottom) with written material and ending (at the top) with purposeful experience. Slight deviations from that order will, however, be necessary from time to time.

1. WRITTEN MATERIAL

General

It is true that excellent progress in the field of workers' education can be achieved with illiterate groups and without written words, and also that written material used on its own has the disadvantage of being a one-way system of communication. Nevertheless, written study material does offer many advantages. Indeed, it was the only road to formal education for many of the pioneers of the labour movement, before workers' and adult education had been thought of; they managed to learn how to read and write and then to educate themselves by reading, often after a 12-hour working day.

An advantage of printed material is that it can be kept for a long time, so the student can go at his own pace, ponder over important points and turn back to earlier pages to make sure that he has fully understood. It can also be kept for future reference, enabling a student who receives a booklet to decide, after glancing at the table of contents, not to read it at once but to consult it later in his studies. None of this is possible in the case of a lecture or a radio talk or a film show (unless one has expensive, modern recording equipment, which is rarely true of worker-students).

It has been said quite rightly that "a shelf full of well chosen books can store the wisdom of past ages"; but a shelf full of badly chosen books can store much foolishness, and a hundred hours of concentrated but unguided reading can be largely a waste of time. So this is where a workers' education tutor can be of great service to his students, as will be shown later in this section.

Different types of written material

(1) Literacy primers

It was explained in Chapters 2 and 3 that workers' educators are not usually expected to assume sole responsibility for literacy education. Nevertheless, workers' organisations should put their full weight behind national and local literacy campaigns and take advantage of what has been done by UNESCO with a view to promoting "work-oriented" or "functional" literacy.

Workers' education and its techniques

The efforts of UNESCO and other bodies have led to the preparation, within the framework of literacy campaigns, of new reading primers which have clear and direct relevance to the daily lives of adult students. Adults learn to read quickest the words which describe their vital problems. It would be useful, therefore, for workers' educators in developing countries to assist state or private literacy organisations with the production of basic, illustrated reading texts concerning trade union and labour problems.

(2) Small booklets for new literates

The co-operation of workers' educators can be even more valuable at the next stage, when people have just become literate. There is a great scarcity of follow-up reading material for such people, partly for economic reasons, and partly because such material, which must be written in a simple and interesting way, is hard to produce. Research has shown that many of the early efforts in this respect were unsuccessful. The words used were often too difficult, the sentences and paragraphs too long. The material lacked humour, striking headings and simple illustrations, and the subject-matter was often quite remote from the lives of the students.

The assistance of workers' education administrators and tutors can take the form of constructive criticism and even of producing some booklets on labour topics.

(3) Booklets and pamphlets

These constitute probably the largest part of the written material at present produced specifically for workers' education, and they also need to be carefully adapted to the requirements of the target readership. Again the style should be simple and direct, the aims and contents of the booklet should be indicated clearly, and there should be subheadings and summaries to facilitate progress and for ease of reference. Concrete examples and illustrations should be included whenever appropriate.

Some time ago a leading workers' educator in the United States wrote: "The unions do not rely upon books much as sources of information for members, since unfortunately the American worker, according to surveys taken, does very little serious reading". It is for this very reason that many United States unions (and also European ones) issue their own specially adapted booklets, and some even have their own publishing houses.

(4) Union and workers' education magazines, newsletters and bulletins

Even if a union or workers' education body does not have its own printing press and has limited resources, the purely educational booklets mentioned above can be supplemented by more informal and chatty bulletins issued at

regular intervals. They need not be elaborate, as their purpose is simply to make union members and students aware that they belong to a lively movement. Again, topical illustrations (photographs, cartoons, etc.) should be included in them and the language should be kept straightforward.

Such periodicals can be excellent sources of information about educational activities and can serve to arouse the interest of new students as well as to maintain that of those already studying.

(5) Study manuals and short summaries

This description covers a great variety of material, ranging from well printed and illustrated study manuals (as produced, for example, by the Scandinavian workers' education associations) to one-page duplicated "hand-outs" prepared by a tutor specially for his group. When well planned such a range of material gives the students concerned what they need at a given time; evidently, however, the simple hand-out can be more effective in this respect than expensive printed manuals, which, on account of their cost, have to be aimed at a more general public.

(6) Modular study kits

In order to exploit the advantages of mass production for meeting study needs at a given time, a new system has been devised of preparing complete "kits" of study materials on different subjects and then issuing them in separate units or "modules"—hence the term "modular". This approach was thoroughly examined and was strongly approved by an ILO Meeting of Consultants on Workers' Education held in 1971, and one international trade union organisation is already carrying out pilot projects making use of the system. The experiment is aimed at training ten "monitors" who will then operate standard trade union courses (under supervision) in five African countries. The monitors will be supplied with ready-made study kits, issued as three-hour study units and containing not only booklets, case studies and other written material but also visual aids, role-play suggestions and tape recordings.

As the ILO consultants said in the report on their meeting: "The provision of teaching kits based on a study unit system could also help to overcome a major current bottleneck in workers' education all over the world, namely the chronic shortage of adequately trained and equipped teacher/instructors". They then listed topics which might usefully be covered by the system, such as international labour standards, essential principles of trade unionism and communications techniques; however, they warned that "an integrated system of study units spanning the wide field of workers' education would need time". This is true, but there is little doubt that the system of "packaged units" will be used more and more in workers' groups in the coming years.

Workers' education and its techniques

It can also be of value for the individual student, and it can conveniently make use of another new type of written material—programmed instruction booklets.

(7) Programmed instruction booklets

These are partly designed to overcome the one-way communication defect of ordinary written material by providing for a kind of feedback. Like all well prepared study booklets, they present the material to be learned in a series of carefully graded units which take the student along step by step. After each step, the learner must answer questions to test whether he has understood. If he answers correctly, he moves on to the next unit, which will include revision from time to time as well as new material. If he gets an answer wrong, he has to go back to restudy the material and find another answer.

This method has already been used for workers' education in countries as different as Canada and Ghana. It is certainly worth experimenting with in relation to the more factual aspects of workers' education.

(8) Books

We have taken a long time to reach ordinary books, but it seemed best first to remind readers of the wide variety of other written material now available, especially in view of the difficulty experienced by many workers in tackling a serious book and by tutors in finding suitable books to recommend.

In some countries advanced workers' classes do undertake a good deal of serious reading, and the trade unions help in various ways. In the United States, for example, the United Automobile Workers' Union (UAW) prints a list of "paperback books with a hard union core" which it recommends workers to buy, while in the United Kingdom the Transport and General Workers' Union (TGWU) provides for its summer schools, in addition to an excellent reference library, a book box containing about 100 books for each study group of a dozen or so men and women. Each student is also sent in advance of the course a text book specially chosen for guided reading and for note-taking exercises.

In most cases workers' educators will have to rely mainly on public libraries for books for classes, but a greater effort should be made to encourage the unions to establish and develop their own libraries. In certain parts of the world this has already happened, and in some socialist countries the trade unions even run their own publishing houses. This is also the case in the United States, as mentioned earlier. The Yugoslav trade unions have published well over 1,000 books, together adding up to many millions of copies.

On this basis workers' libraries can, of course, be created more cheaply, but such action is not yet possible in many regions, where other measures must be taken to introduce workers to the written word.

(9) Wall newspapers and bulletin boards

In a way these "tools" cut across the sections on "Written material" and on "Non-projected visual aids", in that wall newspapers resemble a collection of topical posters and charts. However, they are dealt with here because they are a useful device when a few members of a group are literate and the rest are not. They are very cheap and can be produced easily as a result of a co-operative effort. They consist of a series of colourful, short articles, preferably including photographs or drawings, displayed on a centrally located wall. Many tutors find them useful for teaching workers' groups about current affairs (local, district, national and international), especially since photographs can often be cut out of ordinary newspapers to illustrate articles that have been specially written for the group in question.

Wall newspapers have been used with success in, for example, the Soviet Union, the Middle East by the Arab Petroleum Workers' Federation, and India, where the Calcutta Workers' Education Centre used to change its display every afternoon, attracting large audiences to hear the explanations provided by a member of the Centre's staff at given times. These talks about the main features of the wall newspaper developed into question-and-answer periods and then into discussion sessions. In this way many passers-by became "students" without realising it.

The use of written material

The tutor's role with regard to written material can best be examined under two headings: (1) how to read, and (2) what to read.

(1) How to read

Since many worker-students are like raw apprentices as far as studying books is concerned, and since books are one of the basic "tools of the trade" of a student, the persons concerned need some training in how to use this tool. If anything, workers approach the printed word with too much respect. They need to be taught how to question and criticise what they read, how to use books (to "dip and skip") without necessarily reading them from cover to cover, how to find out from the table of contents and the index what is relevant for their particular purpose, how to take notes on important sections, and how to maintain a steady level of concentration by asking themselves questions from time to time.

Workers' education and its techniques

In the list of articles given in Appendix 2 to this manual, the third one, on French reading clubs, deals with this problem. Workers' educators should search their minds and draw the attention of their students to the kind of stories (in the right language) likely to catch their interest. For example, most rural workers who know English would enjoy reading John Steinbeck's *The grapes of wrath*.

(2) What to read

It would be helpful if a comprehensive list of books that have made workers want to read more could be compiled.¹ But no list, however complete and balanced it may be, can serve every purpose or be used without some kind of assistance. It is the tutor's duty to select the reading matter that is most likely to interest each of his worker-students and to encourage them to make use of it. If he is to do the job properly, the tutor will also have to undertake a certain amount of administrative work (making sure that the reading matter is available and, where gaps exist, arranging to have material reprinted or producing new material himself).

Consequently, once a workers' educator has got to know the members of his group and their particular requirements, he would be well advised to look through the nine types of written material described above to see exactly which of them are most appropriate for his teaching purposes. He may find that he or some of his colleagues may be able to write suitable articles or booklets where none already exists.

Practical exercises for workers' educators' training courses on written material

1. Discuss and prepare a list of suitable background reading matter (novels, works of general culture, etc.) for your trade union students (group work),
or
Discuss and prepare a one-page first lesson for a reading primer to be used in a literacy class for workers in one of the main industries in your country (group work).
2. Discuss and prepare a "mock-up" (or rough outline) of a wall newspaper for your present course or for a large local factory (group work).
3. Write a lively one-page article for a union journal describing your present course (individual or group work).

¹ The Workers' Education Branch of the ILO in Geneva, Switzerland, would be grateful to be informed of the titles, authors and other bibliographical details of such books, and to be provided also with brief comments on their content.

4. Write a simple item (10-15 lines) for inclusion in a union newsletter, telling the readers what kind of workers' education will be available to them next year and trying to capture their interest and support (individual or group work).

Note: Much of the value of such exercises lies in subsequent discussion and evaluation of the results by the whole group.

Reminder chart 27. What workers' educators can do about written material

Workers' educators can:

- train students in the art of reading;
- make suitable reading matter available;
- talk about it and let students acquaint themselves with it in class;
- arrange note-taking exercises and reading assignments, to be followed by quizzes;
- help with the preparation of simple material for literacy classes and for new literates;
- try to find interesting and relevant background novels for lighter reading, after first talking to the students about them (in higher-level groups);
- see that union and other journals, etc., are available and are read;
- encourage the group to write something for the union journal;
- supplement outside written material by duplicated hand-outs;
- try to get the group to produce a wall newspaper;
- consider developing a modular study kit or programmed instruction booklet for some suitable subjects.

2. AURAL AIDS

General

Here we have deviated from the order of presentation of the educational media in "the ladder of experience" (reminder chart 21), by leaving the various types of "graphics" to a later section. This will make it possible to deal separately with all the tools whose appeal is mainly to the eye; it also has the advantage of enabling us to discuss hearing before sight.

Useful as aural aids can be, visual aids are normally a much more powerful channel for the intake of information. On the other hand, the printed word as a means of mass communication is a recent innovation, and many highly developed cultures have flourished mainly on the basis of the spoken word.

Workers' education and its techniques

Most African communities, for example, have handed on their culture for centuries by word of mouth. In a world where half the workers still cannot read or write, we should make good use of these traditional skills in oral instruction and of the excellent verbal memories which many illiterate adults have. Radio and recordings have great potential in this respect.

Types of aural aids

(1) Radio

The invention of the transistor radio may have as big an educational impact in the world as did the invention of printing. Transistors have made radios independent of electricity, lighter, more portable, tougher, more durable and, above all, cheaper, so that it is now possible to plan a mass campaign by radio and reach a high proportion of even a poor country's inhabitants.

Experiments in mass adult education by radio became common after the Second World War, many of them strongly influenced by the Canadian Radio "Farm Forum". This programme ran regularly in Canada for over 15 years, and the weekly half-hour broadcasts to rural listening groups were supplemented by simple discussion outlines (containing book references for further reading) that were sent in advance to every enrolled listener. There was also a system of "reporting back" for groups of listeners, and once a month a summary of generally agreed findings was broadcast. Although this particular, highly successful project was aimed at farmers and farm workers, there is no reason to doubt that similar programmes for other workers could generate the same sort of enthusiasm, which, in Canada, led to a flood of debates and film shows and to a marked increase in community spirit in what had been isolated settlements. The reporting process also brought the farmers' views to the attention of politicians and the government, thus helping to promote participatory democracy.

As indicated, many countries have followed the Canadian pattern. Among the first were Colombia and India. Perhaps the most striking recent development has been in Tanzania, where the University Institute of Adult Education, in co-operation with the country's trade union movement, has run two series of programmes, one on Tanzania's ten years of independence and one on better health. The Institute organises short training courses for the discussion leaders of the listening groups and distributes a simple basic book and separate study kits to help the leaders to conduct the group discussions in such a way that the findings can be "fed back" to the Institute. In this way it has again been possible to reach large numbers of often unorganised rural workers.

It will be noted that the Canadian Radio Forum did, in fact, serve as a forum (and its “offspring” have done likewise): it used the weekly broadcast to ensure group discussion and feedback. This is essential for successful workers’ education by radio, since otherwise there may only be passive listening. This is not to belittle information programmes sponsored by trade unions that either run their own broadcasting stations or manage to persuade the radio authorities to give them “time on the air”; these are of great value for spreading the union point of view on topical issues, or for publicising workers’ education activities, but they are, in themselves, seldom really educational.

Another interesting method of using radio for study purposes has been developed in Poland, where the Polish Workers’ Radio University operates a system of combined radio-correspondence-discussion instruction. Broadcasts are made twice daily for the benefit of shift workers and the enrolled worker-students receive scripts of the talks broadcast by experts. These scripts are then examined in discussion groups, led by trade unionists who have already graduated from the Radio University themselves. By 1952, there were already 150,000 registered listeners following three courses at different levels.

Despite these and many other interesting examples, the use of radio for workers’ education in general is still very limited. It is to be hoped that the glamour of television will not blind workers’ educators to the fact that radio is the only mass medium yet available to the great majority of workers in the developing countries. It would be a pity if they neglected it.

(2) Recordings (records and tapes)

The situation regarding sound recordings is also being revolutionised by the transistorised tape recorder. Whereas previously the machines either required an electric power supply or were bulky and heavy, they can now be small and portable. If a choice has to be made between buying a record player with records or a tape recorder, it is clearly wise to choose the latter. While there is not much difference in price, the tape recorder can help the learning process in many more ways. In any case, if you have a tape recorder, you can borrow a record player and record whatever you require on tape. Similarly, you can borrow tapes. You can also record radio talks, speeches of labour leaders, sections of national conferences, lectures, panel discussions, etc., and play them to remote groups, helping to overcome their feeling of isolation. The tapes are almost indestructible and, when a particular sound track is no longer needed, it can be erased and the tape used again for recording.

The tapes can be stopped, started or replayed any number of times and they can also be edited by cutting out sections and splicing the ends together. This makes them ideal for group analysis of a speech, of a practice lesson given

Workers' education and its techniques

by a trainee or of the progress of a group discussion. That is why the writer of the fourth article listed in Appendix 2 calls the tape recorder "labour education's best friend", and why a well known book on group dynamics says that "next to a chalkboard or a newsprint pad, a tape recorder is probably the single most valuable piece of audio-visual equipment". The book goes on to stress that, with persons new to the system, for analysis purposes immediate play-back of a discussion is probably best, though after the persons concerned have gained a little experience, it does not matter if there is a certain time-lag.

Like most devices, however, tape recorders have their disadvantages. For one thing, they record only "audible behaviour"; facial expressions, gestures and any references to visual material are lost. Normally, this is not too important but it can sometimes be a serious defect. Occasionally, the presence of the machine may inhibit students who are new to it and may make them self-conscious. However, it is rare for this nervousness to last long and, when it does, it probably means that the persons concerned would have been equally nervous if the tutor had adopted the alternative method of noting down points about the group during the discussion.

One final point: even more than other devices, recordings, to be of value in the learning process, depend on a well planned introduction and subsequent analysis and discussion. The tutor and the group must work together with clear objectives in mind.

Practical exercises for workers educators' training courses on tape recordings

1. Record the first session of the course, at which participants are asked to introduce themselves,
but do not play it back at that point.
About three-quarters of the way through the course, when people, it is to be hoped, are more confident, play the tape and have a frank discussion on each participant's audibility, introduction of himself, etc.
2. Record a 15-20 minute group discussion on one of the topics of the course. Analyse it immediately in the group, taking up to 2 hours if necessary. Repeat relevant parts of the tape again and again, concentrating on:
 - how well or badly the leader "chaired" the discussion (see Chapter 10, section 4);
 - any points of tension in the discussion and any points when a new step forward was clearly made;
 - any over-active and any over-silent members;
 - any useless digressions.

3. Plan short tape-recorded sessions of teaching practice—as described in the fifth article listed in Appendix 2.

3. NON-PROJECTED VISUAL AIDS

General

Since written material (dealt with earlier in this chapter) makes use of the sense of vision, it could, strictly speaking, have been included among “visual aids”. However, as it normally requires an effort of sustained concentration, it seemed better to deal with it separately, and to discuss under the heading of “visual aids” those devices which use our eyes only as one among several elements that help us to learn. Even so, this leaves us with a long list and so, for ease of reference, a distinction is made between non-projected visual aids (covered in this section) and projected visual aids (covered in the two following sections).

All educational research, as noted in Chapter 9, has shown that visual aids can give a great boost to the learning process, provided they are well chosen and take into account the characteristics of the particular group concerned and of the particular theme to be illustrated. Workers’ educators should be clearly aware of the range and potential of the tools from which they can choose.

Types of non-projected visual aids

(1) The blackboard (or chalkboard, writing board, etc.)

The chalkboard—once black but now often green and sometimes white—remains one of the most valuable tools a teacher can have and should be available at every class meeting. It is convenient and easy to use, and it does not require the technical knowledge that may be needed to operate, for example, a film projector. Many new instructors are nervous about displaying their handwriting, but such shyness, which is natural, can easily be overcome by a few short practice periods. In fact in courses for new workers’ educators it would be useful for chalk and boards to be made available for private practice, since progress can be very rapid and will improve the instructor’s classroom efficiency for the rest of his teaching life.

The chalkboard can be used for quite elaborate diagrams or for very simple purposes, such as noting unfamiliar words or names as they arise in discussion. If any complex diagram or even a great deal of writing is needed, it is usually best to put it on the board before the session and cover it with a large sheet of paper until it is time to expose all or part of it. This system saves lesson time and also prevents the students’ attention from wandering, for sight can be a powerful distraction as well as an aid. Sometimes, however, the opposite approach may be more appropriate—i.e. for a summary of the main

points raised to be written on the board from time to time as the arguments develop.

If there is a particular drawing which is used frequently (for example, a country map), it is worth making a templet of the outline in cardboard or plywood, so that the chalk can be run quickly around the outline and an accurate shape produced in a minimum of time. All such templets, and indeed all blackboard work, should be planned with the people at the back of the room in mind. If they have average sight, will they be able to see clearly all the details, read all the letters? Too often, the blackboard is used as if it were the personal scribbling pad of the tutor.

Writing boards may take the form of the old wooden board on an easel, a writing wall, a large revolving board (convenient for work prepared before the session) or, nowadays, lighted perspex panels or white boards which are written on with special coloured felt pens. But they can equally well be an easily portable piece of black oilcloth rolled around a stick or any fairly smooth dark wall or flat surface. Sheets of cheap white newsprint and felt pens will do just as well as a blackboard and chalk. What is essential is for workers' educators to make sure that some large writing surface is available. The suggestion that workers resent the writing board as a symbol of childhood is generally not true, and in any case no serious worker-student could resent it after seeing it properly used.

(2) The magnetic board, flannelboard, plastigraph, "combi-reel"

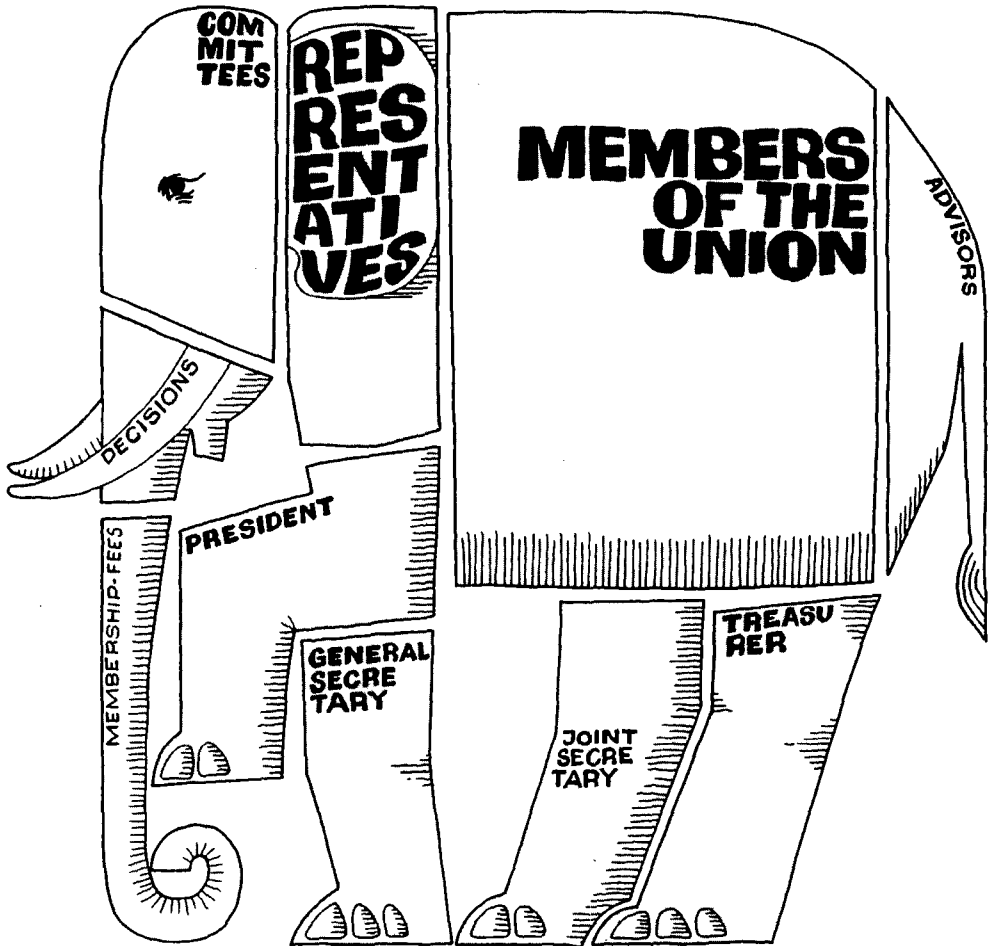
Recent years have seen the development of many other variations of the simple writing board. The magnetic board, the flannelboard and the plastigraph all have in common that prepared objects can be placed on them in a vertical position yet will "stay put".

The magnetic board consists of a thin sheet of steel on which cut-out objects attached to small magnets can be placed. The magnets hold them firmly in position even on a vertical board, but they can be moved about easily. Some revolving chalkboards are now metal backed so that they can be used also as magnetic boards, but the extra weight and cost probably make it not worth while to purchase them except for a permanent workers' education centre or college. Moreover, the back of a metal filing cabinet can be used in case of need.

The flannelboard is generally more useful for workers' education. The board can be of light plywood and the covering of flannel, felt cloth or green baize. There is no need, however, to buy expensive cloth—if money is scarce, an old blanket will do. Cut-outs can be made of felt cloth or strong paper, provided they are backed by flock or sandpaper. The backing can easily be stapled on to the cut-out without any need for using paste or glue.

Figure 21. Set of flannelboard symbols devised in India: "The union elephant"

Unity is strength, or the trade union in action



An original diagram for flannelboard illustration: corporate union strength, or the elephant disjointed! The instructor hammers home his points and highlights his talk on trade union unity by building up on the flannelboard the corresponding segments of the elephant. At the end of the session the elephant is entirely reconstituted.

Workers' education and its techniques

The sixth article listed in Appendix 2 outlines the advantages and defects of the flannelboard. The tutor needs no blackboard skills, he wastes none of the time of the class, he faces his audience throughout the lesson, he can achieve greater dramatic impact, and he can store his material for use on another occasion. On the other hand, he cannot be flexible in his handling of the subject and usually his cut-outs will not be big enough to be seen by students at the back of a very large classroom.

There are certain stock subjects in the field of workers' education for which the centralised production of cut-outs can be planned. The ILO, for example, has prepared and can supply sets of symbols dealing with its own structure and activities, as well as a set on trade union membership. In India the Central Board for Workers' Education has mass-produced 13 sets of flannelboard symbols (with captions in several languages) for use all over the country; the "union elephant", reproduced in figure 21 because it struck us as being particularly picturesque and instructive, is one of these.

The plastigraph is very similar to the flannelboard but involves the use of plastic material for the cut-outs and the board has a smooth surface. Plastic has a greater power of adhesion than flannel. If a new workers' education centre is being equipped, it is worth considering covering one side of a metal magnetic board with baize cloth for use as a flannelboard and using the other smooth side for magnet-backed symbols or for prepared plastic cut-outs. Several trade union colleges in the Federal Republic of Germany have done this and the resulting tool is known as a Westermann board.

The "combi-reel" is a somewhat similar piece of multi-purpose equipment. It is manufactured and sold by a Scandinavian firm, but can also be made locally. It consists of a long sheet of strong white paper about one or one-and-a-half metres wide, attached to and rolled around two strong cylindrical battens which are fastened at each end of a piece of canvas or cloth. This can act as a protective cover or, when unrolled, can become a flannelboard surface. The white paper can be used with felt pens as the equivalent of a roll-up "blackboard", or it can serve as a screen for projection purposes.

The commercial model also has side clips for fastening transparent acetate overlays on top of the exposed white paper so that, for example, when a map of the country has been drawn on the paper, different details can be filled in on it on different occasions by superimposing on the paper the overlay giving the additional information required (the location of trade union offices for instance).

The magnetic board, the flannelboard, the plastigraph and the "combi-reel" all have their particular good points; but when resources are short, it is better just to equip tutors with chalk and an oilcloth roll-up blackboard.

(3) Graphics (posters, diagrams, graphs, maps, charts, still pictures)

This group of tools cannot really be considered in isolation from the other visual devices, since one may draw a map or a diagram on a blackboard or put a cut-out picture or a chart on a flannelboard, or project photographs of graphics as slides, films, and so on. However, since graphics are frequently produced on a separate sheet of paper or cardboard and are then stored for use whenever required, it is probably wise to discuss them separately.

Again, it is important, in making use of them, to bear in mind the particular teaching situation. The “union elephant” (in figure 21), for example, could be produced as a poster, but it would not then be as suitable for step-by-step teaching as it is in its flannelgraph form.

On the other hand, the diagrams in Chapter 9 showing how we take in information (figure 9) or illustrating the learning process in graph form (figures 11 to 14) would not be suitable for flannelboards, although they could very well be drawn on a blackboard, or on separate poster sheets which could then be kept for future use.

It may be of value, therefore, to identify and consider briefly a few of the main types of graphics.

Line graphs (such as figures 11 to 14) are a good method of showing changes over a period of time for comparative purposes. One could, for example, use them to compare the rate of growth of the membership of different trade unions, or of industrial production in different countries. Trade unions often find it useful to produce line graphs to compare the rate of increase of profits and prices with that of wages.

Pie graphs or circle graphs (see figure 3) are best used for showing the proportional importance of the various parts of a whole. For example, the allocation of a trade union’s income to different expenses could be shown by a circle split into segments of appropriate different sizes for “administration”, “publicity”, “education”, “strike pay”, “social welfare”, etc. In such a case the circle is often shown as representing the country’s unit of currency (the dollar, franc, peso, pound, for instance) and the segments correspond to so many cents, centimes, or pence, so that the caption might, for example, read as follows: “Every dollar of union income is spent like this”.

Pie graphs can be used to compare subdivisions not only with each other but also with the whole, as in the two diagrams constituting figure 3 in Chapter 2. It should further be noted from figures 4 and 5 in Chapter 3 that the “pie” can be square instead of round.

Bar graphs—rectangles of different sizes, set either vertically or horizontally—are another way of making comparisons in graphic form. Figure 9 in Chapter 9, for example, could have been drawn like this:

Workers' education and its techniques

Sight	Hearing	Smell Taste Touch
75%	12.5%	12.5%

If, as in figure 9, we had included in the above graph, in the appropriate sections, drawings of an eye and an ear, this could then have been termed a picto-bar graph (just as figure 9 could be called a picto-pie graph); but it would be foolish to get too worried about names or too involved with the different types of graphic. What is important is to know which type of graph is best for a particular purpose, so let us just take one last example.

The organisation chart (or structure chart) reproduced in figure 22 should be familiar to many readers, as it has appeared on the back cover of the bulletin *Labour Education* on numerous occasions. The different panels, together with the central down-pointing arrows, show clearly the way in which countries send delegates to the International Labour Conference, which then elects the Governing Body, whose duty it is to supervise the work of the secretariat of the Office—the international civil servants. The outer arrows show the servicing of the International Labour Conference by the Office.

It may perhaps be worth re-reading the brief description above and then studying the chart again with the extra details it incorporates, in order to decide to what extent this graphic is a visual aid to understanding.

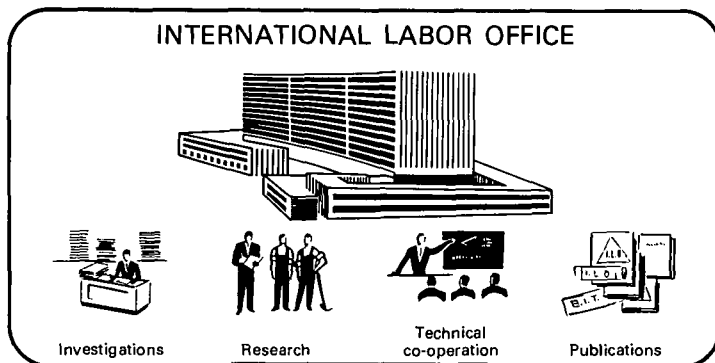
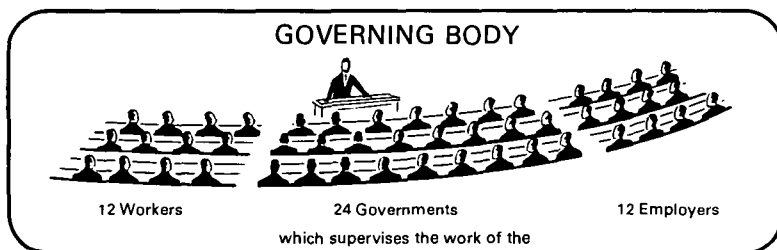
Technical progress enables tutors and their students to make their own graphics, using felt pens on newsprint. If necessary, however, charcoal will do for black marking and flowers and leaves for colouring.

(4) Turnover charts (flipcharts, flap-sequences, flash-cards, flip-cards)

Turnover charts or flap-sequences consist of a series of simple charts illustrating a theme on a step-by-step basis. They are normally drawn (or printed) on sheets of strong white paper which are fastened to a stout batten, but which can also be stapled or laced together. These are then placed on an easel, on the back of a chair placed on a table or, if the material is strong enough (cardboard or pasteboard), directly on a table, so that the charts can be exposed in sequence simply by turning the sheets over one after the other. The name “flipchart” suggests that the sheets can be turned over very quickly, but it is important to expose and discuss each chart long enough to ensure that it has been fully understood.

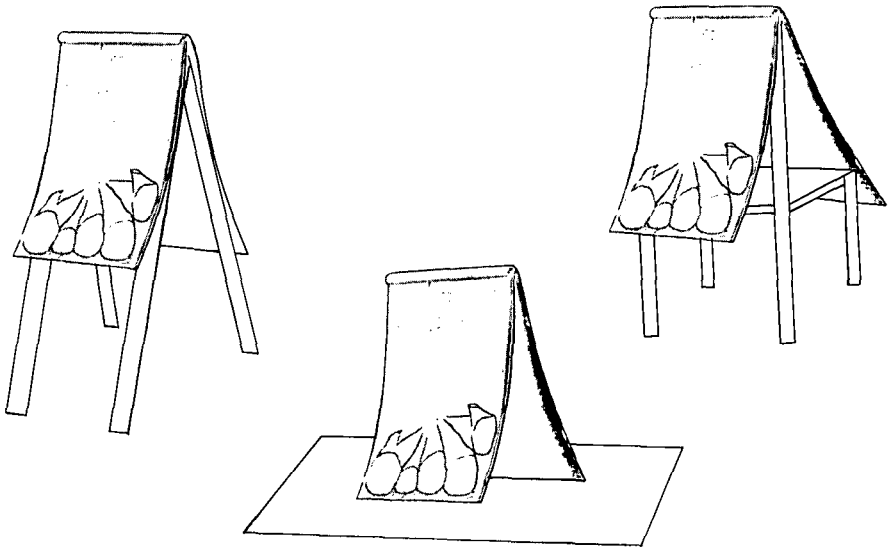
Figure 22. A typical organisation chart: The structure of the ILO

HOW THE INTERNATIONAL LABOUR ORGANISATION OPERATES



Workers' education and its techniques

Figure 23. Use of turnover charts



The terms “flip-card” and “flash-card” are sometimes used to describe rather small turnover charts that are held by the tutor in his hand and shown to the group. However, this method of demonstration has been found unsuitable except for very small groups. The term “flash-card” is also sometimes applied to much smaller picture sequences, intended for individual use. The pictures are generally taken with a cine-camera and printed on slightly flexible cards fastened together along their top side in such a way that, by flipping through them rapidly, one gets the impression of continuous movement. The device is sometimes used in athletics training and can equally well be adapted for work-study analysis. Since, however, this device more properly belongs in the section, further on, dealing with moving visual aids, we shall not go into details here.

It may be added that although turnover charts can be mass-produced by a central organisation (the Central Board for Workers' Education in India, for instance, has about 20 of them), “home-made” charts specially produced for (or even by) a particular group are often the best. There is no need to be an expert artist to turn out simple graphics, and in this connection it may be worth consulting the seventh article, on drawing, included in the list given in Appendix 2. Another article, on posters, mentioned ninth in that list, should also be of interest.

Practical training exercises for workers' educators' training courses on non-projected visual aids

1. Practise on the blackboard:
 - writing legibly (for an average classroom, letters should be about two inches, or five centimetres, high);
 - drawing an organisation chart of your trade union (individual work);
 - using a templet you have made.
2. Prepare graphics to illustrate lessons on:
 - population trends in your country;
 - wage rates compared with prices in your country in the past ten years (group or individual work).
3. Study carefully the value as visual aids of all the diagrams included in this manual. Award each of them one of the following five ratings:

Very useful	Good	Fair	Poor	Not useful at all
----------------	------	------	------	----------------------

(The last exercise is best done individually and then discussed by the group.¹)

4. PROJECTED STILL VISUAL AIDS

General

Here, we shall deal only with pictures which are projected and remain still, leaving consideration of moving projected aids, such as films, television and video-tape recordings, for a later section. All the tools dealt with in both sections, however, make use of some form of equipment which combines a strong light and a lens in order to enlarge the original picture. This means that charts, diagrams, photographs, etc., can be small enough to be easily stored and yet, when projected in the classroom, they can be reproduced big enough for very large groups to be able to see them.

The main advantage of this group of aids, then, lies partly in the size of the image, which can easily be increased by moving the projector further away from the screen, and partly in the ease of storage of the pictures. There is also good reason to believe that the effect of a bright screen in a darkened room normally increases the concentration of students.

On the other hand, there are the disadvantages that all projectors are fairly expensive (and some very expensive), that all projection is dependent on

¹ The Workers' Education Branch of the ILO in Geneva, Switzerland, would appreciate being informed of the results of these evaluations.

electricity (which may sometimes be obtained from car and other batteries, but not always very easily) and that projection usually needs a white screen or wall and a darkened room. However, these requirements vary somewhat with the different machines, so let us examine them separately, starting with a fairly recent invention—the overhead projector.

Types of projected still visual aids

(1) The overhead projector

This machine, which was described in a *Labour Education* article (see Appendix 2, No. 10), should certainly be considered carefully by any workers' educator equipping a new centre. In recent years brighter bulbs and better cooling systems have decreased the size and weight of these projectors, making them much more easily portable and allowing projection in broad daylight.

There is no need to repeat here what is said in the *Labour Education* article referred to above, which, moreover, includes two drawings that help to explain the mechanics of this type of projector. Suffice it to say that the machine is like a metal box with a transparent top; on top of the box is placed a roll or sheet of cellophane or acetate on which the tutor can write. The writing is then projected on a screen behind his head. The tutor can prepare his notes or drawings beforehand and then expose them progressively, or he can write or correct the sheet in the course of the lesson. The former method can be a more eye-catching process than the traditional system of writing notes on the blackboard and involves no waste of time. Moreover, the tutor is always facing the group.

The overhead projector can also be a very effective aid in a large discussion group or at a conference, since it enables the "reporter" to keep recapitulating the arguments as they are put forward. This system may distract some of the audience, but on balance it undoubtedly helps to retain attention, to expose digressions and to ensure the production of an accurate summary. These and other advantages listed in the *Labour Education* article and elsewhere make it evident that the overhead projector will undoubtedly play an increasingly important role in workers' education.

(2) The episcope

The episcope is a rather costly piece of equipment whereby small pictures, charts, diagrams, etc., can be projected with the aid of mirrors on a screen or any white surface; some models are also suitable for projecting an image of solid objects. The Greek prefix "epi" indicates that the apparatus is above the object to be shown—hence the use of mirrors for projecting the image.

These machines are flexible tools in that they permit the tutor to make use of illustrations (not more than 14 cm or 5½ inches square) from books or newspapers, to make his own drawings if he so desires, or to project photographs which he has collected or taken himself. However, since the heat of the bulb is fairly close to the object being projected, either a fan must be fitted or only a low-powered bulb can be used. If a fan is fitted, the machine is more expensive to buy and also much less portable. If no fan is fitted, the illumination will not be strong enough unless the room is blacked out completely and the group kept small and sitting close to and directly in front of the screen. Workers' educators making use of any type of projection apparatus should look carefully into the question of the best seating arrangements for the audience in the case of different machines and different screens. Similarly, workers' educators considering buying an episcopes would do well to compare its assets and defects with those of the diascope and the epidiascope.

(3) The diascope (filmstrip or slide projector)

Here, the prefix "dia" indicates that the light from the bulb shines through the object that is being projected, which means that the projector does not require mirrors and can be used with positive film (as opposed to negatives)—hence, the words "diascope" and "diapositive" (for photographic slides).

Since this type of projector does not need mirrors and since it operates with small, 35 mm "positives", it can be much more compact and lighter than the episcopes. In fact, it is now possible to obtain cheap diascope no bigger than a large hand-torch, operated by torch batteries. The illumination (that is, the strength of the light beam) obviously cannot be as great as in the case of those operated from a normal power supply, so that this kind of diascope is suitable only for small groups (up to a dozen persons) in conditions of complete darkness; but it is very portable and makes projection possible in remote places. Other models can operate from car batteries, while there is at least one type that can be adjusted to work either from a car battery or from a normal electrical power source.

Workers' educators who are thinking of buying a diascope should first consider whether it is intended for use away from an electricity supply. If not, it is much better to buy the standard type. It will also be a waste of expensive equipment if they do not ensure that the model they choose has "carriers" capable of taking both slides and filmstrips. This means that they should look very carefully at any model which has a "carrousel" or "automatic slide feed", since these frequently cannot be adapted for filmstrips.

It would be foolish not to provide a workers' education centre with the possibility of using filmstrips, since more and more suitable ones are being produced; for example, over 50 are listed in the ILO workers' education

Workers' education and its techniques

catalogue. Of course this does not mean that they are all appropriate for use in every country, since many are made with captions in one language only, or focus on one country only.

The ILO filmstrips on "Methods and techniques in workers' education", from which the pictures in figures 17, 18, 20 and 25 were taken, tried to overcome this problem by avoiding the inclusion of any words on the strip itself, by "internationalising" the drawings of people and scenes, and also by issuing accompanying explanatory booklets and records in English, French and Spanish.

This possibility of synchronising a filmstrip with a tape or a gramophone-record commentary is well worth exploring if the strip is likely often to be shown without a trained tutor being available to comment upon it.

A serious drawback of filmstrips, however, is that usually they have not been made specifically for the group to which they are shown. They can never be a completely appropriate aid unless the tutor plans and makes (or has made) his own, which is rather difficult and costly.

In this respect slides are vastly superior to filmstrips. Any workers' educator with a cheap 35 mm camera can take his own pictures to be developed as slides for use in his own classes. These can be entirely local and topical and are accordingly likely to make a much bigger impact on the students, who may, moreover, be enrolled as photographers. It is also possible to draw, print or write on glass, clear film or sheet acetate with special nylon-tipped pens, and then to project the images as slides. (One can even buy blank slides on which one can use an ordinary pencil.) These considerations make the slide projector a powerful and flexible tool provided the tutor is skilful and enthusiastic. It would be possible for a national director of workers' education to build up a lending library of slides on subjects of major interest to workers' groups all over the country.

(4) The epidiascope

Just as the episcope operates by means of mirrors and the diascope projects transparencies, so the epidiascope is a piece of equipment which combines both methods. It is therefore a multi-purpose machine, but for that very reason it tends to be larger, heavier and more costly. However, although it is not the sort of machine to be carried around to outlying classes, it should certainly be considered for use in any national training centre or residential college.

Practical exercises relating to projected still and moving aids are given at the end of the following section. Moreover, the reader's attention is directed to reminder chart 29, in which the advantages and disadvantages of these and other tools are compared in tabulated form.

5. PROJECTED MOVING VISUAL AIDS

General

In “the ladder of experience” (reminder chart 21), a distinction is drawn between still and moving pictures, because it is frequently assumed that moving pictures make a greater impact on the viewer. In fact this is not always so. It may sometimes be difficult for an unaccustomed audience to grasp the meaning of moving pictures but the film goes on, whereas slides or filmstrips can be changed at a pace adjusted to the requirements of the particular group, with each slide being kept in position for some minutes, if need be, while questions are asked and explanations given. Therefore, when moving pictures are to be used for workers’ education, the tutor should, if at all possible, preview them and then spend some minutes explaining to the group the background of the film or programme, his reasons for choosing it and the important things in it for which the audience should look.

As in “the ladder of experience”, we shall deal with films before television and video-tape recordings. Although films appeal to sight and hearing, they always show “past history” (real or fictional) and cannot display events which are actually occurring at the moment of viewing (as television can) or which occurred only a very short time before (as video-tape recordings can). In that respect, therefore, films generally give less of a sense of direct experience and have a less powerful impact on the audience than the other two tools.

Types of projected moving visual aids

(1) Films

Whatever the relative shortcomings of films, the fascination they exert even over people who do not fully understand what they are seeing cannot be denied. There is, therefore, no doubt that, when well introduced, moving pictures are a first-class channel of communication that workers’ educators must try to make the most of.

As with written materials, the first problem is how to find suitable films, but this has become less difficult in recent years as more and more trade union organisations have taken an interest in film production. The World Federation of Trade Unions, for example, offers a special prize each year for the best film dealing with workers’ problems shown at the Leipzig International Festival of Documentary and Short Films, while the International Labour Film Institute (associated with the ICFTU) publishes a catalogue of workers’ films and has sponsored a series of film festivals held in different parts of the world every three or four years.

Two practical consequences of these developments have been the expansion by the ILO of its film library (which now includes over 100 films) and its decision to produce special sound tracks in Hindi, Japanese and Spanish for the excellent documentary by the Canadian National Film Board entitled *Dues and the union*. Although the system of making alternative sound tracks is a good one, and has now been extended to some other films on labour affairs, an even more practical idea is to make use of what are known as "international sound tracks"; these record all incidental sound effects but no spoken words, so that, when the film is shown, a trained announcer can give a running commentary (sometimes arranging for a dialogue) through a microphone. This technique has been used with great success in Morocco, where experiments in providing rural education by means of films have been going on since 1940 and have given rise to the following laudatory remarks: "No other method is as effective as the direct commentary. Since it can be adapted to widely differing groups . . . , a skilled announcer quickly gets into touch with his audience, arouses interest, asks questions and obtains answers, builds up the atmosphere and lives through the film with them." Anyone who has seen films in the company of an unsophisticated audience will know how true this description is and will have witnessed the excitement that can be generated among mass audiences of several hundred people.

However, as has been hinted already, films—even labour films—reflect the cultural pattern of the country where they are produced and, to that extent, can never be completely understood by an audience from a country whose traditions and outlook are different. Furthermore, the film is not reality and often cannot be accepted by the untrained spectator as a true picture of real life. Research has shown that people new to films get much more out of them if they are given preliminary instruction (including time for questions and answers) by means of simple still pictures before being shown moving pictures presenting scenes from everyday life, and even when they reach the stage of seeing moving pictures it has been found desirable to keep each frame on the screen for a longer period than is usual. The Moroccan film programmes mentioned above always start with a documentary film showing everyday scenes from the region in order to "introduce the screen image". This is followed by the educational part of the programme, with microphone commentary, and in conclusion there is a comic or action film. Workers' education administrators responsible for large-scale schemes of education through films in newly developing countries would do well to study these interesting experiments, which have been documented by UNESCO.

In countries where the trade unions are strong and prosperous and workers' education can count upon plentiful resources, a shortage of good commercial films on suitable topics can be overcome by the production of

special labour films. Thus many North American unions (including those of the automobile, textile, bakery and electrical workers, of carpenters, of retail clerks, and of theatrical and stage employees) have produced their own films. The International Ladies' Garment Workers' Union achieved a worldwide success with its film *With these hands*, which tells the history of that union.

In other countries, however, where recourse must be had to government film units and others, all possible pressure should be put on the agencies concerned to improve the standard of their films and to ensure that some are relevant to workers' problems. Similarly, there is no need specially to create workers' film libraries provided that governments adopt a sufficiently liberal policy in stocking and making available the contents of their own film libraries. In Denmark, for instance, although the Danish Workers' Education Association set up a film library as long ago as 1930, it has tended to make use to a great extent of the services of the State Central Film Library since it was founded in 1938.

Assuming that the difficulty of obtaining suitable films has been solved, the next problem is the provision of equipment (projectors, power and screens). In the richer countries this can again be dealt with adequately by the workers themselves. For example about 300 local branches of the UAW in the United States have their own film projectors, while the Danish Workers' Education Association has made available at different strategic points in Denmark more than a dozen sound projectors which may be hired by local branches for a small fee. In the less developed countries, workers' education administrators must again rely on government or other sponsored sources for the supply of equipment. In many of these countries the government or local education authority will lend projectors free of charge. In India, with the aid of international grants, many fully equipped mobile cinema vans and over 300 fully equipped cinema trailers are in operation, and similar efforts—often partially financed out of international aid—are being made in many other places. The ILO, as mentioned earlier, is playing its part by building up its library of films and filmstrips in Geneva, and details concerning this and other aspects of the ILO's workers' education activities will be found in Appendix 3.

Even when films and projectors have been provided, though, it still has to be borne in mind that this fragile equipment is not usually designed so as to function in tropical thunderstorms or arctic blizzards, or so as to be transported hundreds of miles over bad roads. The availability of trained maintenance staff is therefore of great importance, as will be appreciated when it is recalled that cinema vans in Africa require an overhaul after each trip away from the centre. Moreover, since it is not usually possible to find local operators, it often saves money to train and employ a full-time projectionist.

Workers' education and its techniques

The final problem (assuming that films, equipment and operators are on hand) is to ensure that the best possible educational use is made of the films. Too often in workers' education programmes they are included merely as an evening's entertainment and the tutor does not even bother to attend. It is unforgivable for a tutor to spend all day demanding active participation from his students and then to encourage the passive viewing of such a powerful means of communication.

This section would not be complete without some reference to the "vistascope" or film-loop projector. Workers' education administrators responsible for ordering film equipment for a college or large centre should ask a specialised firm for a demonstration of this piece of apparatus. Although it functions only with 8 mm films (often in cassette form) running for no more than four minutes, it has the advantage of being very easily loaded and operated so that a reshewing is simple to arrange, and it has a stop-frame mechanism which allows the operator to "hold" a picture while it is discussed. Provided suitable films are available, this apparatus is particularly good for permitting the analysis of important processes, such as a time-and-motion study or a teaching technique. Vistascope can be compared with video-tape recorders, which are discussed in a later section.

Reminder chart 28. How to use a film show for educational purposes

To make a film show part of the active educational process, workers' educators should:

- ensure the selection of suitable films relevant to the studies being undertaken;
- ensure by means of a trial run that the conditions exist for efficient projection (suitable room or open-air arena, blackout, equipment, power, projectionist);
- prepare the audience by telling them beforehand why the film is relevant and what to look for (not more than five minutes should be needed for this);
- show the film, bearing in mind that some modern projectors make it possible to "hold" an important picture while it is discussed;
- split the audience into subgroups, each with a list of questions which have been prepared (and sometimes notified) in advance;
- after 10-15 minutes of discussion, reassemble the audience to hear the reports of the various subgroups;
- summarise the important messages of the film.

(2) Television

Television is another tool with enormous potentialities that have as yet been little exploited for workers' education, partly because it has been regarded with suspicion by many traditionalists. In the United Kingdom research groups of the Workers' Education Association were unreservedly hostile during the 1950s:

Every group believes television is bound to detract from and prove a deterrent to adult education and, some say, to any kind of study including serious reading. . . . Whatever the defects of sound broadcasting, it does at least leave some of the five senses free and also the hands, and people can do things and still listen. Television monopolises all other leisure pursuits. Nothing can be done except sit in idleness and look and listen.

These comments, however, unwittingly draw attention to one of the latent assets of this medium: surely the fact that television is all-absorbing—which appears to be deplored—is indicative of its tremendous educational potential. Given the right programme, ideally organised, one might equally well say, approvingly, "Television monopolises the attention of the worker-students. Nothing can be done except look, listen and learn, and then discuss." The last phrase is vital, though, as it is the subsequent discussion which promotes active learning.

Despite their initial hesitation, workers' and general adult education institutions in the United Kingdom then decided to take advantage of television. This is apparent, to some extent, in the teaching methods used by the "Open University", though the bulk of its education is provided by means other than television, including correspondence courses, radio, home experimental kits, programmed learning texts, residential summer-school tuition and individual counselling. Other interesting experiments with education by television in the United Kingdom are described in the fourteenth *Labour Education* article listed in Appendix 2.

More extensive use of television for workers' education is made in the Federal Republic of Germany and, above all, in Canada and the United States, where some trade unions already run their own educational television programmes and others co-operate with university departments either in producing programmes or in exerting influence on commercial television companies to produce more adult education programmes. In the USSR, also, television is used for broadcasting university courses. In Belgium the two trade union centrals have helped to produce an adult education series for the national television network.

These are exciting developments which could usefully be imitated in some other countries, but the suggestion that television is rapidly becoming the main channel for workers' education all over the world should be treated with

caution. As long as programme production and television receivers remain so expensive, radio has a much bigger potential for workers' education purposes. Nevertheless, workers' educators should make whatever use they can now of television and prepare for its future expansion.

(3) Video-tape recordings

The same is true of video-tape recordings, though they are of limited importance so far owing to the newness of the system and the high cost of the equipment. Video-tape recording equipment is, in effect, a combination of a cine-camera and a tape recorder, which means that a workers' educator who had it would make a sound film of, say, a practice teaching session and then play it back immediately to the group in the same way as a magnetic sound tape, but with moving pictures of the session projected on to a small television-type screen. The equipment, as was said, is still very expensive, but it is surprisingly easy to operate, even without any technical training. Repairs, however, are difficult and costly.

So far, not enough serious research has been done with this equipment to justify large outlays of workers' education funds on it. Some report that it is excellent for analysis of group dynamics or of teaching-learning processes; others fear the effects of camera-shyness. It is probable that, in some years' time, it will be regarded as much more useful for training purposes than television. In any case the research that the ILO has decided to carry out into the use of video-tape recordings and closed-circuit television for workers' education is particularly timely.

Practical exercises for workers' educators' training courses on projected still and moving visual aids

1. If an overhead projector is available, conduct and evaluate a group discussion along the lines recommended on page 152 (group work).
2. Draw up a tabulated comparison of the relative merits and weaknesses of:
 - the blackboard and the overhead projector;
 - the episcope and the overhead projector;
 - filmstrips and slides;(group work).
3. (1) Plan a sequence of 15 to 20 slides which you could photograph yourself to serve as visual aids in a lesson on one of your normal trade union topics.
(2) If time permits and a camera is available, complete the exercise by taking the pictures, having them developed and giving the lesson;
(group work).

4. Obtain one (or more) of the labour films listed in the ILO film catalogue which seems particularly relevant to your training course. View it and prepare a lesson based on it (individual and group work).

6. MODELS, EXHIBITIONS AND TRAVELLING MUSEUMS

These tools are not yet widely used in workers' education, although they are employed with great success in the USSR, where biographical exhibitions about famous leaders, for instance, have aroused particular interest. Perhaps in most countries insufficient attention has been paid to the idea of creating such tools specially for workers' education purposes. It is quite possible, for example, that a travelling exhibition on the "Origins and rise of trade unionism" might serve to encourage the study of past, present and future union problems.

Research into the value of these tools for general adult education, carried out in connection with the UNESCO Group Training Scheme for Fundamental Education at Mysore (India), indicated that models and exhibitions have a much greater impact if they are equipped with sound so as to make a simultaneous appeal to the eyes and ears. The Mysore group elaborated a system of viewing boxes with earphones linked to a tape recorder, and obtained good results, as it did also from working models. However, it is probable that many more fruitful ways can be found of spending money on workers' education.

Mobile museum units are also probably too expensive to be considered seriously for purposes of workers' education in countries where the cost would have to be met from limited trade union funds. Where international or national authorities are willing to help, experiments might usefully be made along the lines of the Polish National Museum's travelling show or of the "museumobile" at Springfield, Illinois, in the United States. Considerable thought would, however, have to be given to the selection of exhibits, and it should always be remembered that, although real objects are involved, they do not guarantee any active participation from the students.

7. GROUP WORK MATERIALS AND ACTIVITIES

General

A glance at reminder chart 21 will show that we are now on the last three rungs of "the ladder of experience". We have dealt with audio-visual aids and are passing on to what might be termed "action aids" on the way to our goal, which is real life, purposeful experience and action.

There has been extensive research and development in the whole field of group activities in the past 20 years and many books have been produced on

Workers' education and its techniques

this topic. All that it is intended to do here is to underline the basic principles and give a few examples, on the basis of which workers' educators can develop for themselves the exercises and activities that are most appropriate for their particular groups and subjects.

The order in which the various types of group work activities and materials are presented is to some extent arbitrary, but in general an attempt has been made to arrange them so that there is a progressive increase in reality, or a progressive decrease in "contrived" aspects. The result corresponds closely to the order of the more general categories in "the ladder of experience".

Types of group work materials and activities

(1) "Games" and group exercises

Anybody who has studied child psychology in recent years will know that research has shown how important children's games are in the learning process. The games are usually based on imaginary and contrived situations, but the physical, mental and social skills required to play them are carried over to more serious tasks and help to equip the children for real life. The study of group dynamics has shown that the same effect is obtained with adults, and so it is worth running the risk of offending the occasional person's dignity by experimenting with learning games.

For example, with a newly formed group, the following simple exercise can be very useful, even though it has no direct relevance to the subject ultimately to be studied.

The square-counting exercise

Stage 1: Each participant is given a sheet of paper on which there is only the drawing reproduced in figure 24 and the accompanying question. He is allowed three minutes working on his own, without any discussion, after which he must fill in, on the first line, his answer to the question and hand back the paper.

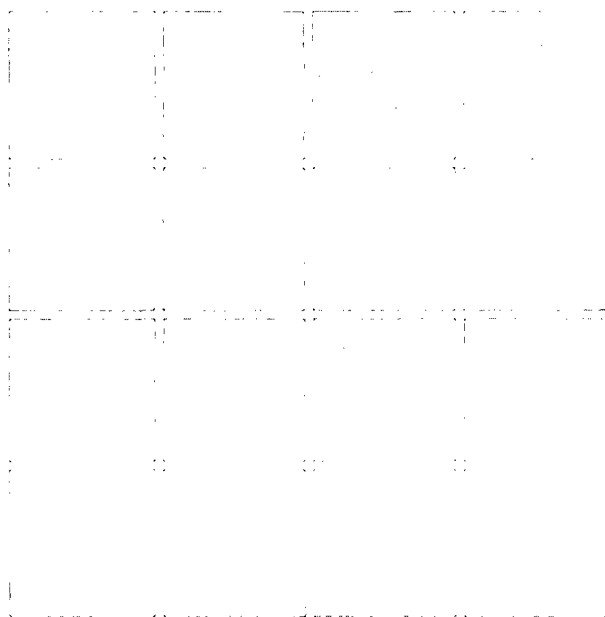
Stage 2: The tutor immediately divides the participants into subgroups of three, four or five, depending on the size of the class, and distributes to them the same sheet of paper. Each subgroup is then allowed three minutes for discussion, after which it must fill in, on the second line, its agreed answer to the question.

Stage 3: Each subgroup then reports its agreed answer to the plenary session. If there is unanimity (and if the tutor agrees with the answer), he should end the exercise at that point, after letting each subgroup fill in, on the third line, the agreed final result, and begin to analyse what happened. If the different subgroups have given different answers, he should allow full group discussion until unanimity is reached on, it is to be hoped, the right answer, which should then be filled in on the third line.

Discussion and analysis of the exercise

No matter where this exercise is tried and what the level of the group, it is normal for a majority of the individual answers to be wrong. In fact, it is normal for the great majority of them to be wrong and not unusual for all of them to be wrong.

Figure 24. The square-counting exercise



How many squares do you see?

1. You personally _____
2. Your subgroup _____
3. Agreed final result of the whole group _____

As a rule the subgroups provide a much higher proportion of correct answers, though it is not unknown for some subgroups to fail to spot all the squares.

Finally, it is rare for the answer of the full group, reached in plenary session, to be wrong.

In the discussion period all participants will share some experiences from which they will reach some general conclusions, along the following lines:

- Two heads (or three, or five or thirty heads) are better than one—always provided that the heads are willing to share their ideas and work together.
- It is very easy to jump to hasty conclusions and take decisions which are not correct or sensible.
- Friendly discussion is a good way of checking individual first reactions.

There are many such games, some of which are much more complicated, showing the different ways in which people perceive ambiguous drawings, or exposing the problems of working competitively and also of working in teams. Another exercise, which focuses attention on problems of communication and which is therefore particularly appropriate for workers' educators' training courses, is summarised in section 2 of Appendix 1. Moreover, the fifteenth *Labour Education* article mentioned in Appendix 2 describes a much more complex game for economic students, while a

Workers' education and its techniques

game called "Settle or strike", based on collective bargaining, is discussed in the sixteenth article listed in that appendix.

The square-counting exercise was selected for special attention because it has these advantages, among others:

- it is excellent for overcoming initial shyness and for promoting a group spirit;
- it can be used effectively with all levels of students, including illiterates;
- everybody participates;
- it requires a minimum of equipment (if necessary, the squares can be drawn on a wall with charcoal or scratched in the soil with a stick and the participants then asked to turn their backs to the drawing);
- it does not need complex analysis.

The message is simple, clear and universal, but particularly applicable to workers' education.

(2) Case studies

Case studies are another means of involving groups of worker-students in really purposeful activity, in that each group is presented with a problem situation which either has happened or could easily happen. They are given all the necessary details in their "working papers" and it is up to the group to analyse and solve the problem. The first part of a film may also be used to present a case for study, the students being required to try to find the appropriate solution before seeing the end.

There are numerous interesting problems suitable for this kind of workers' education exercise. One group might work on the preparation and presentation of a wage claim, another on a matter of social security policy, another on a case of alleged wrongful dismissal. The complexity of the problem can be graded to suit the educational level of particular students.

Again, working in subgroups is usually advisable, with a different case being studied by each subgroup, so that the final reporting session is more interesting and lively and gives the tutor an opportunity to emphasise the general principles of relevance to the course.

(3) Role playing

With students less used to analysing documents, workers' educators often prefer to organise a role playing exercise. For example, the topic chosen may be a meeting between workers' representatives and the management to discuss the proposed introduction of work study. The "actors" are allotted their parts and the problem is outlined with some general guidance as to possible ways of developing the situation. The persons concerned then "act" the situation. Subsequently they discuss the "play" with those who have remained in the audience and the problems it raises.

Stated baldly like this, role playing sounds simple and crude, but in fact it has been found to be an effective tool for analysing problems, increasing

sensitivity, clarifying people's conception of their own role and that of others in life, practising necessary skills, and providing general training in human relationships and in leadership. As two different but complementary views on role playing are given in the sixteenth and seventeenth *Labour Education* articles listed in Appendix 2, there is no need to elaborate further here. It is, however, worth underlining the point that both articles make about the need for careful selection and definition of the problem situation, adequate briefing of the players, and skilful guidance of the final discussion.

(4) Simulation exercises, critical incidents analysis, in-tray exercises

It is difficult to draw clear distinctions between many of these group activities, despite the various names given to them. For example, simulation exercises have the same basic characteristics as role playing, except that the tutor usually has a more prominent role in guiding the interactions in the simulated (or imaginary) situations.

Thus the term "simulation exercise" would be more appropriately applied, for instance, to a game showing a selection panel engaged in choosing the national Director of Workers' Education, if the tutor were acting as chairman of the panel. Such extra guidance may often be desirable with nervous students, or with a mixed group early in the course.

Critical incidents analysis, which is aimed at heightening the students' awareness, concentrates on one particular aspect of human relationships, on the assumption that there are generally "high spots" in any interaction. For example, the previous exercise would obviously involve a series of interviews, at some point during which a "candidate" would give a very good or a very poor reply. In the analysis afterwards, attention would be focused on this type of "critical incident".

Quite elaborate "scripts" and "structured situations" are now available for many kinds of simulation exercise, some of them so complex that they take hours to enact (and further hours to analyse, which is of course the point of the exercise). However, with most workers' groups, we would advise against choosing situations which are too complicated, although they should be realistic in reflecting some of the inevitable tensions of living and working together.

The same criteria should be applied to "in-tray" exercises, which can be done by individuals or small groups. Since not all countries use the same system, it may be useful to point out that what we have in mind is the kind of standard office equipment—a tray or a basket—in which all the communications (documents, correspondence, periodicals, messages, files, etc.) sent to an office-worker are placed. As each document, file, or whatever, is dealt with

Workers' education and its techniques

by the recipient, it is placed, with the reply, in an "out-tray", to be passed on to another office. The in-tray exercise, therefore, consists of reading a number of incoming missives that have been prepared in advance, deciding what action should be taken on them, drafting replies to them, approving them, rejecting them, and so on. This can be done individually or in groups, but a time limit should be set, as once again the subsequent group discussion is a vital part of the exercise. In the case of workers' education the in-tray could be filled with an assortment of documents that a trade union secretary or treasurer is likely to receive in the course of a day. Such exercises can be extremely valuable for the training of new union officers—the core of the adult and workers' education circles reproduced in figures 2 and 3 in Chapter 2.

(5) Demonstration and practice

Mention above of the trade union treasurer may serve to remind readers that, while an understanding of the abstract problems of human relationships is vitally important in trade union affairs, it is equally essential to develop certain specific skills based on factual knowledge combined with practice. A potential treasurer, for example, will benefit from group dynamics, but he must, above all, know how to keep accounts in a clear, intelligible and uniform manner. In the same way a union chairman or secretary, or even a workers' educator, has to learn the skills appropriate to his function. In these matters there is still a need for the more traditional teaching techniques, whereby the tutor demonstrates step by step the right way of doing something and then gives the group plenty of practice, again with "real life" materials and situations.

8. STUDY VISITS AND FIELD WORK

Study visits and field work are also related to real life, for they involve direct observation of actual things and operations, and afford the possibility of fuller student participation in the educational process. They can therefore add greatly to the interest of studies that might otherwise be too academic and remote from reality. The field work or visits may be incidental events during courses, as with the occasional visits to factories and trade unions made by the students of the Asian Trade Union College, or they may be an integral and important part of a course, as with the practical training arranged by the Indian Central Board for Workers' Education and the annual courses on the United Nations formerly run by the United States Labor Education Service, which centred on attending the meetings of United Nations bodies. Sometimes they may even be the main feature of the study activity, as in the case of international education exchange visits.

Unfortunately, the typical group visit to a factory, mine or plantation is usually an educational opportunity missed. The visitors are taken into a room or hall where they are officially welcomed. If they are lucky a representative of the management may be there to give them facts concerning the technical aspects of production and some employment, production or export figures, but little information is likely to be provided about the social relations in the enterprise, beyond a listing of the available welfare facilities. The visitors are then taken in hand by a guide who herds them rather hurriedly through the works, pointing out spectacular technical processes and perhaps answering some questions. Finally, snacks are provided or souvenirs are distributed and the group goes home. A good time is had by all, but only those students with specialised technical interests learn anything. Such a visit serves to give variety to a residential course, but for educational purposes it is a waste of effort.

Yet almost any visit can become an exciting and rewarding educational experience without loss of recreational value, if it is properly organised. Such organisation, however, needs a good deal more time than is usually allotted for the purpose—time for self-preparation by the tutor, time for briefing sessions at which the topics for investigation are fixed and allocated to individuals or subgroups, and time for reporting sessions.

Topics to be investigated could include the following:

- history of the enterprise;
- production capacity;
- production process;
- raw materials (source and cost);
- marketing;
- administration;
- profits and general finance;
- research and planning;
- health and safety measures;
- welfare;
- labour relations;
- trade union organisations;
- manpower;
- stability of employment.

Obviously, however, probing such topics will require the advance agreement of the management, which may then arrange for the “investigators” to be taken on the day of the visit to the sections of the enterprise that interest them most.

Workers' education and its techniques

After such an exhaustive visit, it is best to leave a day or two for preparation of reports before the final, plenary discussion session. This should start with the tutor making a summary of the reports on a blackboard or overhead projector as they are presented, and should end with questions and a general exchange of views.

Similar preparations and general reporting sessions would add greatly to the value of most foreign educational visits. Some years ago a UNESCO report on *Workers abroad* commented on the value of such trips but added that "the teaching methods must be improved and developed". This challenge has been taken up in the case of most of the exchanges of young workers between France and the Federal Republic of Germany. The coaches in which the participants travel are now often equipped with loudspeakers so that commentaries may be provided during the journey. Exchange visits between dockworkers from London and Hull and European dockworkers have also been carefully planned by workers' education authorities as an integral part of the total study process. In future greater opportunities for foreign travel and local study visits are likely to be made available to workers. With good tutorial supervision, these study tours could become rich and useful experiences.

Sometimes it is difficult to distinguish field work from study visits, but normally field work involves sending students to some outside place to work for a given period. For example, long-term students at a trade union college might be attached for some weeks to a trade union office or to a Ministry of Labour office. The basic objectives and principles are the same as with all group activities but field work can normally be arranged only during long study courses.

9. REAL OBJECTS AND REAL LIFE

It will be noted that we have at last reached the top of "the ladder of experience", as field work assignments are "slices of real life" and the students involved are required to take part in real union problems, civic affairs and so on.

It is in many ways ironical that, in most lists of audio-visual aids included in educational textbooks, there is one glaring omission—the real object itself.

If a tutor wants to make use of a visual aid when talking about a treasurer's receipt book, the head office of a trade union or the meeting room of a municipal council, the best aid is the real thing—let the student see the receipt book, handle it and use it; let him visit and work in the office or meeting-room.

Ultimately, the best workers' education is participation in workers' movements. And in saying this we are simply repeating something that has been drawn attention to many times in this manual. In fact, the last few

sections have brought us back logically to our starting point, to the need for workers' education to be concerned with the problems of the students' daily lives.

**Practical exercises for workers' educators' training courses
on group work activities, study visits and field work**

1. List the entities from which you could get background documents for case studies on:
 - the wage increases over the past five years of workers in your industry compared with those of workers in other industries in your country, with those of workers in your own industry in neighbouring countries, with the average income of rural workers, and with increases in the cost of living, during the same period;
 - the causes, course and results of the last big strike in your country; (group work).
2. Prepare background instructions for a role playing exercise to be used in courses:
 - for trade union branch chairmen;
 - on collective bargaining;
 - on grievance procedures; (group work).
3. Prepare an assorted batch of ten incoming letters for an in-tray exercise in a course for:
 - trade union branch secretaries;
 - trade union treasurers; (group work).
4. Select a large local enterprise and compile a list of ten topics for a group to investigate on a study visit, emphasising two or three leading questions to be asked in connection with each topic (group work; the best results would be obtained if all the participants in the course could subsequently visit an enterprise that had been investigated by a subgroup, chosen after the reporting session).

10. GENERAL SUMMARY

An attempt has been made to summarise the main points of this chapter in reminder chart 29, which as far as possible lists the various tools and materials in the same order as they have been dealt with in this chapter and stresses

Workers' education and its techniques

their major features, so as to simplify the process of selecting the most appropriate ones. Readers are also recommended to consult the articles listed nineteenth and twentieth in Appendix 2, which deal with how to combine various teaching methods. Finally, figure 25 summarises much of the contents of Chapter 11 in picture form.

Reminder chart 29. Tools and materials for workers' education

Tool or material	Advantages	Disadvantages	Cost	Use	Comments
Written material:					
Primers for illiterates and new literates.	More relevant than standard primers. Can serve as an introduction to workers' education.	Few tutors are capable of preparing them and having them published. Workers' education bodies lack the necessary financial resources.	Quite expensive.	Special training is needed.	The preparation and publishing of such primers should generally be left to special literacy departments, to which workers' educators can extend appropriate collaboration, ensuring that the material is really functional.
Booklets, magazines, bulletins, etc.	Easier than standard texts for new students to read. Topical. May deal with local affairs. Can be graded to suit the level of the students concerned.	Their production takes a lot of time and energy. They imply one-way communication involving use of the sense of sight only.	Quite expensive.	Fairly easy.	The tutor should get the group involved in reading and in writing articles. In the case of periodicals, it should not be attempted to produce issues at too frequent intervals.
Study manuals and duplicated handouts.	Once produced, they can be used for a long time. They help "conscious learning". Can be adjusted to the requirements of a particular group.	They may not be at the right level for a given group of students. Their production involves hard work.	Expensive. Cheap.	Of varying difficulty. Easy.	These are essential for all but the most basic types of workers' education. Even a mediocre handout is more useful than an expensive textbook which is too advanced.

Reminder chart 29 (cont.)

Tool or material	Advantages	Disadvantages	Cost	Use	Comments
Modular study kits.	Prepared in step-by-step "units" by experts. They make it possible to use mass-produced visual aids.	They cannot be completely adapted to the requirements of a particular group, though they enable study to proceed at different speeds.	Expensive.	Easy.	They are hard to produce well. More research is needed for workers' education study kits.
Programmed instruction booklets.	They enable individuals to work at their own pace. They include some built-in feedback.	They are essentially for dedicated students, who must be literate.	The price depends on the scale on which they are produced.	Easy, if they are well produced.	They can be prepared locally on a trial basis for simple topics or they can be produced on a large scale.
Books.	Durable and useful for reference purposes. Can be graded to suit the level of the students concerned.	They imply one-way communication involving use of the sense of sight only. Hence learning by this means is very passive.	Expensive.	Easy, with guidance.	Workers' education students need guidance on how to read and what to read. Discussion and written exercises are helpful in this respect. Books are seldom used well in workers' education.
Wall news-papers, bulletin boards.	Striking, graphic and topical. Students can help to produce them.	Their production involves hard work, but they soon become out of date and need to be regularly replaced.	Cheap.	Easy, but requires a constant effort.	The whole group should be involved in their production. They are helpful for familiarising illiterates with written material.

Aural aids:

Radio.	Overcomes problems of illiteracy and remoteness. Transistor radios are light and cheap (cheaper than tape recorders).	No visual element. One-way communication. No feedback. The students are passive.	Expensive.	Easy.	Needs specially prepared programmes. Best if combined with discussion and listening groups under trained leaders.
Recordings.	Tapes are light and tough. Since immediate playback is possible, they are ideal for discussion analysis.	They need a tape recorder, which is a fairly expensive item. Only "audible behaviour" can be recorded. There is no visual element.	Expensive.	Fairly easy.	By this means speeches of national importance can be heard in remote places. Very helpful for tutor-training or for "public speaking" classes.

Non-projected visual aids:

Blackboards, magnetic boards, etc.	Very flexible. Have visual appeal. Large surface. Roll-up models exist for use in remote areas.	Writing on them needs practice (though this is quickly acquired). What is displayed does not remain available for repeated use.	Cheap.	Easy, if trouble is taken at first.	Independent of electricity. There should be one in every group. Tutors should be trained in their use. They are especially valuable for schematic summarising.
Flannelboards, magnetic boards, plastigraphs, combination-reels.	They have visual appeal and are fairly mobile. Material to be displayed on them can be prepared in advance. They dispense with pauses. Good for step-by-step instruction.	Once the material to be displayed has been prepared, it cannot be adapted to the requirements of another group. They are more elaborate and less portable than roll-up blackboards.	Fairly cheap.	Easy, once the material to be displayed has been prepared.	These are all elaborations of the blackboard. Flannelboard cut-outs could be produced by national workers' education offices.

Reminder chart 29 (cont.)

Tool or material	Advantages	Disadvantages	Cost	Use	Comments
Graphics, (posters, diagrams, graphs, maps, charts, etc.).	They have visual appeal and can be used to emphasise important points. Can be left on the display board for subsequent study.	May be misleading if over-simplified. Can be awkward to carry and store.	Fairly cheap.	Easy if trouble is taken.	Groups can help in their production. The cheapest method is to use felt pens on newsprint. Should not be left on display too long ("familiarity breeds contempt").
Turnover charts, flipcharts, etc.	They have visual appeal. Suitable for step-by-step instruction. Durable. Avoid overcrowding individual pictures.	May be awkward to carry and store. Once produced, cannot be adapted to the requirements of another group.	Cheap if home-made.	Easy.	Like all non-projected aids, independent of electricity.
Projected still visual aids:					
Overhead projector.	Very flexible. The material to be displayed can be prepared in advance, amended, erased, etc. "Overlays" are possible. The speaker faces the audience. Functions in broad daylight.	Can be tiring on the eyes. Expensive to buy and use. Must not be moved when hot.	Both the machine and bulbs are expensive.	Easy.	All projected visual aids increase the size of a small image, so they can be used for making large maps, etc. Tutors should use "water-based" and not "spirit-based" pens for easy erasing. A summary of a talk can be displayed progressively.

Episcope.	Flexible, because any picture up to 14 cm square can be projected. Can be used to project on to paper pinned on a wall, diagrams, etc., which the tutor can copy so as to make his own graphics.	Does not have powerful illumination, so needs good blackout and not too large an audience. Rather bulky. Needs electricity supply.	Expensive.	Easy.	More adaptable than films or filmstrips. Cheaper than slides. Blackout is a serious problem. Needs careful selection of material to be projected. Can project an image of small solid objects.
Diascope: - film-strip projector;	Much cheaper and easier to work than a film projector. Has brighter illumination than an episcope. Some models can be operated from car and other batteries, or from Tilley lamps.	Not so dramatic as films. Not many strips are available that are suitable for workers' education.	The machine is rather expensive.	Easy.	Can be accompanied by a commentary on tape or on a record. Filmstrips can be cut up into "slides". Better than films for discussion, as pictures can be held.
- slide projector.	The same as for filmstrips; more flexible since the order of presentation of pictures can be changed. The tutor can make his own slides.	Not many suitable slides are available (but tutors can make their own).	Rather expensive.	Easy.	A very useful, flexible aid, as tutors can make their own slides for particular groups. They can also make caption slides and summary slides.
Epidoscope.	A very flexible tool combining the advantages of the machines mentioned above.	Heavy and difficult to move around. Needs electric power and good blackout.	Very expensive.	Easy.	So bulky and expensive that purchase of the machine is justifiable only in the case of workers' education colleges and large centres.

Reminder chart 29 (cont.)

Tool or material	Advantages	Disadvantages	Cost	Use	Comments
Projected moving visual aids:					
Films.	They have strong visual appeal (and may have a sound track too). Can be appreciated by illiterates. Do not necessarily need the presence of a tutor.	Good films for workers' education are rare. One-way communication unless properly discussed.	Expensive to buy and maintain.	Need a trained projectionist.	Best if combined with a preparatory talk and subsequent discussion. A good film is worth using well and often.
Television.	Appeals to the eyes and ears. Can show events actually happening. Can be appreciated by illiterates. Does not necessarily need the presence of a tutor.	Programmes are usually poor (short, distorted presentation of issues, etc.). One-way communication unless the viewers also form a discussion group.	Expensive.	Easy.	Despite its costliness, the apparatus does not guarantee good workers' education. May be the medium of the future, but much trade union pressure is needed first on those responsible for making programmes.
Video-tape recordings.	They appeal to the eyes and ears. Afford the possibility of immediate playback of sounds and actions that have been recorded. They make a very strong impact.	The equipment is still very expensive. People may be "camera-shy".	Expensive.	Easy.	Excellent for analysis of group discussions or meetings, or for teaching practice. Camera-shyness usually does not last long.

Models, exhibitions and travelling museums:

Appeal to several senses. Better than pictures for giving an idea of shapes and relative sizes.	Not useful for many workers' education topics.	Varies greatly.	Easy once assembled.	National or international workers' education bodies could arrange useful trade union exhibitions.
--	--	-----------------	----------------------	---

Group work materials and activities:

Games and exercises.	Easily arranged and cheap. Good for relaxing tension. Provide insights into the way groups work and into human relationships. Everybody is actively involved.	May be seen as an insult to adult dignity. May seem irrelevant. May worry the very shy.	Cheap (often there is no cost involved).	Easy.	Some games are now very complex and are consequently rarely suitable for workers' education. The best are simple games with a clear message. The tutor should always explain the rules clearly and, at the end, always discuss the (indirect) relevance of the game to workers' problems.
----------------------	---	---	--	-------	---

Case studies.	Everybody is actively involved. They teach students where to find information and how to analyse and present it. What is learnt in this way is better remembered.	They take more time than a lecture by a tutor. Some facts may be hard or impossible to find. Preparation requires investment of the tutor's time.	Cheap.	Easy where a keen high-level group is concerned.	Usually best for subgroups. Can be used to examine serious trade union problems. Should be followed by a plenary reporting session and thorough discussion.
---------------	---	---	--------	--	---

Reminder chart 29 (concl.)

Tool or material	Advantages	Disadvantages	Cost	Use	Comments
Role playing:	Has strong dramatic appeal. Helps to show all sides of a problem. Clarifies human relationships. The actors get really involved.	Usually some of the group are only observing. Some actors tend to over-play their part.	No cost.	Needs an attentive tutor and the co-operation of the group.	It is important to make the observers as active as possible (by asking them to report on specific points, etc.). Excellent for forcing the analysis of prejudices and "touchy" problems. Can be based on advance reading, discussion or talks. Can deal with pressing trade union issues. Should be followed by full discussion.
Simulation exercises, critical incidents, analysis, in-tray exercises.	The same as for role playing, but since there is closer guidance from the tutor, the exercises should be more to the point. Useful for directing attention to weaknesses common to several participants.	Require rather more involvement of the tutor and consequently slightly less student responsibility.	Cheap.	Need careful thought and planning.	May be better than role playing for new students or persons who need training for specific new duties. Should be followed by full discussion.

Demonstration and practice.	Still often the best method for learning how to accomplish specific tasks. Clearly relevant.	Some students may "slack" during the demonstration period and be unsuccessful during the practice period. Communication tends to be "one-way" until the practice period.	Cheap.	Needs a skilled tutor plus teaching aids.	Best results are obtained with participants who wish to master specific duties. There should be a step-by-step explanation of what is involved, with pauses for questions and discussions, followed by practice. ("If I do it, I know".)
-----------------------------	--	--	--------	---	--

Study visits and field work:

Involve observing and engaging in real life activities. Appeal to all the senses. ("One look is worth a thousand words".)	May degenerate into "outings". Difficult to prepare and organise so as to be of educational value. Need follow-up discussion.	Usually expensive.	Need care.	As they are usually costly, they must be well run to be justified. Good educational use should be made of the journey as well. A full analysis should be made afterwards.
---	---	--------------------	------------	---

Useful social action related to real objects and real life:

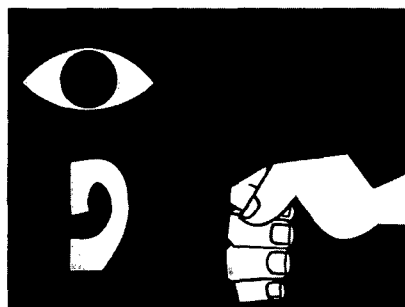
This is the ultimate goal of workers' education and therefore of all the techniques, tools and materials employed.

Workers' education and its techniques

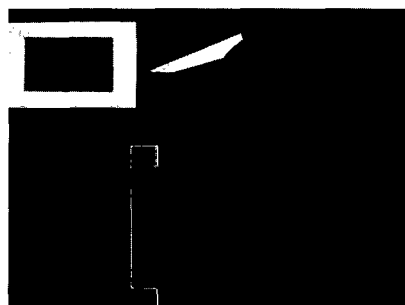
Figure 25. Pictorial summary of tools and materials for workers' education



The good tutor is ready to get to know his group and consult them about their objectives. He can then plan his teaching methods.



He needs to appreciate the importance of using visual and aural aids, and especially of combining them with practical activity and group work.

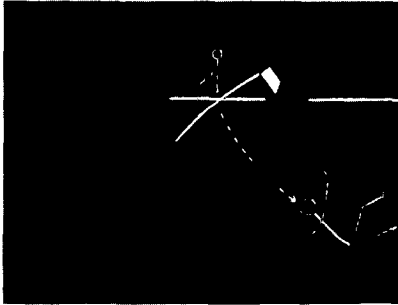


Books are tools for improving the mind, but workers need training in how to make good use of them.

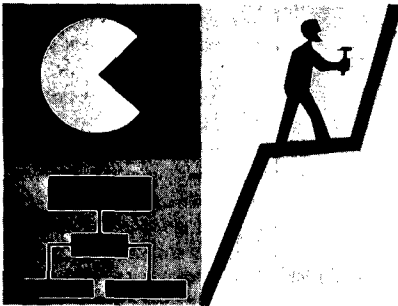


Wall newspapers (or bulletin boards) are a useful means of encouraging people to read and promoting group activity.

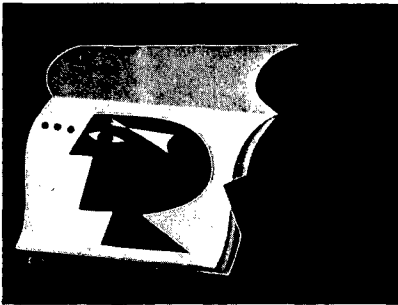
Tools and materials



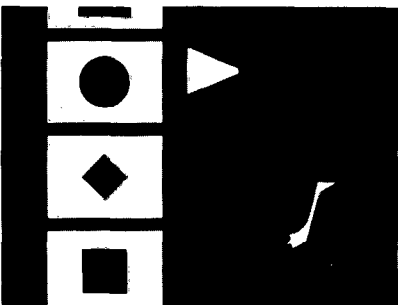
A blackboard (or its equivalent) should be available for every workers' group. In case of need newsprint and charcoal can be used. "One in the eye is worth six in the ear".



Diagrams, charts and graphs can often illustrate some ideas much better than words. They can be drawn on posters or on the blackboard or can be made as cut-outs for a flannelboard.

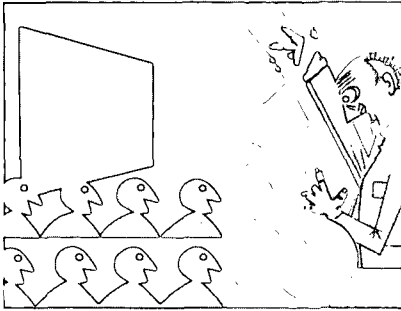


Turnover charts are best for a series of pictures following each other in sequence.

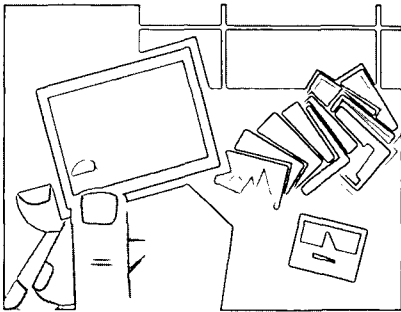


Filmstrips have the same advantages as turnover charts. Commentaries can be put on tape or gramophone records, but they need equipment and electricity.

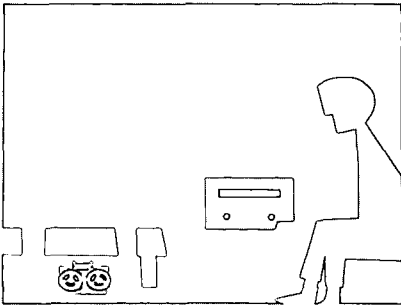
Workers' education and its techniques



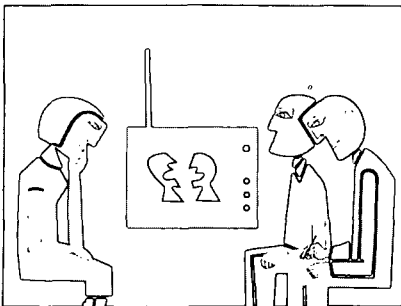
Films are excellent if they are relevant to the group's background and interests. (The tutor must ensure the presence of a skilled operator.)



Slides are simpler to make and to operate than films and filmstrips and can be made specially for (or by) the group.



Radio can be an excellent teaching aid, provided it is possible to influence the preparation of suitable programmes. It is most useful if listening groups can be organised and supplied with complementary written material, and if some system of reporting back can be arranged.



Television has great audio-visual appeal, but so far poor programmes and lack of equipment have prevented it from being useful for workers' education in most countries.

Tools and materials



Role playing is just one example of the many simulation techniques and exercises used for group activities. It is excellent for problem analysis and for preparation for social action.



Study visits and field work, if well prepared, are also excellent methods for promoting active learning.

CONCLUSION

As you have seen, this manual closes with a long chapter on the teaching methods that can be used in workers' education. However, this abundance of tools and techniques, whose purchase or application will in itself often represent an achievement, must not cause people to forget what they are for: to train workers to engage in useful social action. That is the goal which was set at the start of the manual and which should be recalled at every opportunity.

Whether or not the goal is attained will depend on the tutors, organisers, secretaries and directors of workers' education. It is they who must convince trade union leaders of the need to give priority to workers' education programmes, who must fire the workers with enthusiasm for the study opportunities made available to them, and in so doing promote the interests of the national and international community.

APPENDICES

1. ADDITIONAL SUGGESTIONS AND PRACTICAL EXERCISES

1. HOW TO ORGANISE A STEP-BY-STEP GROUP DISCUSSION

In their abbreviated form step-by-step discussions are an ideal method for conducting a one-day seminar or a week-end course. They can also be used for short two- or three-hour sessions. The principle of a step-by-step discussion is very simple. Basically, it involves having a single list of questions debated by several subgroups of participants, which then report back to the plenary meeting, where there is a full group discussion during which experts can be asked to clarify certain points. The practical application of this method is described below in the approximate order in which its various stages occur.

Preparations

Participants

The only limits on the number of participants are the physical facilities and the number of discussion leaders available. The level of experience of the participants cannot be too varied if the greatest benefit is to be derived from the course.

People with special duties

A number of people have to carry out certain essential duties during the discussions.

The director of studies must be well versed in the method and, if possible, have a knowledge of the subject to be discussed. At each successive stage he is responsible for guiding the work of his collaborators and solving any problems of a general nature that may arise, as indicated below. On no account, however, can he be held responsible for anything other than educational activities, such as transport or meals. He should preside over the opening and closing plenary sessions of the course. It is up to him to explain to the other people with special duties exactly what those duties are.

One or more outside experts on the topic under discussion, who are prepared to adapt themselves to the discussion method, should be present. As they will be told by the director of studies, their task is not to give a lecture but to reply to participants' requests for clarification and to comment on questions put to them, without ever spending more than five minutes on each point raised. If there are several experts, they will be asked to decide, before the session in which they are to participate, which of them will deal with each kind of question, so that they do not all speak on every point. In other words oratory is not one of the arts that the experts are expected to have mastered ; what they must be able to do is to impart their knowledge clearly and simply,

Workers' education and its techniques

without speaking over the heads of their listeners, and they must always show willingness to answer questions without pontificating. It may sometimes be difficult to find the necessary experts, either because there are none on the spot with the right qualifications or because those who are suitable are not available. In this case the director of studies will also have to act as an expert for certain questions, but only as a last resort should he be the one expert present. If he himself is not expertly acquainted with the matter under discussion, answers to questions can be prepared and duplicated ahead of time (see below).

There must be a discussion leader for each of the subgroups into which the participants will be divided. The discussion leaders should be told exactly what is required of them, but it is preferable that they should not be professionals, since this can foster a teacher-pupil relationship which inhibits group discussion rather than encouraging it. For teachers' training courses or other advanced courses lasting a week or more, outside discussion leaders can be dispensed with entirely, the participants being trained from the first day to act the part. All participants in courses, whatever their level, should at some stage be briefed in this art and sooner or later be given the opportunity to serve as discussion leader under the supervision of the director of studies. (See below, under "Last-minute preparations", for the advice they should be given.) If the course only lasts for one or two days and there are no outside discussion leaders, some of the participants will have to be chosen immediately to perform this function and briefed for an hour or two either on the preceding day or during the first morning. Briefing should cover the following points:

- the reasons for using group discussion;
- the stages of group discussion;
- the language of discussion;
- the role of discussion leaders in the subgroups and in the plenary session and the limitations on their participation;
- how to stimulate silent participants;
- how to control over-talkative participants;
- the selection of subgroup reporters and their role;
- how to help subgroup reporters;
- the purpose of observers and how to treat their presence;
- the floor plan of discussion rooms;
- the time and place of meetings.

A reporter for each subgroup will be responsible, during the discussion, for noting down, with the help of the discussion leader, the subgroup's agreed findings (or else the view of the majority and of the minority) and for presenting the conclusions of his subgroup at the final plenary session. The reporter may be designated in advance, or he may be chosen from among the members of the subgroup. In the latter case the discussion leader should ensure that the person selected knows how to read and write, is self-confident and has a good speaking voice.

There may be a general reporter to draw up the final report, but the designation of such a person is not absolutely essential.

Several observers—people who circulate from group to group to see how the discussions are progressing and who subsequently help the director of studies with their comments at the final session—may be present. Very often, however, observers are not strictly necessary.

Physical facilities

Assuming that there are no limitations of a material nature and that the decisive factor is the number of participants, the following facilities should be provided:

- a meeting-room big enough to seat all the participants;
- separate, quiet discussion rooms whose number should be equivalent to about one-tenth of the estimated number of participants;
- in the main meeting-room, a large blackboard suitably located so that everybody can see it, and also chalk and an eraser;
- in each discussion room 12-15 chairs placed around a large table, or in a circle with a small table in front of one of them for the reporter (the first article listed in Appendix 2 includes a diagram which might usefully be referred to in this connection); two or three chairs placed near the door for the use of observers; and, last but not least, an adequate blackboard.

Written material

Although the step-by-step discussion method requires a minimum of preliminary paperwork, this minimum must be prepared with particular care. This is specially important if it is the first time a topic has come up for discussion, since, as with lectures, the preparatory work is much easier on subsequent occasions. In fact, the key to success lies in the wise choice of the topic or series of topics, which must be of interest or concern to the participants and the sponsoring trade union or institution.

Once the topic has been selected, the director of studies should have a list of 15-20 questions for discussion drawn up. If several experts are available, each one can be allocated responsibility for a different aspect, with a view to launching a serious debate. The director is naturally entitled to modify or add to the list; in any case more than one person should review the questions before the list is duplicated.

It is a good idea to try out the questions for discussion on one or more persons who have not helped to compile them. At the director's request, they go through the questions one by one, trying to answer them. This exercise is bound to reveal weaknesses in certain questions and to lead to suggestions for others to be inserted in the list.

Generally speaking, the compilers of the list should put themselves mentally in the place of the participants when drawing up the questions and grade their difficulty and content accordingly. The questions that are likely to arouse the greatest interest should be put at the beginning of the list, while those that seem less relevant to the particular concerns of the participants should be left to the end. It is very often preferable to formulate the questions in such a way that they prompt a specific answer rather than elicit opinions or arguments.

The list, as adopted, should then be duplicated in a sufficient number of copies for each participant in the course to have his own. It is important not to forget to pass the list on to the experts as soon as possible in case they should want to prepare a particular aspect of the topic for discussion more thoroughly. From now on it is possible to verify whether the questions are in need of revision and improvement for subsequent use. Accordingly, during the discussion observers can go from group to group, noting mistakes and misunderstandings. The reports presented by the various subgroup reporters should also be used for this purpose.

It has already been pointed out, when describing the duties of the experts, that if there is no one with a thorough mastery of the subject attending the course, model answers can be used. This means that the sponsoring organisation prepares in advance the answers to the questions on the list and sends them to be duplicated. These answers are circulated exclusively among the persons responsible for organising the discussion, without being allowed to fall into the hands of the participants or of the discussion leaders, who need not even know that they exist. Otherwise, if they know about the answers, instead of making an effort to form opinions and properly discuss the questions, they will take the easy path that leads to the "exact reply". However, even the most perfect set of answers in the hands of the most intelligent organisers cannot be a substitute for hearing an expert on the subject; there are always some requests for clarification that cannot be foreseen.

Workers' education and its techniques

Sometimes the working papers prepared for short elementary courses attended by less literate participants serve no real purpose. It is advisable, however, always to have a stock of pamphlets or explanatory texts available for distribution in the hope that at least some of the participants will read them. Experience has shown that everybody willingly takes them home. The same warning applies here as for model answers: in the case of a one- or two-day course such publications should be circulated only at the end so as to prevent the participants from looking for ideas in them instead of having recourse to their own experience.

Finally, there are high-level courses in which the discussion depends on the participants being provided with proper basic documentation. This should be sent to the participants sufficiently in advance for them to be able to study it; if, for some reason, that should prove impossible it should be made available as early as possible during the course and the discussions should in the meantime be organised in such a way that they can begin without the participants having read the documents.

Language or languages of discussion

The problem of what language to use for the discussions arises only in areas where several languages are spoken, especially when none of them is the official language of the country or the language spoken by the experts. Since less-educated segments of the population can learn effectively only in their own tongues, there will be times when the only solution is to set up discussion groups by language. However, the participants may not necessarily agree to this and the director of studies must then put the problem to the discussion leaders so that each one can decide what to do in his own group. Should there be no way of avoiding the use of two languages, the discussion leader must be prepared to express himself, and especially to put the questions, in both languages, unless the participants making up the linguistic minority are very few, in which case a translation of what the others are saying can be whispered to them. It will then be necessary, however, to find somebody capable of handling this work of interpretation.

Subsequently, when the discussions have begun and the director of studies circulates from one subgroup to another, he may discover that certain participants have been left out of the debate altogether, due to language difficulties. He can then try to arrange to have them join a subgroup speaking the language they understand, though this may involve an exchange of members between two subgroups, in order to maintain a proper balance.

Finally, it is absolutely essential that all subgroup reports should be drafted in the *lingua franca* to be used in the plenary session.

Last-minute preparations

On the day of the seminar the director of studies, the discussion leaders (or at least some of them), the reporters and the observers should get together at least half an hour before the opening session to check the final arrangements—i.e. to ensure that the discussion rooms are ready, to clarify instructions regarding the method applied (not the subject-matter), and so on. This may be the ideal moment to give the discussion leaders a few practical words of advice for them to bear in mind during the ensuing hours.

Some hints for group discussion leaders

1. Go to your room as soon as it has been assigned. See that everything has been properly arranged before the participants arrive.
2. When the participants arrive, get them seated and start the discussion immediately. Do not hesitate or waste time. Do not leave the room to look for something that is missing; it will probably not be needed and, in any event, you can be sure that the director of studies will visit your group at some moment.
3. Ask the reporter to sit beside you, and ensure that he has a pen and paper.

4. Make a list of the participants in your group by circulating a sheet of paper for them to write their names on.
5. Read out the first question and start the discussion without waiting for the attendance list to have gone all the way round the group.
6. Be impartial. Do not get involved in the discussion yourself and do not lecture the group. You will have enough to do just guiding the discussion.
7. Do not try too hard to elicit "right answers". It is more important for the discussion to make people think.
8. Watch the clock. Take about ten or fifteen minutes for each question, but do not cut off fruitful discussion.
9. Use the chalkboard to list points and to summarise, but do not write out questions or answers in full. (The reporter is there to do the writing. A little use of the chalkboard helps the group to focus its attention on the most important points, but too much use of the board wastes time.)
10. Try to bring all the participants into the discussion of each question, if necessary by calling on them in turn or by name. Try to control any over-talkative people.
11. After a question has been sufficiently discussed, help the reporter by summarising the answer.

Progress of the step-by-step discussion

Opening session

The course should begin with a short opening plenary session, presided over by the director of studies. The purpose of this session is to provide the participants with a simple explanation of the step-by-step discussion method, the manner in which they will be divided into subgroups and the timetable of the meetings. Immediately after this explanation the subgroups, composed of between 8 and 13 (never less than 6 or more than 15) participants, from varying backgrounds, are formed. The subgroups are assigned numbers or letters to distinguish them, and the participants and discussion leaders are all given copies of the list of questions prepared beforehand and told when and where the next plenary session will be held. The opening session, which should not normally last more than a quarter of an hour, is then adjourned.

The discussion inside each subgroup

It has already been mentioned that each discussion leader must see that his subgroup is ready to start as soon as possible, with the reporter sitting at his table and the attendance list being circulated among the participants, all of whom should have received the list of questions.

The discussion leader reads out the first question, which he may well repeat to be sure that everybody has understood it correctly. Depending on the spontaneity with which the participants begin to speak, he will take the necessary steps to animate or slow down the discussion. When he feels that the question has been sufficiently debated, he summarises the collective opinion (or the opinions, if there are several) and asks the reporter to note it for inclusion in the subgroup's report. He then proceeds to the second question, and so on.

While these subgroup sessions are in progress the director, the observers and possibly the experts should make quick visits to the various rooms to see how things are going and to resolve any problems that may have arisen. It is most likely that there will be problems at the beginning and that the director and his assistants will be too busy to remain for any length of time in each room; however, once the course is running smoothly, they will be able to stay and listen to the speakers, but without taking part in the debate themselves. Undoubtedly issues will be put to them, but they should confine themselves to stating that such queries will be answered at a later session. It is

Workers' education and its techniques

very important for the experts to observe the discussions so that they can judge the level of the participants, find out what they know or do not know about the topic and take note of any misconceptions that may need clearing up. As already said, the director of studies needs to attend the discussions so as to be able, if this seems desirable, to improve the list of questions for future use. By circulating, he can also give experts who have not been able to sit in on the discussions of a particular subgroup accurate information about the performance of its members.

Preparing the subgroup's report

The intention, of course, is that each subgroup's report will be presented at the plenary session so that all the participants can hear the views of the different subgroups before moving on to the next stage of the discussion. For each reporter to be able, with the assistance of the discussion leader, to do his work properly, an interval must be provided between the end of the discussion in the subgroups and the plenary session—for example, the lunch break.

Presenting the reports

Since the purpose of step-by-step discussion is to enable participants to approach each question over and over again, every time in a different context, so that they have ample opportunity to assimilate the implications and to consider various answers and opinions, the plenary session at which the subgroup reports are heard is an essential stage and not just a formality. If properly handled, it brings into the open divergent positions and becomes the occasion for emphasising correct answers, rejecting false ones and in some cases demolishing arguments, stressing the importance and relevance of the topic under examination, revealing shades of meaning and posing further questions. Naturally, all this must occur in a spirit of good humour and without offending those who have reported wrong answers.

This plenary session can be confined to discussion of the reports or it can also provide the opportunity for referring points to the experts for clarification. In the former event another full meeting will have to be arranged in which the experts can take part. Either way reporting is organised somewhat as follows:

1. Chairs for the reporters are arranged facing the audience, and another chair for the director of studies is placed behind those of the reporters, possibly on a slightly higher level.
2. When the subgroups have been given numbers or letters to distinguish them, their reporters are seated in numerical or alphabetical order from left to right as seen from the audience.
3. When a large number of subgroups are reporting, the appropriate number or letter is written on the back of each reporter's chair, so that the director of studies may know immediately which reporter he should call upon to present his report.
4. The director of studies takes a minute or two to describe the procedure, explaining that he will call for the reports question by question rather than subgroup by subgroup.
5. At this point it is usual for him to compliment the leaders on the way in which they have handled the discussion in their respective subgroups and to invite them to take part in the general debate which follows. He asks the reporters to stand when called upon and to read out their answers in a loud voice.
6. The director of studies then reads out the first question.
7. He calls upon several, though not necessarily all, of the reporters to read their subgroups' answers to this question. For example, he calls upon reporters A, C, G, H, etc., until he feels that a good sample of opinion has been heard. He then asks

whether other reporters have any significantly different answers, without requiring all of them to speak.

8. As the answers are being reported, the director of studies helps the audience to catalogue them. He can do this either verbally or by summarising on the blackboard. For example, to liven up the debate, he may say: "Well now, we seem to have a difference of opinion. Subgroups D and E say 'yes'. Subgroup B says 'no'. Subgroup G has both answers, and the other subgroups really have no answers at all. What does the audience think?" When the question calls for a number of examples, the director may list them on the blackboard as they are given. He should try to organise the list, leaving out false or irrelevant points and consolidating identical ones, which have, however, been expressed in different words, in a single sentence. If an answer appears to be meaningless, the director should pass on quickly to the next reporter, with or without a remark, but when an intelligent, succinct answer is given, he should say: "Very interesting. I would like reporter F to repeat that answer, in a loud voice and slowly, so that we can all hear it." He may then write all or part of the good answer on the blackboard.
9. When the reports on the first question have been heard, the director of studies may put it to the audience for general discussion. Usually he does this in the case of divergent answers. Questions which evoke unanimously correct answers, on the other hand, can be disposed of quickly by saying something like: "All the subgroups have given substantially the same answer. Does everyone agree?" Some questions may draw such confused answers that the director has to defer general discussion of them by saying: "We really do not know the answer to this question. Let's wait for the expert to give it to us."
10. After hearing different members of the audience, the director may add his own opinion, presenting himself as an expert on certain questions.
11. At this point the procedure will vary according to whether the experts are participating in the session or not. If the experts are not present, the director summarises the generally agreed conclusions on the first question or lists divergences of opinion, helping the plenary reporter to phrase questions which will be put to an expert at a subsequent session. If the experts are present, the arrangement being that they should discuss the topic with the audience after presentation of the subgroups' reports, the director of studies now gives them the opportunity to speak.
12. If nobody has asked for any specific clarification, the director asks the experts whether one of them would like to comment on the topic and, if so, tries to ensure that the person concerned does not speak more than is necessary.
13. Assuming that the discussion of the first question has now been exhausted, the director reads out the second question and repeats the process.
14. The director of studies must watch the clock and time the discussion accordingly. This is why it was emphasised earlier that the most important questions should be placed at the beginning of the list. If time is running out and the session is part of a long course, it may be possible to hold over questions that have not been discussed in plenary for another session.
15. In concluding the session, the director of studies normally encourages the participants by thanking the reporters for their excellent work.

2. THE "I UNDERSTOOD YOU TO SAY" EXERCISE

This is a "game" for the whole group to play, and requires no equipment at all.

The tutor (helped, if necessary, by some of the worker-students) selects for discussion three topics on which lively and different views are likely to be held. That kind of

Workers' education and its techniques

topic will vary from country to country, but one is usually on the right track in choosing such issues as: "The place of women in society", "Equal pay for equal work", "Industrial versus craft unions", "Population policy", or "Modern youth". The theme should be fairly general so that people will not feel restricted.

The whole group is then divided into several teams of three—a referee and two debaters whom, for simplicity's sake, we shall refer to as "No. 1" and "No. 2"—and the organiser explains the rules of the game, including fixing a time limit. After making sure that everyone has understood, he announces the topic for discussion in the first round of the game. Under the rules No. 1 has to make opening remarks about the first topic announced. Generally he is allowed three, four or five minutes for this purpose. When he has finished his preliminary remarks it is the turn of No. 2, who, before he can begin giving his own views on the matter, however, must summarise accurately the points made by No. 1, starting with the words: "I understood you to say . . .". The referee, meanwhile, should have noted (mentally or on paper) the points made by No. 1, so as to make sure that No. 2 does what is required. Naturally the referee should not expect to hear No. 2 repeat No. 1's statement word for word—only the main points. When No. 2 indicates that he has completed his summary, the referee asks No. 1: "Did No. 2 understand what you said? Yes or no?" If the answer is "no", No. 2 attempts to remember the missing points; the referee, if necessary, allows some prompting from No. 1, but should on no account permit him to introduce any new elements.

Once No. 1 accepts that his opening statement has been understood, No. 2 can, in turn, state his initial views and the roles are reversed. At the end of this exchange, No. 1 can express a further set of views or arguments, and so the game continues.

If possible, there should be three rounds, so that each member of the team has a turn at being the referee, No. 1 and No. 2. After the three rounds have been completed, there should be a full and frank discussion on what the students learned during them about:

- their own ability to listen and state their views clearly;
- the ability of their team-mates in these two respects;
- the general difficulties involved in understanding other people (the "problems of communication").

The tutor should try to draw from the group the following conclusions regarding common difficulties:

Speakers:

- are often muddled and vague in what they say;
- are often greedy and try to talk most of the time;
- often express too many ideas at once;
- often do not relate one idea to the next;
- often do not respond to what the other speaker said (i.e. carry on a monologue instead of a dialogue).

Listeners:

- often find it hard to listen;
- often think about how they will reply to a point, and stop listening;
- often jump to conclusions and try to justify themselves by saying: "You implied . . ." or "You really meant . . .";
- often remember the first and last points made by the speaker but forget some in the middle.

3. DISCUSSION QUESTIONS ABOUT THIS WHOLE MANUAL¹

1. Did you find the reminder charts of value in studying the manual? If not, why not? If so, in what ways? Which were the most and which the least helpful?
2. Which of the special types of worker-students present real problems in your country? What special treatment do they need? What treatment have they had so far?
3. Which of the four major objectives or four main components of workers' education do you consider the most important for your country at the present time?
4. What help is given to workers' education in your country by the various bodies listed in Chapter 6, and what help do you consider should be given in the future?
5. What special problems of meeting times and meeting places arise for particular groups in your country?
6. Do you think the idea of residential hostel colleges for young workers could be helpful in your country?
7. What accommodation for residential courses do you now have available in your country? What would you like to have? Attempt to estimate the cost of building, equipping and running a 60-bed college.
8. Which of the techniques summarised in reminder chart 26 are suitable for particular workers' education groups in your country, and why?
9. Which of the tools and materials summarised in reminder chart 29 do you consider to be essential for any workers' education programme? How many of them are easily available in your country?
10. What help has workers' education in your country had from the ILO in the past? What help would you like to get in the future?

¹ It would be appreciated if replies to these questions could be sent to the Workers' Education Branch, ILO, Geneva, Switzerland.

2. SELECTION OF *LABOUR EDUCATION* ARTICLES ON METHODS AND TECHNIQUES¹

1. "Briefing session for group discussion: A model plan" (No. 15, Mar. 1969).
2. "Is the labour press 'educational'?" (No. 20, Oct. 1970).
3. "The reading club: Movies without pictures" (No. 16, June 1969).
4. "Labour education's best friend: The tape recorder" (No. 2, Oct. 1964).
5. "A witness to be believed: The tape recorder and its use for labour education courses in Algeria" (No. 5, Oct. 1965).
6. "What is the flannelboard?" (No. 7, June 1966).
7. "Drawing—encouragement to the beginner" (No. 13, June 1968).
8. "Blackboard, flipchart and flannelboard" (No. 9, Mar. 1967).
9. "A word about posters" and "Make your own posters!" (No. 21, May 1971).
10. "The overhead projector: Description and use" (No. 4, June 1965).
11. "Filmstrips and slides" (No. 5, Oct. 1965).
12. "United Kingdom: Introduction to basic economics through television" (No. 6, Feb. 1966).
13. "Labour education and mass information media" (No. 13, June 1968).
14. "Representing the union: A series of ten programmes for workers' education broadcast by the BBC" (No. 21, May 1971).
15. "A new teaching aid for basic economics: The game of Ecoplany" (No. 19, June 1970).
16. "Settle or strike (Learning by playing: A union-management collective bargaining simulation exercise)" (No. 20, Oct. 1970).
17. "Reflections on role-playing" (No. 4, June 1965).
18. "Plea on behalf of role-playing" (No. 10, June 1967).

¹ These articles have been published separately, in the form of a companion volume to this manual, under the title: *How to improve workers' education: A collection of articles on methods and techniques published in "Labour Education"* (Geneva, 1976) (ISBN 92-2-101277-8). Along with others, they had previously been issued as offprints, in which form they were available in a folder entitled *Methods and techniques of workers' education*.

19. "The organisation of training courses for trade union instructors" (No. 14, Oct. 1968).
20. "Integrated teaching methods in trade union training on wage and work study problems" (No. 20, Oct. 1970).

3. THE ILO AND WORKERS' EDUCATION

A BRIEF HISTORY

The ILO can claim to have been interested in the promotion of workers' education ever since its creation in 1919. Indeed Albert Thomas, the first Director of the Office, frequently emphasised the ILO's special educational responsibilities and even envisaged the establishment of an international workers' university.

In the years between the First and Second World Wars the educational work of the ILO mainly took the form of publishing informative studies and reports, sending officials on technical advisory missions, and receiving groups sent by trade unions, workers' educational associations and similar bodies at headquarters in Geneva.

After the Second World War, however, the urgent educational needs of the newly developing countries, related to their effort to achieve economic and social progress, made it clear that the ILO must strive to do more than it had done in the past. Accordingly, in a resolution adopted in 1950, the International Labour Conference requested that all appropriate measures should be taken to promote opportunities for workers to be educated, and defined the purpose of workers' education as being "to enable [workers] to participate more effectively in various workers' movements and to fulfil more adequately their trade union and related functions".

Since then, the setting up of joint and tripartite bodies in many parts of the world has made it essential for workers' representatives to have had the necessary education to carry out their functions efficiently and for a sufficient number of workers to have been trained to fill representative posts.

Because the kind of questions dealt with by joint and tripartite bodies naturally coincides with subjects on which the International Labour Conference has laid down standards (labour legislation, labour-management relations, conditions of work and life, occupational safety and health, etc.), it is natural that the Workers' Education Programme should have concentrated on these matters from the beginning. This has not, however, prevented the ILO from paying attention to more general aspects of workers' education in the interests of promoting true knowledge, but it does mean that it is impossible for it directly to assist narrowly conceived adult education programmes.

HOW THE ILO PROVIDES ASSISTANCE

The ILO's action in the field of workers' education may be grouped under five main headings:

1. *Supply of study materials*—The ILO has published a series of manuals, to which this volume can now be added. It also has a large and varied library of labour films

(some dubbed in various languages) and filmstrips, which it lends for educational purposes. In addition it has produced its own films and filmstrips, as well as flipcharts, posters, flannelboard cut-outs and other kinds of material.

2. *Collection and dissemination of information*—The ILO acts as a clearing house for information on workers' education. It compiles and makes available such information on request, or publishes articles in *Labour Education* or the *International Labour Review*, some of which are made available also in the form of offprints.

3. *Support for meetings, seminars and conferences*—This is provided in various ways: in the form of lecturers or additional material, of technical or financial assistance for specific purposes (for example for solving problems of organisation or helping to pay the travel expenses of participants), of meeting-rooms on its own premises in Geneva and other facilities, including personnel.

4. *Advisory services*—In addition to the advisory services which it provides in response to individual requests, the ILO has been sending missions of experts to various countries since 1956. These missions study the latent possibilities and weaknesses of workers' education projects and sometimes help with the training of instructors and administrators. Their work is supplemented by the action of the regional advisers attached to the ILO's offices in Africa, Latin America, Asia and the Arab countries.

5. *Fellowships*—The ILO Workers' Education Programme includes provision for the granting of a number of individual fellowships, covering periods ranging from three to six months. These fellowships are intended for people who are certain to be able to use their new knowledge to promote workers' education in their country.

FORMAS Y FRECUENCIA DE LOS ACTOS DE DISCRIMINACION ANTISINDICAL

1

Los actos de discriminación antisindical constituyen un campo en que las estadísticas no abundan y en que sería vano pretender llegar a un panorama basado en apreciaciones cuantitativas. Por eso, al describir las formas y la frecuencia de las prácticas antisindicales cobran especial valor las opiniones que la Oficina Internacional del Trabajo ha podido recoger entre los gobiernos, las organizaciones de trabajadores y las de empleadores, ya que las más de las veces son protagonistas de estos problemas y tienen, por tanto, experiencia directa de ellos.

Como era de preverse, las opiniones expresadas no siempre coinciden. Para facilitar su cotejo, se reproducen en las diversas secciones de este capítulo tal como se recibieron, pero tabuladas según su origen (gubernamental, sindical o empresarial).

FORMAS DE LOS ACTOS DE DISCRIMINACION ANTISINDICAL

La primera constatación que se impone al observador del escenario internacional es que la discriminación antisindical aparece como una enfermedad que, con mayor o menor virulencia, se observa en un gran número de países, pero cuyas manifestaciones varían muchísimo de uno a otro, yendo desde una medida disciplinaria de relativamente poca importancia hasta el despido u otras medidas graves. Sin embargo, detrás de esta primera impresión de multiplicidad se perciben ciertas formas comunes a la mayoría de los países considerados. De ellas se tratará en primer lugar¹.

¹ Las formas señaladas varían según se trate de información proporcionada por los gobiernos, las organizaciones de trabajadores o las organizaciones de empleadores. No se examinarán aquí sino las que se consideran más significativas desde el punto de vista internacional. El lector que desee más detalles podrá referirse al cuadro respectivo.

Protección contra la discriminación antisindical

La *no contratación*, el *despido*¹ y la *inclusión en «listas negras»*² parecieran ser formas de discriminación antisindical a la vez particularmente graves y particularmente generalizadas. Con la primera se procura impedir que la acción sindical penetre en la empresa; con la segunda se intenta eliminar una presencia sindical ya instalada, y con la última, finalmente, se procura neutralizar definitivamente al sindicalista activo cerrándole las puertas de cualquier nuevo empleo.

Tales medidas no son, pues, graves únicamente porque coartan la libertad sindical dentro de la empresa, sino también porque hacen peligrar las posibilidades de subsistencia material del sindicalista, cuya única fuente de ingreso suele ser su empleo. De ahí que se imponga doblemente la necesidad de una protección eficaz contra esas formas de discriminación: para defender al trabajador como tal y para defender su libertad de acción sindical, que es una dimensión fundamental de las libertades individuales.

Las medidas de protección jurídica contra el *despido* discriminatorio y la *no contratación* son relativamente abundantes; por el contrario, las referentes a la *inclusión en «listas negras»* se encuentran en relativamente pocos países³. En la práctica, las dos formas de discriminación asimilables al boicot exigen a todas luces un mecanismo que proteja eficazmente al trabajador: en efecto, un despido es fácil de comprobar en su materialidad fáctica (residiendo la dificultad probatoria en el elemento subjetivo o intencional), mientras que la comprobación de la *no contratación* (que no es acción, sino omisión) y de la *inclusión en «listas negras»* (siempre de carácter confidencial) puede llegar a ser extremadamente difícil, y muchas veces imposible. Sería un error, por tanto, pensar que un mecanismo de protección que resulte eficaz contra los despidos discriminatorios lo será igualmente contra las otras dos formas de discriminación antisindical. En cambio, es muy posible que un mecanismo útil para combatir la *no contratación* discriminatoria y la *inclusión en «listas negras»* sea igualmente eficaz para evitar o reparar los despidos discriminatorios.

Un segundo grupo de formas de discriminación antisindical, menos generalizadas que las anteriores, es el constituido por el *traslado*, la *suspensión*

¹ El despido discriminatorio suele cubrir otra forma específica de represalia antisindical que se llamará *reintegro discriminatorio*: al finalizar una huelga, el empleador se rehúsa a reincorporar a los militantes sindicales responsables de esa medida de fuerza. No se confundirá esta forma de represalia con la *no reintegración de funcionarios sindicales*, de la que se tratará más adelante.

² Se han señalado casos de una u otra de estas formas de represalia antisindical, por ejemplo, en los siguientes países: República Federal de Alemania, Argentina, Australia, Austria, Bélgica, Canadá, Colombia, Ecuador, Estados Unidos, Filipinas, Finlandia, Francia, Guatemala, India, Italia, Japón, Malasia, Nueva Zelandia, Pakistán, Panamá, Perú, Reino Unido, Senegal, Suecia, Suiza y Yugoslavia.

³ Véanse los cuadros sinópticos relativos a las disposiciones legales sustantivas generales y especiales, págs. 45-52 y 71-76, respectivamente.

y demás sanciones disciplinarias, la distribución desfavorable de tareas, el desmejoramiento (modificación unilateral de las condiciones de trabajo en perjuicio del trabajador) y el retardo en la promoción¹. Estas formas de discriminación no alteran el vínculo jurídico que liga al trabajador con su empleador; se utilizan más bien como presión para sancionar a un trabajador por su militancia sindical o para disuadir a terceros de imitar a un compañero particularmente activo en el campo sindical. Aunque menos radicales que los actos discriminatorios descritos precedentemente, estas formas de represalia pueden ser muy insidiosas: en un caso señalado por una organización sindical, una empresa metalúrgica obligó a un contador principal a dedicarse exclusivamente a efectuar a mano operaciones aritméticas sin utilidad alguna para la empresa².

La protección jurídica contra estas formas de discriminación antisindical ha sido objeto de menos atención que la destinada a combatir las citadas antes, a pesar de que ciertas informaciones de origen sindical parecen indicar que tales actos se practican con mayor frecuencia que los otros. Además, y aun en los países donde hay normas legales tuitivas, los trabajadores afectados vacilan en denunciar tales actos por temor a represalias más graves.

Menos generalizados parecieran ser los actos de discriminación anti-sindical que repercuten sobre el estatus económico del trabajador y que consisten en *promover exclusivamente a los no sindicalizados o aumentar su remuneración*, o en *promover a un trabajador o aumentar su remuneración con objeto de obtener su desafiliación de un sindicato*³. Aunque en ninguno de estos dos casos puede hablarse de perjuicio o daño material efectivo causado a un trabajador, es evidente que tales medidas menoscaban su libertad sindical al presionarlo económicamente para que no se afilie o para que se desafilie de un sindicato. La prueba directa de estas formas de discriminación es difícil de obtener, en parte porque el trabajador que cede a estas formas de presión económica está poco dispuesto a denunciarlas abiertamente.

Con cierto vigor se ha denunciado una forma de discriminación que recae

¹ Se han señalado casos de una u otra de estas formas de represalia antisindical, por ejemplo, en los siguientes países: República Federal de Alemania, Argentina, Austria, Bélgica, Brasil, Colombia, Estados Unidos, Filipinas, Finlandia, Francia, Guatemala, Hungría, India, Italia, Japón, Malasia, Panamá, Perú, Reino Unido, Senegal, Suecia y Yugoslavia.

² Se trata del caso «Fleurence», representante sindical ante el comité de empresa, caso que adquirió cierta celebridad en Francia. Para más detalles sobre los aspectos judiciales del mismo puede verse la nota de Jean Savatier sobre la sentencia del Tribunal Administrativo de Lyon, de 28 de julio de 1972, en autos «Société Anonyme des Aciéries du Forez c/ Ministre du Travail, sieur Fleurence intervenant», en *Droit social* (París), núm. 2, febrero de 1973, págs. 118-121.

³ Se han señalado casos de una u otra de estas formas de represalias económicas, por ejemplo, en los siguientes países: República Federal de Alemania, Austria, Filipinas, Guatemala y Suecia. Estas discriminaciones parecen ser relativamente más frecuentes, por ejemplo, en Alemania y en Suecia, países cuyos sistemas de relaciones laborales y cuyos mercados de trabajo (caracterizados en los últimos decenios por la escasez de mano de obra) excluyen por lo general la aplicación de otras represalias más «clásicas», como el despido o las sanciones disciplinarias.

Protección contra la discriminación antisindical

específicamente en los dirigentes, funcionarios y delegados sindicales: la *no reserva del puesto* o la *no reintegración*¹. En algunos países², ciertos militantes sindicales tienen derecho a ser reincorporados en sus puestos cuando terminan el mandato que los llevó a interrumpir temporalmente su trabajo. Así ocurre en caso de funciones sindicales que exigen una dedicación exclusiva por parte de sus responsables; generalmente se trata de las funciones más vitales para un sindicato (presidencia o secretaría general, tesorería y vocalías de la comisión directiva) o de cargos regionales o nacionales (dirigentes de federaciones o confederaciones, por ejemplo). Los actos discriminatorios denunciados consisten en negar trabajo o relegar a puestos menos favorables a esos sindicalistas cuando se presentan a sus empleadores para reasumir sus tareas al cabo de sus mandatos sindicales. No es difícil imaginar la penosa situación en que se encuentra un ex dirigente sindical que pierde al mismo tiempo la ocupación y los ingresos que le proporcionaban tanto su cargo sindical como su empleo. Menos difícil aún es imaginar el poder de disuasión que esa forma de discriminación antisindical puede ejercer sobre los afiliados que aspirarían a ser dirigentes.

Los actos de discriminación antisindical examinados hasta ahora suelen afectar cada vez a uno o a unos pocos militantes sindicales. Sin embargo, hay actos discriminatorios que abarcan a grupos íntegros de trabajadores. Tales «actos discriminatorios colectivos» parecen ser: el *cierre total o parcial de un establecimiento*, la *transferencia del establecimiento* y la *subcontratación* seguida de *suspensiones o licenciamientos*³. Por cierto que no todo cierre, transferencia o subcontratación constituye un acto de discriminación; sólo se lo puede calificar de tal cuando concurren la motivación antisindical y el menoscabo efectivo de la libertad sindical, es decir, cuando el empleador cierra o transfiere su establecimiento (o subcontrata sus actividades) con

¹ Se han señalado casos de esta índole, por ejemplo, en Argentina.

² Por ejemplo, Argentina (L 20615/73, 51 y 60, h), Turquía (L 1317/70, 20, 1) y URSS (D 27.9.71, 29).

³ En los Estados Unidos se ha considerado que el *cierre parcial* de un establecimiento por motivaciones antisindicales constituye, en ciertas condiciones, un acto de discriminación prohibido por la ley nacional sobre relaciones de trabajo, en su artículo 8, a), 3) (véase el caso «Textile Workers Union v. Darlington Manufacturing Co.», en LRRM (Washington, DC, The Bureau of National Affairs Inc.), vol. 58, 1965, pág. 2657). En el mismo caso que dio lugar a esa sentencia se estimó, en cambio, que el *cierre total* de un establecimiento no podría considerarse ilícito aunque fuese motivado por razones antisindicales. También se ha estimado violatoria de la citada norma legal la *transferencia* de un establecimiento motivada por razones antisindicales, y cabe señalar que la jurisprudencia sobre este proceder, comúnmente llamado «del establecimiento fugitivo» (*runaway shop*), es más abundante. Como ejemplo se mencionarán dos casos: «Jacob H. Klotz et al.», en LRRM, vol. 4, 1939, págs. 344-351, y «Local 57, Int'l Ladies' Garment Workers' Union v. NLRB», *ibid.*, vol. 64, 1967, págs. 2159-2168. En Filipinas, según la información proporcionada por el Gobierno, se consideran actos de discriminación antisindical el *cese total de operaciones* mediante ventas ficticias y la *subcontratación* de trabajo; se advertirá, sin embargo, que la legislación en sí prohíbe sólo esta última forma de discriminación (CT, 294, c)).

objeto de deshacerse de un grupo de trabajadores sindicalmente organizados.

Aunque no ha sido posible precisar la frecuencia exacta de este tipo de actos, que aparentemente no son corrientes y sólo se producen en unos pocos países, se ha considerado útil mencionarlos porque poseen un «potencial antisindical» muy elevado: en primer lugar, por su carácter colectivo, que permite descuajar un sindicato eliminando al mismo tiempo sus raíces, su tronco y sus ramas; en segundo lugar, por la posibilidad de que los practiquen a nivel internacional las empresas transnacionales¹.

Informaciones provenientes sobre todo de organizaciones profesionales de empleadores señalan dos formas genéricas de prácticas discriminatorias que se llamarán aquí «actos de discriminación prosindical» y «actos de discriminación intersindicales»². Los primeros consisten, al parecer, en ventajas excesivas o abusivas obtenidas por ciertos sindicatos en desmedro de los trabajadores no afiliados a algún sindicato: éste sería el caso, por ejemplo, de las primas salariales concedidas únicamente a los trabajadores sindicalizados³. Los segundos consisten, según las informaciones, en represalias instigadas

¹ Sobre *amenazas* de cierre de plantas o transferencia de actividades formuladas por transnacionales, pueden verse, por ejemplo, Christopher Tugendhat: *The multinationals* (Londres, Eyre & Spottiswoode, 1971), capítulo 13: «Trade union problems», págs. 180-192; *El desafío de las compañías multinacionales*, Informes de la Conferencia Económica Mundial de la CIOISL, número 2 (Bruselas, Confederación Internacional de Organizaciones Sindicales Libres, 1971), página 9, párrafo 4; David Lea: «Multinational companies and trade union interests», en John H. Dunning (director de la edición): *The multinational enterprise* (Londres, Allen and Unwin, 1971), capítulo 5, pág. 153. Respecto a otras prácticas antisindicales, véase Karl Casserini: «The challenge of multinational corporations and regional economic integration to the trade unions, their structure and their international activities», en Hans Günter (director de la edición): *Transnational industrial relations: The impact of multinational corporations and economic regionalism on industrial relations*, simposio celebrado en Ginebra por el Instituto Internacional de Estudios Laborales (Londres, Macmillan, St. Martin's Press, 1972), págs. 82-83. Para una introducción general al tema de las relaciones entre empresas multinacionales y sindicatos véase OIT: «Las relaciones de trabajo en el marco de las empresas multinacionales», *RIT*, vol. 87, núm. 6, junio de 1973, páginas 557-582. Este artículo fue extraído de la obra *Las empresas multinacionales y la política social*, Estudios y documentos, NS núm. 79 (Ginebra, OIT, 1973), págs. 91-116.

² Se han señalado actos de esta índole particularmente en Bélgica y Canadá.

³ En Bélgica, las prestaciones exclusivamente para sindicalizados fueron acordadas por primera vez en un convenio colectivo celebrado en 1954 en la industria del cemento; las cláusulas de ese tipo se generalizaron a partir de 1960. En la actualidad constituyen un rasgo característico del sistema de relaciones profesionales del país. Para más detalles pueden verse: Roger Blanpain: «Las negociaciones colectivas en Bélgica», *RIT*, vol. 84, núm. 1, julio-agosto de 1971, páginas 145-146; R. Geysen: *Jurisprudence du travail (1966-1970)* (Bruselas, Larcier, 1973), páginas 216-218, párrafos 453-454. Se han declarado ilegales cláusulas de esta naturaleza en Francia y en la República Federal de Alemania (Otto Kahn-Freund: *Labour and the law* (Londres, Stevens, 1972), pág. 148, nota 4). El Comité de Libertad Sindical de la OIT fue llamado a pronunciarse sobre estas cláusulas; considerando que podían asimilarse a cláusulas de seguridad sindical y teniendo en cuenta que la Conferencia Internacional del Trabajo había estimado que tales cláusulas constituían cuestiones que dependían de la reglamentación y de las prácticas nacionales, el Comité se abstuvo de pronunciarse en cuanto al fondo del problema (véase 92.º informe, caso núm. 376 (Bélgica), párrafos 18-41).

Protección contra la discriminación antisindical

por un sindicato en perjuicio de los afiliados a otro sindicato; como ejemplo de esta forma de discriminación se cita el caso de un sindicato minoritario cuyos miembros no recibieron promoción alguna durante más de dos años debido a la presión ejercida por el sindicato mayoritario sobre el empleador.

La enumeración que precede de las diferentes formas que puede asumir una discriminación antisindical no agota, por cierto, ni todas las formas que han señalado los gobiernos y las organizaciones profesionales de trabajadores, ni todas las formas que sería posible imaginar. Es sencillamente una enumeración de las formas más significativas desde el punto de vista de la experiencia internacional.

Todas tienen en común dos elementos: la motivación antisindical y el menoscabo efectivo del ejercicio de la libertad sindical —subjetivo el primero, objetivo el segundo—, sin los cuales no puede afirmarse que haya acto de discriminación antisindical. En cambio, no parece indispensable que haya perjuicio directo de carácter patrimonial; en efecto, no lo hay necesariamente ni en el caso de traslado o transferencia del trabajador sin disminución de la remuneración, a causa de su afiliación sindical, ni menos aún en el caso de ascenso o aumento del salario condicionado a la afiliación o desafiliación. Hecha esta salvedad, en la práctica el perjuicio patrimonial, directo o indirecto, será casi siempre uno de los efectos más patentes entre los que acompañan al acto de represalia antisindical.

La identificación de los elementos que distinguen estos actos puede parecer un ejercicio conceptual inútil, sin posibles consecuencias prácticas, pero la realidad dista de ser ésa. Si se toma como base que el elemento objetivo esencial de un acto de discriminación antisindical es el perjuicio patrimonial, y no el menoscabo de la libertad sindical, se puede válidamente concluir que la indemnización de los daños y perjuicios causados constituye una protección suficiente (ésa es, por lo demás, la única reparación concedida tradicionalmente por los tribunales civiles). Si, por el contrario, se considera que el elemento objetivo esencial es el menoscabo de la libertad sindical del trabajador (siendo el daño patrimonial uno de los diversos medios o instrumentos utilizados), la protección, para ser suficiente, no podrá limitarse a la indemnización de los daños y perjuicios causados: deberá comenzar por el restablecimiento de la plena libertad sindical del trabajador afectado.

En el cuadro 1 se reproducen, por países, las informaciones facilitadas por los respectivos gobiernos, organizaciones de trabajadores y organizaciones de empleadores acerca de las formas de discriminación antisindical observadas en el país.

Formas y frecuencia de los actos discriminatorios

Cuadro 1. Formas de discriminación antisindical

País	Origen de la información		
	Gubernamental	Sindical	Empresarial
Alemania (Rep. Fed.)		<ul style="list-style-type: none"> —Primas, promociones y aumentos para que el trabajador no se afilie (forma más frecuente); —no contratación; —traslado; —suspensión; —no promoción; —despido. 	
Argentina	<ul style="list-style-type: none"> —Sanción y/o despido del dirigente o delegado sindical (forma más generalizada); —represalias; —suspensión; —desmejoramiento; —no reserva del puesto. 		
Australia			—Despido.
Austria	<ul style="list-style-type: none"> —Despido; —promociones discriminatorias; —distribución injusta de tareas. 	<ul style="list-style-type: none"> —Despido; —promociones discriminatorias; —distribución injusta de tareas. 	
Bélgica	—Despido.	<ul style="list-style-type: none"> —Despido; —distribución desfavorable de tareas; —traslado; —retardo en las promociones. 	—Discriminaciones pro-sindicales: primas en favor de trabajadores sindicalizados.
Brasil	—Traslado.		
Canadá		<ul style="list-style-type: none"> —No contratación; —despido; —amenazas y coerción. 	<ul style="list-style-type: none"> —Despido; —medidas disciplinarias.
Colombia		<ul style="list-style-type: none"> —Despido; —no contratación; —retardo en promociones; —distribución desfavorable de tareas; —traslado; —suspensión; —«listas negras». 	<ul style="list-style-type: none"> —No contratación; —despido.

Protección contra la discriminación antisindical

Cuadro 1 (continuación)

País	Origen de la información		
	Gubernamental	Sindical	Empresarial
Ecuador		<ul style="list-style-type: none"> —No contratación; —despido; —«listas negras»; —coacción sistemática. 	
Estados Unidos	<ul style="list-style-type: none"> —Despido; —suspensión; —medidas disciplinarias; —retrogradación; —traslado; —cambio de tareas; —denegación de tareas solicitadas por el trabajador; —subcontratación de trabajos acompañada de suspensiones; —reducción de la comodidad de los lugares de trabajo; —denegación de licencias pagadas de enfermedad; —tolerancia de actos de violencia antisindical cometidos por trabajadores. 		
Filipinas	<ul style="list-style-type: none"> —Cese total de operaciones mediante ventas ficticias; —otorgamiento de más beneficios indirectos y aumentos de remuneración a los no afiliados; —discriminación en las promociones; —traslados; —despido y suspensión por violaciones triviales de los reglamentos de trabajo. 		
Finlandia	<ul style="list-style-type: none"> —Distribución desfavorable de tareas; —retardo en promociones; —«listas negras»; —denegación de puestos de supervisión a los trabajadores sindicalizados. 	<ul style="list-style-type: none"> —Denegación de puestos de mayor responsabilidad; —asignación de tareas desfavorables. 	

Formas y frecuencia de los actos discriminatorios

Cuadro 1 (continuación)

País	Origen de la información		
	Gubernamental	Sindical	Empresarial
Francia	<ul style="list-style-type: none"> —Despido; —retardo en promociones. 	<ul style="list-style-type: none"> —Despido; —traslado; —cambio de tareas; —sanciones disciplinarias: represión, amonestaciones, advertencias, etc.; —malas referencias sobre los ex trabajadores con funciones sindicales; —no reincorporación; —cuestionarios de enganche inquisitorios; —no contratación; —contratación condicionada a la afiliación al sindicato «de la casa», especialmente tratándose de migrantes; —no renovación de contratos de trabajadores migrantes; —sanciones en materia de remuneraciones, de la calificación y de la promoción; —asignación a puestos de menos importancia o particularmente penosos; —vejaciones y presiones para provocar la dimisión. 	<ul style="list-style-type: none"> —Despido.
Ghana		<ul style="list-style-type: none"> —Transferencias; —promociones. 	
Guatemala		<ul style="list-style-type: none"> —No contratación; —asignación de tareas más pesadas y humillantes; —traslados a lugares o puestos menos ventajosos; —denuncias falsas ante las autoridades por comunistas; —coacción para que se renuncie al trabajo; —desprestigio de un trabajador delante de los demás; —ofrecimiento de dinero o ascensos para que se 	

Protección contra la discriminación antisindical

Cuadro 1 (continuación)

País	Origen de la información		
	Gubernamental	Sindical	Empresarial
		<ul style="list-style-type: none"> —renuncie a un cargo sindical; —despido; —amenazas de muerte; —asesinato. 	
Hungría		<ul style="list-style-type: none"> —Desmejoramiento de los funcionarios sindicales; —no inclusión del funcionario sindical en los reajustes generales de las remuneraciones y en las distribuciones de bonos o gratificaciones; —transferencia del funcionario sindical por una falta leve que habría sido tolerada a otro. 	
India	<ul style="list-style-type: none"> —Despido; —retardo en promociones; —traslado de miembros activos de un sindicato. 		
Italia		<ul style="list-style-type: none"> —No contratación; —retardo en promociones; —distribución desfavorable de tareas; —traslado; —suspensión; —despido; —inclusión en «listas negras». 	
Japón	<ul style="list-style-type: none"> —Despido; —traslado. 		
Malasia	—Despido.		<ul style="list-style-type: none"> —Transferencia; —despido; —reducción de personal; —no promoción.
Nigeria	<ul style="list-style-type: none"> —Negarse a reconocer a un secretario rentado de sindicato a causa de sus actividades sindicales; —reducción de plantillas; —retardo en promociones; —transferencia a otro lugar o a otro trabajo. 		

Formas y frecuencia de los actos discriminatorios

Cuadro 1 (fin)

País	Origen de la información		
	Gubernamental	Sindical	Empresarial
Nueva Zelandia	—No contratación.		
Pakistán	—Despido de dirigentes sindicales.		
Panamá	—Despido; —desmejoramiento.		
Perú	—No contratación; —retardo en promociones; —distribución desfavorable de tareas; —traslado.		
Reino Unido	—No contratación; —retardo en promociones; —distribución desfavorable de tareas; —traslado; —suspensión; —despido; —inclusión en «listas negras».		
Senegal	—Retardo en promociones; —traslado; —inclusión en «listas negras»; —despido.		
Suecia		—Aumento de salario condicionado a la desafiliación de un sindicato; —retardo en la promoción; —prioridad a los trabajadores no sindicalizados; —despido.	—Despido.
Suiza	—Despido.	—Despido.	
Yugoslavia		—Despido; —transferencia a un puesto menos remunerado; —limitaciones en materia de promociones y de formación.	

FRECUENCIA DE LOS ACTOS DE DISCRIMINACION ANTISINDICAL

La discriminación antisindical, como se acaba de ver, se manifiesta en una u otra forma en todos los continentes, pero mientras que en algunos países puede constituir un fenómeno ocasional y poco difundido, en otros se produce con relativa frecuencia, especialmente en determinados sectores de actividad.

En el cuadro 2 se presentan lado a lado las apreciaciones de los gobiernos y de las organizaciones de trabajadores y de empleadores sobre la frecuencia de tales prácticas.

SITUACIONES EN QUE MAS FRECUENTES SON LOS ACTOS DE DISCRIMINACION ANTISINDICAL

Ciertas situaciones —circunstancias, períodos o momentos de las relaciones obrero-patronales— parecieran favorecer los actos de discriminación antisindical o, en todo caso, ser oportunidades en que se los comete. Las informaciones de alcance internacional que se conocen dan una idea de cuáles son las principales de esas situaciones. A continuación se les pasará revista.

Con ocasión de la organización de un sindicato de empresa o de una sección sindical en una empresa ¹

El período en que se organiza dentro de una empresa un sindicato o una sección sindical es para el sindicato el de mayor vulnerabilidad; bastará a veces con despedir a los organizadores para hacer abortar la acción a favor de la agrupación profesional de los trabajadores dentro de la empresa. De las dos situaciones aludidas, el fracaso del futuro sindicato de empresa tiene efectos más profundos que el de la sección sindical proyectada. En efecto, la eliminación de la célula sindical en países donde la empresa es la base de la estructura del movimiento obrero significa, en la mayoría de los casos, la destrucción del sindicato mismo. En tales países se vuelve necesario, pues, ofrecer una eficaz protección a los *dirigentes sindicales* porque de su presencia en la empresa suele depender la existencia del sindicato. La situación cambia en los países en que la estructura sindical se basa en la rama de actividad: ahí, quien necesita más protección es el *delegado* sindical, personalmente, ya que su eliminación de la empresa quiebra el lazo entre la base y el sindicato

¹ Estas situaciones se han señalado, por ejemplo, en los países siguientes: Bélgica, Canadá, Colombia, Ecuador, Filipinas, Francia, Guatemala, Japón, Malasia, Reino Unido y Senegal. Para una mejor apreciación de la información recibida, en función del origen de la misma, véase más adelante el cuadro 3.

Formas y frecuencia de los actos discriminatorios

Cuadro 2. Frecuencia de los actos antisindicales

País	Origen de la información		
	Gubernamental	Sindical	Empresarial
Alemania (Rep. Fed.)	—Raros.	—Raros.	
Argentina	—Cierta frecuencia.		
Australia			—Raros.
Austria	—Sumamente raros en grandes empresas con sindicatos fuertes y consejos de empresa instalados; —más frecuentes en empresas pequeñas; —tendencia a desaparecer en periodos de alta coyuntura, cuando aumenta la demanda de mano de obra.	—Raros en grandes empresas con sindicatos fuertes y consejos de empresa instalados; —más frecuentes en empresas pequeñas en donde no es obligatorio establecer consejos de empresa; —tendencia a desaparecer en periodos de alta coyuntura.	
Bélgica	—Relativamente raros.	—Raros en empresas donde el sindicato está sólidamente implantado; —más frecuentes en empresas donde hay poca sindicalización.	—Sumamente raros.
Brasil	—Raros.		
Canadá	—Raros.	—Muy frecuentes, particularmente en empresas fabriles de pequeña y mediana dimensión.	—Raros.
Colombia		—Frecuentes.	—Raros en las grandes empresas sindicalmente organizadas; —más frecuentes en pequeñas industrias (familiares o personales), en empresas comerciales y en el sector agropecuario.
Ecuador		—Frecuentes en el sector agropecuario, contra los chóferes asalariados del transporte urbano, en la región de la costa y en la región oriental.	
Estados Unidos	—Frecuentes.		

Protección contra la discriminación antisindical

Cuadro 2 (continuación)

País	Origen de la información		
	Gubernamental	Sindical	Empresarial
Filipinas	—Cierta frecuencia.		
Finlandia	—Raros en el sector sindicalmente organizado; —probablemente más frecuentes en los sectores no organizados y geográficamente aislados o remotos, y en las pequeñas empresas; —frecuencia difícil de estimar.	—Cierta frecuencia.	
Francia	—El número de infracciones no permite establecer una estadística con valor significativo.	—Frecuentes; —tendencia a aumentar en la industria del automóvil, en los supermercados gigantes, en el sector de la construcción y en las empresas de pequeña y mediana dimensión.	—Raros.
Ghana	—No hay pruebas de que ocurran actualmente.	—Raros.	
Guatemala		—Frecuencia pavorosa.	
Hungría	—No existen.	—Raras veces se intenta discriminar contra un funcionario sindical.	
India	—No muy frecuentes.		
Italia		—Cierta frecuencia.	
Jamaica			—Muy raros.
Japón	—Frecuentes.		
Malasia	—A menudo alegados por los sindicalistas.		—Poco comunes.
Mali	—Inexistentes.	—Inexistentes desde la fundación del Estado de Mali (1960); —frecuentes hasta entonces.	—Inexistentes.

Formas y frecuencia de los actos discriminatorios

Cuadro 2 (fin)

País	Origen de la información		
	Gubernamental	Sindical	Empresarial
México	—Raros.		
Nigeria	—Poco frecuentes.		
Nueva Zelandia	—Raros.		
Pakistán	—Cierta frecuencia; —tendencia a disminuir después de la instalación de la Comisión Nacional de Relaciones de Trabajo.		
Panamá	—Cierta frecuencia.		
Perú	—Cierta frecuencia.		
Reino Unido	—Raros.		
Rumania	—Inexistentes.		
Senegal	—Raros.		
Sierra Leona	—Inexistentes.		
Suecia	—No se dispone de información apropiada.	—Poco comunes; —en los últimos diez años, el Tribunal de Trabajo sólo ha considerado unos pocos casos.	—Muy raros: no se llevan ante el Tribunal del Trabajo cada año sino uno o dos casos a lo sumo.
Suiza	—Muy raros.	—Solamente un caso en el curso de estos últimos años.	—Inexistentes.
Trinidad y Tabago	—No hay decisiones judiciales al respecto.		
Túnez	—Casi inexistentes.		
Turquía			—Raros.
URSS		—Inexistentes.	
Yugoslavia		—Raros.	
Zaire			—Raros.

Protección contra la discriminación antisindical

sectorial. Huelga decir que estas situaciones no responden a una regla general y sólo se presentan en las empresas que desaprueban la organización sindical de sus trabajadores.

Con ocasión de huelgas y otras medidas de fuerza colectivas ¹

Puesto que se llega generalmente a la huelga o a otras medidas de fuerza cuando se han agotado los cursos de acción menos radicales, evidentemente se producirán entonces los periodos de máxima tensión, o incluso de ruptura total, de las relaciones obrero-patronales. Es fácil comprender que sean momentos especialmente propicios para que la empresa tome represalias, con objeto sea de *disuadir* a los trabajadores de plegarse a la huelga o medida de fuerza —si ésta no se ha declarado aún—, sea de *sancionar* a los líderes de la acción sindical —si ya se ha puesto en práctica—, sea de *eliminar* a los responsables una vez terminada la pugna.

Con ocasión de la presentación de reivindicaciones colectivas y de la negociación de convenios colectivos ²

Aunque teóricamente la presentación de reivindicaciones y la negociación de convenios colectivos puedan constituir situaciones aparte, en la práctica suelen coincidir, puesto que las peticiones se preparan casi siempre como base para negociar el convenio. De ahí que los empleadores que no desean llegar al estadio de las negociaciones, o que quieren situarse en la mejor relación de fuerzas posible, ejerzan presión sobre los autores del pliego de peticiones en cuanto conocen su identidad.

La contratación colectiva es una fase crítica en la vida de un sindicato: es la oportunidad en que podrá probar a sus afiliados —y aun a los no afiliados— la eficacia concreta de su acción reivindicativa. Más aún, si se trata de la negociación del primer convenio, de su éxito o fracaso dependerá quizás la subsistencia misma del sindicato como estructura de representación colectiva; no es de extrañar entonces que en un país se haya señalado que una vez que el sindicato obtiene su primer convenio «se siente relativamente seguro»³, y en otro país, que los actos de represalias de la empresa arreciaban

¹ Se han señalado situaciones de esta índole, por ejemplo, en los siguientes países: República Federal de Alemania, Argentina, Bélgica, Brasil, Canadá, Colombia, Ecuador, Filipinas, Finlandia, Francia, Guatemala, Italia, Japón, Reino Unido y Senegal.

² Se han señalado estas situaciones, por ejemplo, en los países siguientes: República Federal de Alemania, Bélgica, Canadá, Ecuador, Filipinas, Francia, Guatemala, Hungría, Malasia, Perú, Reino Unido y Suecia.

³ Apreciación formulada por el Congreso del Trabajo de Canadá.

cuando no se había logrado hacer incluir en el convenio colectivo cláusulas relativas a la estabilidad en el empleo¹.

Las represalias antisindicales aplicadas en estas circunstancias son más fáciles de tomar cuando el sistema legal vigente permite a los empleadores despedir al trabajador (a condición de que le paguen la indemnización prevista por la ley para todos los casos de despido injustificado), incluso si el motivo real del despido es la actividad sindical²: puede resultar más barato pagar unas pocas indemnizaciones, por elevadas que sean, que conceder un aumento general de salarios, por ejemplo.

Con ocasión de elecciones sindicales o profesionales ³

Las elecciones de los representantes del personal son otra oportunidad de tensión, porque de los resultados depende la personalidad del interlocutor o interlocutores con quienes el empleador tendrá que entenderse más tarde. Por eso ocurre a veces que se tomen medidas discriminatorias un tiempo *antes* de la fecha de las elecciones, a fin de «depurar» las listas de candidatos, sobre todo, según parece, cuando se trata de la instalación del primer consejo de empresa o de la primera sección sindical⁴.

Se han señalado igualmente casos en que la discriminación se ejerció poco *después* de las elecciones, para excluir o neutralizar a un representante con quien el empleador no deseaba tratar.

De fuente patronal se ha señalado el uso abusivo de las elecciones sindicales para hacer conferir la condición de «trabajador protegido» a obreros o empleados cuya conducta anterior justificaba la aplicación de medidas disciplinarias severas.

Con ocasión de rivalidad manifiesta entre sindicatos de un mismo establecimiento ⁵

En el conjunto de respuestas recibidas son casi un lugar común las frases en el sentido de que donde hay sindicatos fuertes y eficientes no se producen

¹ Apreciación formulada por la Confederación de Trabajadores de Colombia.

² El Comité de Libertad Sindical ha estimado que las legislaciones nacionales que autorizan el despido en estas condiciones «no conceden una protección suficiente contra los actos de discriminación antisindical mencionados en el Convenio núm. 98» (78.º informe, caso núm. 364, párrafo 73; 119.º informe, caso núm. 611, párrafos 104 y 105; véase OIT: *La libertad sindical*, Recopilación de decisiones del Comité de Libertad Sindical del Consejo de Administración de la OIT (Ginebra, 1972), págs. 70-71, párrafo 177).

³ Se han señalado situaciones de este tipo, por ejemplo, en los siguientes países: República Federal de Alemania, Bélgica, Filipinas, Francia, Guatemala, Reino Unido y Senegal.

⁴ Aparentemente así ocurre, entre otros países, en la República Federal de Alemania, Austria y Francia.

⁵ Se han señalado situaciones de este tipo, por ejemplo, en los siguientes países: Australia, Bélgica, India, Japón, Reino Unido y Senegal. Entra en la misma categoría la rivalidad entre un sindicato auténtico y un sindicato «amarillo», aunque en este caso la pugna es suscitada por el empleador y los actos discriminatorios tienen por objeto la eliminación del sindicato auténtico.

Protección contra la discriminación antisindical

actos de discriminación antisindical. A la inversa, la rivalidad manifiesta entre sindicatos —generalmente entre uno mayoritario y otro minoritario que le disputa una parte de su representatividad— se presenta como un elemento favorable para la aplicación de medidas de represalia antisindical. En realidad, la rivalidad entre sindicatos parece ser, pues, un factor que perjudica no sólo una posible acción común, sino también la protección individual de sus militantes.

Con ocasión de una reestructuración o racionalización de la empresa ¹

Pareciera que con cierta frecuencia se aprovechan las reestructuraciones o racionalizaciones de la empresa para despedir, trasladar o transferir a militantes sindicales, y el hecho de que esas reformas sean reales no quita, dicen ciertas fuentes, que se utilicen como pretexto o disfraz de las decisiones discriminatorias. Se comprenderá fácilmente la dificultad de comprobar el carácter antisindical de actos cometidos en el marco general de una acción lícita: a veces, sólo una larga experiencia en materia de relaciones sociales y un conocimiento profundo del funcionamiento de la empresa permitirán distinguir dónde termina el ejercicio del derecho a racionalizar y dónde empieza el abuso del mismo.

Con ocasión de protestas formalizadas contra el empleador y después de pleitos ganados por el sindicato ²

En estas situaciones están en presencia tres sujetos: el empleador, el sindicato y un órgano decisorio ante el cual se recurre en busca de una solución a las que las partes no han podido llegar. Ciertos empleadores parecieran oponerse a que ciertos conflictos laborales sean sustraídos a su órbita de decisión para ser confiados a una entidad exterior a la empresa. Esta oposición se manifiesta tomando represalias contra quienes se atrevieron a formalizar la protesta o contra los que obtuvieron su condena judicial.

Estas situaciones, cuando se presentan, ponen de manifiesto la resistencia del empleador a aceptar la institucionalización de un mecanismo de solución de conflictos laborales que prevea la intervención de terceros entre las partes. En efecto, el centro de gravedad del problema se desplaza entonces desde una relación puramente bilateral dentro de la empresa hacia el sistema institucional de solución de conflictos laborales; quizá fuese posible eliminar o reducir el potencial discriminatorio inherente a estas situaciones estableciendo

¹ Se han señalado situaciones de este tipo, por ejemplo, en Bélgica y Finlandia.

² Se han señalado situaciones de este tipo, por ejemplo, en Filipinas y Guatemala.

organismos o procedimientos, o unos y otros, que gocen de la aceptación de las partes en conflicto.

Con ocasión de la llegada al poder de un gobierno que favorece los intereses patronales, y cuando la autoridad pública local hace causa común con los empleadores ¹

En estas situaciones se pone en causa una colusión de intereses y de acción entre los empleadores y un gobierno determinado u otras autoridades públicas. Tan importante como la realidad de la colusión es la impresión o certeza de los trabajadores de que existe. La imparcialidad y autonomía de las autoridades encargadas de dirimir conflictos laborales pasan a ser, pues, cualidades indispensables para la aceptación de sus decisiones y, por lo tanto, para la eficacia de su misión.

Quizá no sea evidente la utilidad práctica del análisis que precede, en el cual se ha tratado de identificar las situaciones más propicias para el desencadenamiento de represalias antisindicales, puesto que tales situaciones, en la realidad de los hechos, difieren de país a país y no tienen necesariamente elementos comunes. No obstante, su identificación permite centrar inmediatamente la atención en los puntos donde probablemente se manifieste primero y con mayor violencia la discriminación antisindical. De esta manera se facilitará a los legisladores nacionales, a las organizaciones profesionales y a los expertos en relaciones laborales la tarea de idear y aplicar medidas que protejan eficazmente la libertad sindical en todas las circunstancias.

Si las situaciones descritas se examinan desde una perspectiva internacional, se observa que, a pesar de su diversidad, todas parecen tener un antecedente común, es decir, el mal estado de las relaciones obrero-patronales. Dicho de otra manera, esas situaciones vienen a ser la *ocasión propicia* para que se manifieste la tirantez, cristalizada en actos de represalias, y no son de por sí la *causa inmediata* de tales actos.

La experiencia internacional permite sugerir una terapéutica común consistente en *interlocutores autorizados e instrumentos adecuados*. Por lo primero se entiende la presencia de *organizaciones profesionales* fuertes, sólidamente implantadas, capaces de asumir responsablemente la representación de los intereses de sus afiliados. Por lo segundo se entiende la existencia de *normas* (sustantivas y procesales) que protejan adecuadamente a las partes contra abusos recíprocos y de *instituciones sociales* (por ejemplo, tribunales laborales, consejos de empresa, comités y secciones sindicales) dotadas de la

¹ Se ha señalado una situación de este tipo, por ejemplo, en Guatemala.

Protección contra la discriminación antisindical

competencia y de los medios necesarios para aplicar eficazmente las disposiciones legales tuitivas.

En el cuadro 3 se presentan las situaciones existentes en los respectivos países, tal como las perciben sus gobiernos y sus organizaciones de trabajadores y de empleadores.

FACTORES QUE INFLUYEN EN LA FRECUENCIA Y GRAVEDAD DE LOS ACTOS DE DISCRIMINACIÓN ANTISINDICAL

En la frecuencia y gravedad de las represalias antisindicales parece influir una serie de factores ambientales. Si bien las informaciones recibidas confirman que algunos de ellos tienen los efectos que lógicamente eran de presumir, en otros casos la realidad es tan dispar o tan poco caracterizada que no permite extraer conclusiones prácticas. También hay que señalar la dificultad de apreciar por separado la influencia relativa de factores que suelen estar asociados, como, por ejemplo, el grado de organización sindical de los trabajadores de una empresa y la dimensión de esta última.

A continuación se enumeran y comentan brevemente los principales factores y sus efectos.

Grado de organización sindical de los trabajadores de la empresa ¹

Este factor ejerce al parecer una influencia decisiva y su efecto varía en el sentido siguiente: cuanto mayor es el grado de organización sindical, menos frecuentes y menos graves son los actos de discriminación antisindical, y viceversa.

Dimensión de la empresa ²

Este factor, al igual que el precedente, tiene efectos que varían en sentido contrario al de su propia progresión. En otras palabras: cuanto mayor es la dimensión de la empresa, menos frecuentes y graves son los actos de discriminación antisindical, y viceversa. No está de más repetir que este factor conjuga sus efectos con los del anterior, de tal modo que repetidas veces se ha indicado, tanto de fuente gubernamental como sindical y patronal, que las represalias antisindicales disminuyen considerablemente en las empresas que tienen a la vez grandes dimensiones y fuertes organizaciones sindicales.

¹ La influencia de este factor se ha señalado, por ejemplo, en los siguientes países: Austria, Bélgica, Canadá, Colombia, Estados Unidos, Filipinas, Finlandia, Reino Unido y Suecia.

² La influencia de este factor se ha señalado en los siguientes países: República Federal de Alemania, Austria, Canadá, Colombia, Finlandia y Nigeria.

Formas y frecuencia de los actos discriminatorios

Cuadro 3. Situaciones propicias para la discriminación antisindical

País	Origen de la información		
	Gubernamental	Sindical	Empresarial
Alemania (Rep. Fed.)		<ul style="list-style-type: none">—Con ocasión de las elecciones del consejo de empresa, especialmente cuando se integra por primera vez;—durante la negociación colectiva de los salarios;—con ocasión de huelgas y paros.	
Argentina	<ul style="list-style-type: none">—Situaciones derivadas de estados de conflicto entre el empleador y el sindicato y/o sus dirigentes.		
Australia	<ul style="list-style-type: none">—Con ocasión de disputas sobre demarcación entre sindicatos, cuando un empleador apoya un sindicato con exclusión de otro.		
Austria	<ul style="list-style-type: none">—Con ocasión de la instalación del consejo de empresa en establecimientos sindicalmente poco organizados.	<ul style="list-style-type: none">—Con ocasión de la instalación del consejo de empresa en establecimientos sindicalmente poco organizados.	
Bélgica	<ul style="list-style-type: none">—Con ocasión de conflictos colectivos;—al aproximarse las elecciones sindicales;—con ocasión de una pretendida reestructuración o racionalización de la empresa.	<ul style="list-style-type: none">—Con ocasión de la implantación de un sindicato en una empresa;—después de huelgas;—con ocasión de la presentación de reivindicaciones, salariales o de otro género;—con ocasión de rivalidad entre un sindicato mayoritario y sindicatos minoritarios.	
Brasil	<ul style="list-style-type: none">—Con ocasión de huelgas consideradas ilegales.		
Canadá	<ul style="list-style-type: none">—Cuando se está organizando un sindicato, antes de que haya obtenido su certificación.	<ul style="list-style-type: none">—En las fases de organización y certificación: el sindicato es más vulnerable en este período;—durante las «huelgas de reconocimiento»: las realizadas con ocasión	<ul style="list-style-type: none">—Cuando se está formando un sindicato;—con ocasión de huelgas.

Protección contra la discriminación antisindical

Cuadro 3 (continuación)

País	Origen de la información		
	Gubernamental	Sindical	Empresarial
		del primer convenio colectivo; —una vez obtenido éste, el sindicato estará relativamente más seguro.	
Colombia		—En el período de constitución de un sindicato; —después de una huelga, en especial cuando el convenio colectivo no incluye cláusulas relativas a la estabilidad en el empleo; —cuando las relaciones obrero-patronales carecen de armonía.	—En el período de constitución de un sindicato.
Ecuador		—En la fase de constitución de un sindicato; —luego de una huelga; —con ocasión de la presentación de un pliego de peticiones; —con ocasión de exigir la celebración de una contratación colectiva.	
Filipinas	—Cuando se está organizando un sindicato; —durante la formalización de una protesta contra el empleador y posteriormente; —después de un pleito contra el empleador ganado por el sindicato; —mientras el sindicato solicita reconocimiento; —antes de la elección de funcionarios sindicales y en su transcurso; —durante una huelga y posteriormente; —durante el período en que se decide la certificación; —cuando un sindicato está negociando un convenio colectivo.		
Finlandia	—Durante una huelga o después de ella.	—Cuando se prepara una huelga;	

Formas y frecuencia de los actos discriminatorios

Cuadro 3 (continuación)

País	Origen de la información		
	Gubernamental	Sindical	Empresarial
		—durante periodos de reorganización de la empresa, que se utilizan como pretexto para eliminar a los indeseables.	
Francia	<ul style="list-style-type: none"> —En momentos de tensión consecutivos a la presentación de reivindicaciones; —durante las huelgas; —durante los periodos que siguen a los conflictos de trabajo; —en empresas donde las relaciones entre empleadores y sindicatos no son buenas. 	<ul style="list-style-type: none"> —Con ocasión de la constitución de secciones sindicales en una empresa; —con ocasión de acciones reivindicativas y conflictos colectivos, especialmente huelga y <i>lock-out</i>; —con ocasión de elecciones profesionales. 	<ul style="list-style-type: none"> —Cuando hay abuso del ejercicio del derecho sindical; —cuando hay malas relaciones entre el empleador o sus representantes y el sindicato, sus dirigentes o sus delegados.
Guatemala		<ul style="list-style-type: none"> —Antes, durante y después de la constitución de un sindicato; —antes, durante y después de una huelga; —antes, durante y después de una negociación colectiva; —antes, durante y después de las elecciones sindicales; —cuando se solicitan nuevas prestaciones; —cuando se denuncian situaciones ilegales; —cuando llega al poder un gobierno que favorece los intereses empresariales; —cuando el funcionario principal de una localidad hace causa común con los empleadores y favorece los despidos. 	
Hungría		—Durante las negociaciones colectivas.	
India	<ul style="list-style-type: none"> —Cuando los sindicatos son débiles; —cuando hay una fuerte rivalidad entre sindicatos. 		

Protección contra la discriminación antisindical

Cuadro 3 (continuación)

País	Origen de la información		
	Gubernamental	Sindical	Empresarial
Italia		—En periodos de agitación sindical.	
Jamaica			—Cuando los sindicatos reclaman el derecho de negociación para los supervisores.
Japón	—Inmediatamente después de la formación de un sindicato; —durante e inmediatamente después de una huelga prolongada; —cuando hay varios sindicatos rivales en un mismo establecimiento.		
Malasia	—Cuando los trabajadores solicitan del empleador el reconocimiento del sindicato.		—Durante la formación de un sindicato en una empresa; —durante la negociación de un convenio colectivo; —cuando tienen lugar transferencias, promociones, despidos o reducción de personal.
Nigeria	—Ciertos empleadores no favorecen la existencia de sindicatos y toman iniciativas para que sus trabajadores no se organicen; tales empleadores a menudo discriminan contra dirigentes y activistas sindicales, principalmente en pequeños establecimientos.		
Panamá	—Ignorancia de parte del empleador del fuero sindical de que goza el trabajador afectado.		
Perú	—Con ocasión de la presentación de reivindicaciones; —durante la negociación de un convenio colectivo.		

Formas y frecuencia de los actos discriminatorios

Cuadro 3 (fin)

País	Origen de la información		
	Gubernamental	Sindical	Empresarial
Reino Unido	<p>En cualquiera de las situaciones siguientes:</p> <ul style="list-style-type: none"> —en el período de constitución de un sindicato; —durante o después de una huelga; —con motivo de la presentación de reivindicaciones; —durante la negociación de un convenio colectivo; —con motivo de malas relaciones entre el empleador o sus representantes y el sindicato, sus dirigentes o delegados; —con ocasión de conflictos entre sindicatos; —con ocasión de las elecciones sindicales. 		
Senegal	<ul style="list-style-type: none"> —En el período de constitución de un sindicato; —después de una huelga; —cuando hay malas relaciones entre el empleador o sus representantes y el sindicato, sus dirigentes o delegados; —con ocasión de un conflicto entre sindicatos; —antes de las elecciones de delegados de personal. 		
Suecia		<ul style="list-style-type: none"> —Durante las negociaciones colectivas; —con ocasión de reclamaciones individuales de carácter sindical; —durante las campañas pro afiliación sindical. 	
Yugoslavia		<ul style="list-style-type: none"> —En situaciones de conflicto, especialmente en «organizaciones de trabajo asociado», donde las relaciones de autogestión no están desarrolladas. 	

Protección contra la discriminación antisindical

Actitud de los empleadores hacia los sindicatos

En las respuestas de algunos países¹ se señala la actitud del empleador hacia los sindicatos entre los factores que ejercen considerable influencia sobre el grado en que se cometen actos de discriminación antisindical. Como es de suponerse, cuanto más favorable es la actitud del empleador, menos frecuentes y menos graves son dichos actos, y viceversa.

Sector de actividad

La influencia de este factor varía de país a país. Mientras que en unos las represalias antisindicales son más frecuentes en el sector primario (agricultura, ganadería, minería), en otros lo son en el sector secundario (industrias de transformación) y en otros en el sector terciario (comercio y servicios)². Se trata, pues, de un elemento que no permite llegar a una regla general de utilidad práctica.

Localización de la empresa

Considerado aisladamente, este factor no pareciera ejercer una influencia apreciable: mientras que en algunos países la frecuencia y gravedad de los actos de represalia es mayor en las ciudades, en otros lo es en el campo³.

Carácter nacional o transnacional de la empresa

El carácter transnacional de una empresa puede ejercer una influencia desfavorable cuando da origen a relaciones obrero-patronales más rígidas y difíciles, entre otras razones, porque las decisiones se tomen en una sede central muy alejada de las filiales donde se aplican (ya que, al parecer, el alejamiento pierde importancia en las empresas muy descentralizadas)⁴ o

¹ Por ejemplo, las de Canadá, Francia y Nigeria.

² Por ejemplo, los sectores más afectados en Ecuador serían la agricultura y el transporte urbano; en Francia, la agricultura, la construcción, las clínicas médicas privadas y ciertas empresas de la industria del automóvil; en Malasia, el sector de transportes por ómnibus; en Senegal, la construcción.

³ Se ha señalado que en Ecuador la frecuencia de los referidos actos varía según las regiones y es mayor en la región de la Costa y la región Oriental. En Finlandia se producirían más frecuentemente en establecimientos localizados en regiones remotas, alejadas de los grandes centros urbanos. En Francia existiría una cierta correlación entre tales actos y el grado de desarrollo económico-social de la respectiva región: parecen ser más corrientes y más graves en las zonas menos desarrolladas. Se tendrá en cuenta que las grandes empresas (generalmente mejor organizadas sindicalmente) tienden a localizarse en las cercanías de algún gran centro urbano.

⁴ Sobre la estructura de la dirección de las empresas de este género y su influencia sobre las relaciones obrero-patronales, véase CIOSL: *El desafío de las compañías multinacionales*, op. cit., páginas 21-22. Sobre los problemas que crea a los sindicatos el alejamiento del centro de decisión, véanse Lea, op. cit., págs. 152-153; Tugendhat, op. cit., págs. 180-183, y OIT: «Las relaciones de trabajo en el marco...», loc. cit., págs. 566-567.

porque el poderío económico del empleador transnacional le dé una posición de fuerza tal en la negociación que ningún sindicato, por poderoso que sea, pueda equiparársele totalmente (pues es sabido que el presupuesto anual de algunos gigantes transnacionales puede en ciertos casos ser superior al presupuesto del gobierno del Estado que ha acogido a la filial)¹.

Coyuntura económica ²

El estado de la coyuntura económica parece ejercer una apreciable influencia sobre la frecuencia y gravedad de los actos discriminatorios, que tienden a disminuir en los períodos de alta coyuntura y a aumentar en las épocas de crisis económica. Es éste un caso en que los hechos confirman las suposiciones lógicas: cuando hay intensa actividad económica, los empleadores tienen que atraer y conservar una mano de obra escasa; cuando, a la inversa, abunda la mano de obra, es más fácil desprenderse de los sindicalistas más activos entre el personal.

¹ Sobre las repercusiones de esta concentración del poder económico para las relaciones obrero-patronales y el poder de negociación de los sindicatos, véase K. Casserini, *op. cit.*, páginas 73-75. Sobre la acción de los sindicatos para contrarrestar el poderío de las empresas multinacionales, véase OIT: «Las relaciones de trabajo en el marco...», *loc. cit.*, págs. 570-575.

² La influencia de este factor ha sido especialmente subrayada en las informaciones de Suecia y Suiza.

PARTE II

LA LEGISLACION NACIONAL

NOTA PRELIMINAR

No siempre es tarea fácil localizar las normas que protegen a los trabajadores contra la discriminación antisindical. En muchos países se encuentran disposiciones que han sido promulgadas con esa finalidad expresa y que generalmente son parte de textos recientes. En otros países hay normas que, si bien sirven para proteger a las posibles víctimas de ese género de discriminaciones, no fueron promulgadas con tal propósito. El ejemplo más típico es el de las disposiciones que amparan contra los despidos arbitrarios y cubren *también* contra los despidos discriminatorios. Ahora bien, las disposiciones de esta naturaleza, o sea las que no protegen contra la discriminación sino de modo indirecto, son más difíciles de identificar que las inspiradas por la noción misma de discriminación antisindical.

Ahondando en la cuestión, y volviendo para ello al ejemplo del despido, no es lo mismo prohibir los despidos abusivos, entre los cuales figurará el efectuado por motivos antisindicales, que prohibir todo acto de discriminación antisindical, lo que abarca el despido abusivo cuando su motivo es antisindical. En el primer caso, el concepto fundamental es el de despido, siendo el móvil antisindical una de las circunstancias que permitirán calificarlo de abusivo, mientras que en el segundo la idea central es la de discriminación antisindical, siendo el despido una de las tantas formas en que ésta puede concretizarse¹. Cabe considerar que aquellos sistemas legales que caracterizan adecuadamente los «actos de discriminación antisindical» permiten desarrollar con mayor eficacia los mecanismos destinados a aplicar las disposiciones contra tales actos.

¹ Esta última es la técnica elegida por el Convenio núm. 98. Se tendrá en cuenta que muchas legislaciones contienen disposiciones contra el despido sin causa, injustificado o abusivo, que pueden proteger *también* contra actos de discriminación antisindical. No se examinan en detalle en este estudio porque lo han sido recientemente en el estudio general de la Comisión de Expertos en Aplicación de Convenios y Recomendaciones intitulado *Terminación de la relación de trabajo*, *op. cit.*

NORMAS LEGISLATIVAS DE FONDO SOBRE LA DISCRIMINACION ANTISINDICAL QUE PROTEGEN A LOS TRABAJADORES EN GENERAL

2

Para ordenar mejor la descripción de estas normas se procurará determinar sucesivamente a quiénes se protege, o sea el ámbito personal de protección; cuándo se protege, o sea el ámbito temporal de protección; qué se protege y contra qué actos, o sea el ámbito material de protección.

A fin de facilitar la comparación de las disposiciones mencionadas en el curso de este capítulo, en la última sección se las presenta resumidas en un cuadro sinóptico.

AMBITO PERSONAL DE PROTECCION

El análisis comparativo de las legislaciones de los países estudiados muestra, como primera evidencia, que en su gran mayoría poseen disposiciones que protegen, en principio, a los trabajadores en general¹.

Esta protección se concede, unas veces, *positivamente*, es decir, reconociendo el derecho de los trabajadores a no ser objeto de represalias en razón de su afiliación sindical o de su participación en actividades sindicales, y otras veces, *negativamente*, es decir, prohibiendo a los empleadores la comisión de actos discriminatorios. La casi totalidad de los países estudiados prefieren emplear la segunda de esas técnicas legislativas, posiblemente

¹ Es el caso, por ejemplo, de la República Federal de Alemania, Argelia, Argentina, Australia, Bélgica, Brasil, Camerún, Canadá, Chad, Colombia, Costa de Marfil, Costa Rica, Dahomey, Egipto, Estados Unidos, Etiopía, Filipinas, Finlandia, Francia, Ghana, Guatemala, Guinea, Honduras, India, Italia, Japón, Malasia, Mali, México, Nueva Zelandia, Pakistán, Panamá, Perú, Reino Unido, Senegal, Suecia, Tanzania (Tanganyika), Trinidad y Tabago, Turquía, Venezuela y Zaire.

La respuesta gubernamental de Túnez señala que, en virtud del artículo 48 de la Constitución de 1.º de junio de 1959, los convenios internacionales ratificados tienen fuerza superior a las leyes internas; por lo tanto, han de considerarse aplicables las disposiciones del Convenio núm. 98, ratificado por Túnez. Además, de idéntica fuente se indica que los convenios colectivos básicos contienen siempre una disposición que prohíbe toda discriminación en razón de la afiliación a un sindicato.

Protección contra la discriminación antisindical

porque esa protección se concibe como corolario del derecho de sindicación: de poco serviría, en efecto, afirmar el derecho a formar parte de una organización profesional y a participar en sus actividades si, al mismo tiempo, no se prohibieran y sancionaran las violaciones de ese derecho.

Merece mención aparte la técnica jurídica muy particular empleada por la República Federal de Alemania¹: en vez de prohibir los actos discriminatorios en sí, ordena al empleador y al consejo de empresa que velen por que tales actos no se cometan en perjuicio de las personas que trabajan en la empresa.

Algunos países limitan, de un modo u otro, el ámbito personal de la protección. Camerún, por ejemplo, protege solamente a los trabajadores «afiliados a un sindicato»². Se observa una limitación semejante en el Reino Unido, cuya legislación en materia de discriminación antisindical protege exclusivamente a los trabajadores que hayan sido, sean, deseen o rehúsen ser miembros de sindicatos «independientes»³.

Cierto número de países han estimado necesario incorporar en sus legislaciones normas tuitivas especiales en favor de ciertas categorías de trabajadores —dirigentes y delegados sindicales en particular—, además de las disposiciones de carácter general a que se ha aludido precedentemente. Se trata de Argelia, Argentina, Brasil, Colombia, Costa de Marfil, Egipto, Finlandia, Francia, Guatemala, Honduras, India, Italia, Panamá, Perú, Trinidad y Tabago, Turquía y Venezuela. En cambio, pocos son los países que han estimado necesario prever una protección específica *únicamente* para esas categorías especiales, a saber: Ecuador, España, Hungría y URSS.

Así, pues, desde el punto de vista del ámbito personal de aplicación de las disposiciones que reprimen la discriminación antisindical, la experiencia internacional parece indicar que la práctica más corriente consiste en prever una protección jurídica específica en la materia para los *trabajadores en general*. Por los datos de que se dispone se puede decir que, a juicio de la gran mayoría de los países estudiados, el reconocimiento del derecho de sindicación debe ser completado con normas que prevengan y sancionen específicamente las violaciones de ese derecho por los empleadores, pero sin que tales normas en favor de los trabajadores en general excluyan la posibilidad de amparar asimismo a ciertas categorías especiales. En realidad, ese amparo adicional viene a perfeccionar el sistema general al ofrecer garantías suple-

¹ L 15.1.72, 75 (1).

² CT, 4, 3.

³ L 31.7.74, anexo 1, 6, 4); a tenor del artículo 30 (1) de esta ley, se considera «independiente» al sindicato que no está bajo la dominación ni el control de un empleador, un grupo de empleadores o una o varias asociaciones de empleadores, ni sufre injerencias de un empleador o de un grupo o asociación de empleadores que, por medio de contribuciones financieras o de otra índole, pretendan obtener tal control.

mentarias a ciertos trabajadores que, por su situación o funciones, están más expuestos al riesgo de discriminación antisindical.

AMBITO TEMPORAL DE PROTECCION

En su definición del ámbito en que se ejercerá la protección contra los actos antisindicales, el Convenio núm. 98 alude a la etapa de obtención del empleo¹ y al transcurso de este último². A su vez, las legislaciones de los países estudiados, casi unánimemente, extienden la protección a toda la duración del empleo. La única excepción es la India³, donde sólo se ejerce mientras se desarrolle un acto de conciliación ante un conciliador o una junta, o un proceso ante una audiencia laboral o un tribunal de trabajo, nacional o estatal, con motivo de un conflicto de trabajo.

Algo más de la mitad de los países garantizan explícitamente la referida protección durante el tiempo en que el trabajador obtiene el empleo⁴: es el caso de Argelia, Bélgica, Camerún, Canadá, Colombia, Costa de Marfil, Chad, Dahomey, Estados Unidos, Etiopía, Filipinas, Francia, Ghana, Honduras, Italia, Japón, Malasia, Malí, Pakistán, Panamá, Senegal, Trinidad y Tabago, Turquía, Venezuela y Zaire.

La utilidad de esa norma legal expresa aplicable a la fase de obtención del empleo es indiscutible; sin embargo, según indicaciones de países en que tal norma existe, la protección que da no es suficiente, porque subsiste la extrema dificultad de probar un acto discriminatorio cometido en esa fase. La norma de fondo que protege al trabajador con ocasión de su ingreso al empleo debería, por lo tanto, ir acompañada de dispositivos procesales que faciliten la prueba en esas circunstancias precisas.

AMBITO MATERIAL DE PROTECCION

Las disposiciones legales de la mayoría de los países estudiados cubren tanto la *afiliación sindical* como la *participación en actividades sindicales*. En Italia⁵, por ejemplo, se declaran nulos y sin efecto los pactos o actos encaminados a:

¹ Véase en el anexo 1 el Convenio núm. 98, artículo 1, 2, a).

² Idem, artículo 1, 2, b).

³ L 14/47, 33, 1).

⁴ Las normas respectivas se indican en el cuadro sinóptico al final del capítulo. Los Gobiernos de la República Federal de Alemania y de Egipto han informado que las disposiciones existentes en sus países se interpretan en el sentido de que están prohibidos también los actos discriminatorios cometidos con motivo de la contratación del trabajador.

⁵ L 300/70, 15; se notará que la redacción de este artículo es similar a la del artículo 2 del Convenio núm. 98.

Protección contra la discriminación antisindical

- a) supeditar el empleo de un trabajador a la condición de que se afilie a una organización sindical, o bien a que cese de formar parte de ella;
- b) despedir a un trabajador, discriminarlo en cuanto a la asignación de calificaciones o de funciones o en materia de traslado o medidas disciplinarias, o bien ocasionarle otros perjuicios por razón de su afiliación a un sindicato, de sus actividades sindicales o de su participación en una huelga.

Son excepcionales, en cambio, los países en que esta protección cubre únicamente la afiliación sindical. Es el caso, por ejemplo, de Tanzania (Tanganyika)¹, donde rige la disposición siguiente:

1) No se prohibirá a ningún trabajador que pertenezca o se afilie a un sindicato u otra organización que represente a los trabajadores ni se le impondrá sanción alguna por su pertenencia a dicho sindicato u organización.

2) Será nula y sin valor cualquier estipulación expresa o tácita de un contrato de trabajo (ya sea que éste hubiere sido concluido antes o después de la entrada en vigor del presente artículo) por la que se prohíba la afiliación del trabajador a un sindicato u otra organización que represente a los trabajadores.

Se tendrá en cuenta, sin embargo, que resulta a veces difícil establecer con nitidez la frontera entre la «afiliación sindical» y la «participación en actividades sindicales»: la primera de estas expresiones suele interpretarse de modo tal que cubre la segunda².

Pareciera aconsejable que la legislación extendiera su protección, sin equívocos ni ambigüedades, tanto a la afiliación sindical como a la participación en actividades sindicales, puesto que son dos dimensiones, difícilmente dissociables e igualmente importantes, del derecho de sindicación. Además, estas dos dimensiones son las específicamente protegidas por las normas internacionales relativas a los actos de discriminación antisindical.

¿Cuáles son, concretamente, las *formas o tipos de actos discriminatorios* que prohíben las legislaciones nacionales?

Algunos países poseen normas, concebidas en términos amplios, que contienen una prohibición general de tales actos, sin entrar a enumerarlos o detallarlos. Sirvan de ejemplo de ese tipo de normas las siguientes disposiciones:

El empleador y el consejo de empresa velarán por que toda persona ocupada en la empresa sea tratada de conformidad con los principios de derecho y justicia y, en particular, por que no se ejerza ninguna discriminación con respecto a una persona por razón de... su actividad o su orientación... sindical, ...³.

¹ Or 47/55, 14 A.

² Así lo recomienda en Bélgica el artículo 3, inciso 1, «comentario», del convenio colectivo [nacional] de trabajo (núm. 5, de 24 de mayo de 1971), relativo al estatuto de las delegaciones sindicales. Véase, por ejemplo, R. Blanpain: «Convention collective de travail concernant le statut des délégations syndicales du personnel des entreprises», en *Revue du Travail* (Bruselas, Ministère de l'emploi et du travail), año 72, junio de 1971, pág. 753.

³ República Federal de Alemania, L 15.1.72, 75 (1).

Será considerada práctica desleal por parte de un empleador: ... alentar o desalentar la afiliación a un sindicato discriminando respecto de la contratación, estabilidad o cualquier término o condición de trabajo¹.

Otros países prefieren enumerar detalladamente todos y cada uno de los actos que intentan prohibir; la siguiente disposición ilustra adecuadamente este tipo de norma:

Queda prohibido a todo empleador o sindicato de empleadores y a toda persona que obre en su nombre:

- a) imponer condición alguna en un contrato de trabajo con miras a limitar el derecho de una persona parte en dicho contrato a afiliarse a un sindicato o a seguir afiliada al mismo;
- b) negarse a emplear o a continuar empleando a una persona so pretexto de que dicha persona es o no es miembro o funcionario de un sindicato;
- c) ejercer medidas discriminatorias contra una persona en relación con su empleo, promoción, condiciones de empleo o de trabajo so pretexto de que el interesado es o no es miembro o funcionario de un sindicato;
- d) despedir, licenciar, deponer de su empleo o transferir o amenazar con el despido, el licenciamiento, la deposición o la transferencia de empleo a un trabajador, o bien causarle perjuicios respecto de su empleo por razón de que el interesado:
 - i) sea o se proponga ser, o bien procure persuadir a un tercero para que sea miembro o funcionario de un sindicato;
 - ii) participe en la promoción, en la constitución o en las actividades de un sindicato;
- e) persuadir a una persona para que se abstenga de hacerse miembro o funcionario de un sindicato, o para que deje de serlo, confiriendo u ofreciendo directa o indirectamente ventajas al interesado o a cualquier otra persona;
- f) obligar a un representante de la entidad que tenga calidad de agente de negociación colectiva a firmar un acuerdo mediante intimidación, coacción, presiones, amenazas, secuestro, lesiones corporales, interrupciones del suministro de agua y fuerza motriz o del teléfono, etc.².

Una fórmula intermedia consiste en enunciar el principio general de la protección contra actos discriminatorios y enumerar después los principales actos prohibidos:

Los trabajadores gozarán de protección adecuada contra cualquier acto discriminatorio en menoscabo de la libertad sindical en materia de empleo. Queda terminantemente prohibido a todo empleador:

- a) supeditar el empleo de un trabajador a la circunstancia de estar o no estar afiliado a cualquier organización profesional o a una organización profesional determinada;
- b) despedir a un trabajador o causarle algún perjuicio por cualquier otro medio, por estar afiliado a una organización profesional o por su participación en actividades sindicales³.

¹ Estados Unidos, NLRA, 8 (a) (3).

² Pakistán, Or 23/69, 15 (1), en su tenor modificado, *inter alia*, por la ley núm. XXIX, de 9 de febrero de 1973.

³ Zaire, CT, 228.

Protección contra la discriminación antisindical

Aunque pareciera aconsejable esta última técnica jurídica para la determinación del ámbito material de la protección contra actos discriminatorios, lo esencial no es tanto la fórmula empleada como la amplitud de su alcance, que debe ser suficiente para que la protección surta efecto, por lo menos, contra los actos discriminatorios más graves. No alcanza ese resultado una norma tan escueta, por ejemplo, como la siguiente:

Queda absolutamente prohibido a los patronos: ... obligar a los trabajadores, cualquiera que sea el medio que se adopte, a retirarse de los sindicatos o grupos legales a que pertenezcan...¹.

¿Cuáles son, según las legislaciones nacionales, los actos discriminatorios más graves? La lista que se presenta a continuación no tiene la pretensión ni de ser exhaustiva ni de establecer una relación de jerarquía entre las numerosas formas que puede asumir una conducta patronal antisindical; solamente se espera de ella que refleje, tan fielmente como sea posible, el conjunto de las normas jurídicas nacionales que le han servido de base:

- a) *denegación de un empleo* a causa de la afiliación o no afiliación sindical del postulante, o de su participación en actividades sindicales²;
- b) *despido* por razones sindicales (que probablemente sea el más perjudicial de los actos discriminatorios)³;
- c) *suspensión y otras sanciones disciplinarias* por razones sindicales⁴;

¹ Costa Rica, CT, 70. La insuficiencia de esta disposición fue oportunamente señalada por el Comité de Libertad Sindical en su 119.º informe, caso núm. 611 (*Boletín Oficial*, vol. LIII, 1970, núm. 4, párrafos 105 y 107). Es interesante notar que en el artículo 5 del reciente «proyecto de ley sobre relaciones colectivas del trabajo», de 15 de enero de 1973, se reproduce casi textualmente el artículo 2 del Convenio núm. 98.

² Prohíben este acto de discriminación antisindical todos aquellos países que protegen «en ocasión de tomar empleo»; véase el cuadro sinóptico de disposiciones generales.

³ Prohíben explícitamente esta medida, por ejemplo, los siguientes países: Argelia, Argentina, Australia, Bélgica, Camerún, Canadá, Colombia, Costa de Marfil, Costa Rica, Chad, Dahomey, Egipto, Etiopía, Francia, Ghana, Guinea, Honduras, India, Italia, Japón, Malasia, Mali, México, Nueva Zelandia, Pakistán, Panamá, Reino Unido, Senegal, Trinidad y Tabago, Turquía, Venezuela y Zaire.

Otros países prohíben implícitamente el despido discriminatorio al no autorizar los licenciamientos sino en ciertas circunstancias, entre las cuales no figuran ni la afiliación sindical ni la participación en actividades sindicales. Así ocurre, por ejemplo, en la República Federal de Alemania, donde se declara jurídicamente nulo el despido pronunciado contra un trabajador de más de dieciocho años de edad y con seis meses de antigüedad si careciere de «justificación social»; el despido se considerará carente de dicha justificación cuando no esté fundado en motivos imputables a la persona o a la conducta del trabajador, o cuando no sea impuesto por necesidades urgentes de la empresa que se opongan a la continuación del trabajador en la misma (L 25.8.69, 1). La legislación del Perú, por ejemplo, precisa las únicas causales por las cuales se puede despedir a los trabajadores, no estando señaladas entre ellas ni la afiliación sindical ni la participación en actividades sindicales (DL 18471/70, 2).

⁴ Prohíben explícitamente estos actos discriminatorios: Argelia, Argentina, Colombia, Costa de Marfil, Dahomey, Francia, India, Mali, Panamá, Senegal y Turquía. Se tendrá en cuenta, sin embargo, que tanto la suspensión como otras medidas disciplinarias discriminatorias están genéricamente comprendidas en expresiones tales como «perjudicar de cualquier otro modo», «sancionar», «toda discriminación», que se encuentran en las legislaciones de otros países.

- d) *desmejoramiento o modificación de las condiciones de trabajo* por razones sindicales¹;
- e) *adopción de decisiones condicionada por la afiliación sindical o la participación en actividades sindicales del trabajador, tratándose de *marcha y distribución del trabajo, formación profesional, ascenso, remuneración y concesión de beneficios sociales**²;
- f) *traslado o cambio de puesto*, a fin de impedir u obstaculizar la actividad sindical del trabajador³;
- g) *amenazas o intimidaciones* que tengan por finalidad disuadir al trabajador de formar parte de una organización profesional o de participar en actividades sindicales⁴.

Hay un elemento que se encuentra en todos los actos considerados discriminatorios por las legislaciones nacionales: la *motivación antisindical* del empleador. Pero quien dice «motivación» dice «elemento subjetivo», es decir, el elemento más difícil de comprobar. En esta dificultad de prueba reside, por lo menos parcialmente, la ineficacia en la aplicación concreta de normas de fondo que formalmente constituyen una protección aparentemente suficiente. Por eso algunas legislaciones poseen normas procesales destinadas a facilitar la prueba del elemento subjetivo, ya sea, por ejemplo, otorgando un amplio poder de apreciación a las autoridades competentes en el juzgamiento de los actos denunciados, ya sea imponiendo al empleador la carga de la prueba del carácter no discriminatorio del acto que se le imputa, ya sea dando al trabajador la posibilidad de interponer un recurso con efecto suspensivo. Estas normas procesales se examinarán con más detenimiento al tratarse de los procedimientos de protección.

¹ Este tipo de acto discriminatorio está específicamente prohibido, por ejemplo, en las legislaciones de Argentina, Colombia, Estados Unidos, Etiopía, India, Nueva Zelandia y Panamá. Algunos países prohíben lo que se llamará «mejoramiento discriminatorio» (por oposición a «desmejoramiento discriminatorio»); así ocurre, por ejemplo, en Ghana, cuya legislación incluye entre las prácticas laborales ilícitas el «aumento de salario o promesa de aumento o cualquier otra modificación favorable de las condiciones de trabajo» que tenga por objeto inducir a un trabajador a no afiliarse a un sindicato o a darse de baja del mismo o a no pertenecer a la directiva del sindicato (L 299/65, 26, 2)).

² Estos actos discriminatorios se encuentran tipificados en la legislación de Francia y en la de los países que se han inspirado en ella: Argelia, Costa de Marfil, Chad, Dahomey, Mali y Senegal. Una norma similar se encuentra también en la legislación de Turquía.

En la legislación francesa, esta enumeración de actos discriminatorios data de la ley número 56-416, de 27 de abril de 1956, por la que se garantizan la libertad sindical y la protección al derecho sindical.

³ Italia, Panamá y Pakistán, por ejemplo, prohíben específicamente este acto discriminatorio. Este tipo de discriminación puede ser particularmente nocivo para las actividades de un dirigente o delegado sindical; quizá por ello se lo encuentra más frecuentemente mencionado en las normas especiales relativas a estas categorías.

⁴ Prohíben específicamente este acto discriminatorio Australia, Canadá, Ghana, Malasia, Pakistán y Trinidad y Tabago.

Protección contra la discriminación antisindical

El análisis de las legislaciones nacionales muestra también que algunas prohíben ciertos actos situados en el límite entre la discriminación antisindical (en el sentido del artículo 1 del Convenio núm. 98) y la injerencia (en el sentido del artículo 2 del mismo Convenio¹). En ese caso parecen estar, por ejemplo, las represalias contra los trabajadores que hayan intervenido o testimoniado en procedimientos vinculados con el juzgamiento de prácticas desleales o conflictos colectivos² y la modificación de la proporción entre el personal sindicalizado y el no sindicalizado, o el perteneciente a otro sindicato³.

Dada la extrema variedad de formas en que puede manifestarse una conducta antisindical, tal vez sea conveniente adoptar disposiciones amplias o enumeraciones no limitativas que en caso necesario puedan proteger contra nuevos tipos de actos discriminatorios. Ello no quita, y cabe repetirlo una vez más, que es preferible un texto legal mediocre aplicado eficazmente que un texto legal perfecto mediocrementemente aplicado.

¹ Cuyo párrafo 2 dice: «Se consideran actos de injerencia, en el sentido del presente artículo, principalmente, las medidas que tiendan a fomentar la constitución de organizaciones de trabajadores dominadas por un empleador o una organización de empleadores, o a sostener económicamente, o en otra forma, organizaciones de trabajadores, con objeto de colocar estas organizaciones bajo el control de un empleador o de una organización de empleadores.»

² Pueden verse ejemplos de este tipo de normas en las legislaciones de Argentina (L 20615/73, 60, *e*)), Colombia (D 3378/62, 1, *e*)), Estados Unidos (NLRA, 8 (*a*) (4)), Filipinas (CT, 294, *f*)) y Nueva Zelandia (L 19/73, 150, *g*)).

³ Véanse, por ejemplo, Panamá (CT, 388, 7) y Colombia (D 1489/52, 3, 12, 3).

Cuadro 4. Protección prevista por disposiciones generales ¹

Pais	Ambito personal	Ambito temporal	Ambito material
Alemania (Rep. Fed.) [L 15.1.72, 75 (1)]	Toda persona ocupada en la empresa.	Durante el empleo.	Toda discriminación en razón de la actividad o de la orientación sindical del trabajador.
Argelia* [CT, I III, 1, a)]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Adopción de decisiones condicionada por la afiliación o la actividad sindical cuando se trata de: —empleo, —distribución del trabajo, —formación profesional, —promoción, —remuneración, —beneficios sociales, —medidas disciplinarias, —despido.
Argentina* [L 20615/73, 60, c), d), e), g) y j)]	Todo trabajador.	Durante el empleo.	Adopción de represalias en razón de actividades sindicales; despido, suspensión o modificación de las condiciones de trabajo con objeto de impedir o dificultar el ejercicio de los derechos sindicales; trato discriminatorio, cualquiera sea su forma, en razón del ejercicio de los derechos sindicales tutelados por la ley.
Australia [L 1904-1970, 5, 1), y 5, 1A)]	Todo trabajador.	Durante el empleo.	Despido o amenaza de despido; postergación en el empleo o amenaza de postergación; perjuicio o amenaza de perjuicio.
Bélgica [L 24.5.21, 4]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Subordinación de la conclusión, la ejecución o la continuación de un contrato de trabajo o de servicios a la afiliación o no afiliación.
Brasil* [CLT, 543, 6)]	Todo trabajador.	Durante el empleo.	Todo acto por el que se procure impedir la afiliación a un sindicato, o el ejercicio de los derechos sindicales.

¹ Los países señalados con un asterisco poseen, además, disposiciones con ámbitos específicos de protección.

Protección contra la discriminación antisindical

Cuadro 4 (continuación)

Pais	Ambito personal	Ambito temporal	Ambito material
Camerún [CT, 4, 3) y 4)]	Todo trabajador afiliado a un sindicato.	Con motivo de la obtención del empleo; durante el empleo.	Todo acto de discriminación; subordinación del empleo a la no afiliación o a la desafiliación; despido; perjuicio infligido de cualquier otro modo.
Canadá [CT, V, 184, 3)]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Toda discriminación; denegación de empleo o de mantenimiento en el empleo; amenaza, intimidación, sanción.
Colombia* [D 3378/62, 1, a), b) y d)]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Obstruir o dificultar la afiliación a un sindicato; condicionar la obtención o conservación del empleo o el reconocimiento de mejoras o beneficios a la afiliación a un sindicato; despedir, suspender o modificar las condiciones de trabajo del personal sindicalizado a fin de impedir o dificultar el derecho de asociación.
[CST, 406, <i>in fine</i>]	Trabajadores que hayan presentado un pliego de peticiones.	Mientras dure el conflicto.	Despedir sin justa causa comprobada.
Costa de Marfil* [CT, 4]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Adopción de decisiones condicionada por la afiliación o la actividad sindical cuando se trata de: —contratación, —marcha y distribución del trabajo, —formación profesional, —ascenso, —remuneración, —concesión de ventajas sociales, —medidas disciplinarias, —despido.
[CT, 41]	Todo trabajador.	Durante el empleo.	Despido en razón de la afiliación, la no afiliación o la participación en actividades sindicales.

Cuadro 4 (continuación)

País	Ambito personal	Ambito temporal	Ambito material
Costa Rica. [CT, 70]	Todo trabajador.	Durante el empleo.	Obligar a retirarse de un sindicato.
Chad [CT, 37]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Adopción de decisiones condicionada por la afiliación o la actividad sindical cuando se trata de: —contratación, —marcha y distribución del trabajo, —formación profesional, —ascenso, —remuneración, —concesión de ventajas sociales, —medidas de disciplina.
[CT, 95]	Todo trabajador.	Durante el empleo.	Despido en razón de la afiliación, la no afiliación o la participación en actividades sindicales.
Dahomey [CT, 7 y 38]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Adopción de decisiones condicionada por la afiliación, la no afiliación o la actividad sindical cuando se trata de: —contratación, —marcha y distribución del trabajo, —formación profesional, —ascenso, —remuneración, —concesión de ventajas sociales, —medidas disciplinarias, —despido.
Egipto* [CT, 231]	Todo trabajador.	Durante el empleo.	Despido; cualquier otra sanción.
Estados Unidos [NLRA, 8 (a) (3)]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Toda discriminación en materia de empleo, estabilidad o condiciones de trabajo, con objeto de influir a favor o en contra de la afiliación a una organización de trabajadores.

Protección contra la discriminación antisindical

Cuadro 4 (continuación)

Pais	Ambito personal	Ambito temporal	Ambito material
Etiopía [P 210/63, 30]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Discriminación en las condiciones de trabajo por razón de la afiliación o de la participación en actividades sindicales; contratación o mantenimiento en el empleo de los miembros de un sindicato con preferencia a los no miembros; despido en razón de la afiliación sindical.
Filipinas [CT, 294, a), b), c) y f)]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Sujeción del empleo a la condición de no afiliación; cualquier otra discriminación.
Finlandia* [L 320/70, 17, <i>in fine</i>]	Todo trabajador.	Durante el empleo.	Toda discriminación basada en actividades sindicales.
Francia* [CT, L.412-2]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Adopción de decisiones condicionada por la afiliación o la actividad sindical cuando se trata de: —contratación, —marcha y distribución del trabajo, —formación profesional, —ascenso, —remuneración, —concesión de ventajas sociales, —medidas disciplinarias, —despido.
Ghana [L 299/65, 26]	Todo trabajador.	Con motivo de la obtención del empleo.	Toda discriminación en razón de la afiliación a un sindicato; intimidación, despido, amenaza de despido u otro tipo de amenaza, sanción, aumento de salario o promesa de aumento, y cualquier otra modificación favorable con objeto de inducir a no afiliarse, a darse de baja o a no pertenecer a la directiva de un sindicato.
Guatemala* [CT, 10 y 62, c)]	Todo trabajador.	Durante el empleo.	Cualquier clase de represalias; obligar o intentar obligar a retirarse de un sindicato o a ingresar en él.

Cuadro 4 (continuación)

País	Ambito personal	Ambito temporal	Ambito material
Guatemala (fin) [CT, 380]	Trabajadores que hayan presentado un pliego de peti- ciones.	Mientras dure el conflicto.	Despedir sin previa autorización del juez de trabajo.
Guinea [CT, 73]	Todo trabajador.	Durante el empleo.	Despido motivado por la afiliación, la no afiliación o la participación en actividades sindicales.
Honduras* [CT, 96, 3 y 6]	Todo trabajador.	Con motivo de la obtención del em- pleo; durante el empleo.	Despedir; perjudicar de cualquier otro modo en razón de la afiliación a un sindicato o de la participación en actividades sindicales; formación de «listas negras».
India* [L 14/47, 33 (1) y (2)]	Todo trabajador.	Mientras se desarro- lla el proceso re- lativo a un con- flicto de trabajo.	Modificar las condiciones de empleo; despedir; adoptar sanciones disciplinarias.
Italia* [L 300/70, 15 y 16; L 604/66, 4]	Todo trabajador.	Con motivo de la obtención del em- pleo; durante el empleo.	Supeditar el empleo a la afiliación, a la no afiliación o a la desafilia- ción a un sindicato; despedir o discriminar en cuanto a la asignación de calificaciones o de funciones, traslados, medidas dis- ciplinarias, o causar otros perjui- cios por razón de la afiliación a un sindicato, de las actividades sindi- cales o de la participación en una huelga; privilegiar en el plano económico cuando el privilegio sea discrimina- torio.
Japón [L 174/49, 7 (1)]	Todo trabajador.	Con motivo de la obtención del em- pleo; durante el empleo.	Sujetar el empleo a la condición de afiliarse a un sindicato o a reti- rarse de él; despedir; cometer cualquier otro acto discri- minatorio en razón de la afiliación o de la participación en actividades sindicales.

Protección contra la discriminación antisindical

Cuadro 4 (continuación)

País	Ambito personal	Ambito temporal	Ambito material
Malasia* [L 35/67, 5 (1), b), c) y d), y 46A]	Todo trabajador.	Con motivo de la obtención del em- pleo; durante el empleo.	Negarse a emplear, o discriminar en materia de empleo, ascenso o con- diciones de trabajo, por el hecho de que una persona sea o no sea miembro o dirigente de un sindi- cato; despedir o amenazar con el despido, perjudicar o amenazar con perjudi- car en el empleo en razón de la afiliación o participación en acti- vidades sindicales.
Mali [CT, 42, 1, y 306]	Todo trabajador.	Con motivo de la obtención del em- pleo; durante el empleo.	Adopción de decisiones condicionada por la afiliación y la participación en actividades sindicales cuando se trata de: —contratación, —realización y distribución del tra- bajo, —formación profesional, —ascenso, —remuneración, —concesión de ventajas sociales, —medidas disciplinarias, —despido.
México [CF, 123, XXII; LFT, 358 y 133, IV y IX]	Todo trabajador.	Durante el empleo.	Despedir por haber ingresado en un sindicato; imponer multa convencional en caso de desafiliación; obligar a afiliarse o retirarse del sindicato a que se pertenezca; formación de «listas negras».
Nueva Zelandia [L 19/73, 150, 1)]	Todo trabajador.	Durante el empleo.	Despedir o desmejorar a causa de la afiliación o actividad sindical.
Pakistán* [Or 23/69, 15 (1)]	Todo trabajador.	Con motivo de la obtención del em- pleo; durante el empleo.	Negarse a emplear, o discriminar en materia de empleo, ascenso o con- diciones de trabajo, por el hecho de que una persona sea o no sea miembro o funcionario de un sin- dicato; despedir o amenazar con el despido, transferir o amenazar con la trans- ferencia, perjudicar o amenazar con perjudicar en el empleo, en razón de la afiliación o participa- ción en actividades sindicales.

Cuadro 4 (continuación)

Pais	Ambito personal	Ambito temporal	Ambito material
Panamá* [CT, 388 (3) y (7)]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Despidos, sanciones, represalias, traslados, desmejoramiento o discriminaciones motivados por la afiliación o participación en actividades sindicales; despido o desmejoramiento de trabajadores sindicalizados en forma que se modifique la proporción entre el personal sindicalizado y el no sindicalizado, o perteneciente a otro sindicato, dentro de la empresa; formación de «listas negras».
Perú* [DS 009/61, 2 y 4]	Todo trabajador.	Durante el empleo.	Todo acto que tienda a restringir, en cualquier forma, el ejercicio del derecho de sindicación; obligar a integrar un sindicato o a no formar parte de él.
Reino Unido [L 31.7.71, anexo 1, 6, 4)]	Todo trabajador.	Durante el empleo.	Despedir en razón de la afiliación o no afiliación a un sindicato independiente, o de la participación en sus actividades.
Senegal [CT, 29]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Adopción de decisiones condicionada por la afiliación a un sindicato o el ejercicio de una actividad sindical cuando se trata de: —contratación, —ejecución y distribución del trabajo, —formación profesional, —ascensos, —remuneración, —concesión de ventajas sociales, —medidas de disciplina, —despido.
Suecia [L 506/36, 3]	Todo trabajador.	Durante el empleo.	Perjudicar en razón de la afiliación a un sindicato o del ejercicio de los derechos de afiliado.
Tanzania (Tanganyika) [Or 47/55, 14A]	Todo trabajador.	Durante el empleo.	Prohibir o sancionar la afiliación a un sindicato.

Protección contra la discriminación antisindical

Cuadro 4 (fin)

Pais	Ambito personal	Ambito temporal	Ambito material
Trinidad y Tabago* [L 23/72, 42 (1) y (2)]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Sujetar el empleo a la condición de no afiliarse o de desafilarse de un sindicato; despedir o amenazar con el despido, perjudicar de cualquier otro modo o amenazar con perjudicar, en razón de la afiliación a un sindicato o de la participación en actividades sindicales o del ejercicio de funciones sindicales.
Turquía* [L 274/63, 19, 1) y 2), y L 1475/71, 13]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo.	Sujetar el empleo a la afiliación, a la no afiliación o a la desafilación de un sindicato; discriminación en materia de: —contratación, —modalidades y distribución del trabajo, —ascenso, —salarios, gratificaciones y primas, —derechos a asistencia social, —medidas de disciplina, —despido.
Venezuela* [LT, 168, 169 y 233; RLT, 324, a)]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo; durante un conflicto de trabajo.	Exigir que se abstenga de formar parte de un sindicato; obligar, directa o indirectamente, a formar parte o no de un sindicato; despedir o tomar otra medida perjudicial en razón de actividades legales en conexión con un conflicto de trabajo.
Zaire [CT, 228 y 48]	Todo trabajador.	Con motivo de la obtención del empleo; durante el empleo; durante un conflicto de trabajo.	Supeditar el empleo a la condición de estar o no estar afiliado a un sindicato; despedir o causar algún perjuicio por cualquier otro medio, en razón de la afiliación a un sindicato o de la participación en actividades sindicales.

NORMAS LEGISLATIVAS DE FONDO QUE PROTEGEN ESPECIALMENTE A TRABAJADORES CON DETERMINADAS ACTIVIDADES SINDICALES

3

Ciertos trabajadores están más expuestos que otros a que se los discrimine, sea porque intentan constituir un sindicato, sea porque lo dirigen, sea porque lo representan. Despedir a los fundadores de un sindicato en formación parece ser el modo más eficaz —y el más utilizado— de impedir su nacimiento, pero una vez que ya ha sido constituido, el método más práctico de destruirlo consiste en eliminar a sus dirigentes. Por último, se suele debilitar la acción de un sindicato impidiendo que sus delegados cumplan adecuadamente las tareas que se les encomiendan.

Fundadores, dirigentes y delegados son, pues, las personas en quienes se centran a menudo las campañas antisindicales. Para compensar su mayor vulnerabilidad, ciertos países han establecido normas que les conceden una protección especial¹. A la descripción de esas normas se dedicarán las páginas siguientes².

PROTECCION ESPECIAL A LOS FUNDADORES DE SINDICATOS

Son pocos los países que poseen normas para proteger específicamente

¹ A este respecto, el Comité de Libertad Sindical se ha pronunciado en los términos siguientes: «Uno de los principios fundamentales de la libertad sindical es que los trabajadores gocen de protección adecuada contra los actos de discriminación antisindical en relación con su empleo... y dicha protección es particularmente necesaria en el caso de los delegados sindicales, porque para poder cumplir sus funciones sindicales con plena independencia deben tener la garantía de que no serán perjudicados en razón del mandato que detentan del sindicato.» El Comité ha estimado asimismo «que tal garantía, en el caso de dirigentes sindicales, es también necesaria para dar cumplimiento al principio fundamental de que las organizaciones de trabajadores han de contar con el derecho de escoger a sus representantes con plena libertad». (*La libertad sindical*, op. cit., pág. 72, párrafo 178.)

² También se describirán aquí ciertos mecanismos o procedimientos íntimamente ligados a las normas de fondo, con el propósito de ilustrar mejor en qué consiste la protección especial que les acuerda la ley. Más adelante, en la parte III, se describen los procedimientos de prevención, reparación y sanción, de alcance general esta vez, que completan las medidas de protección aquí examinadas.

Protección contra la discriminación antisindical

a los fundadores de un sindicato¹, e incluso entre los que las poseen difieren apreciablemente tanto el concepto de fundador como el alcance de la protección.

Concepto de fundador

En general puede decirse que se entiende por «fundador» todo trabajador que interviene en el proceso de formación de un sindicato, pero en la práctica ese término se aplica en formas diversas. En algunos casos designa a los miembros de la junta o comisión directiva provisional encargada de gestionar la existencia legal del sindicato: así ocurre, por ejemplo, en Guatemala² y Perú³. En otros casos abarca a todos los miembros del sindicato en formación (Colombia⁴ y Panamá⁵, por ejemplo), o bien únicamente a los firmantes de la notificación formal dirigida al empleador declarando la intención de constituir un sindicato (Honduras⁶ y Venezuela⁷). En el caso de Ecuador, por último, gozan de la protección especial no sólo los trabajadores que participan en la asamblea general constituyente, sino todos los de la empresa en que tiene lugar esa asamblea⁸.

Ámbito temporal de protección

La fundación de un sindicato es un proceso que se inicia generalmente con la preparación y convocación de una asamblea y que dura hasta la obtención de la personería jurídica, de la inscripción en el registro correspondiente

¹ Se trata en particular de Argentina (L 20615/73, 55), Colombia (CST, 406; D 3378/62, 1, b)), Ecuador (CT, 421), Guatemala (CT, 223), Honduras (CT, 517), Panamá (CT, 381, 1, 383 y 384, 1), Perú (RS 23-DT/57, 2; RS 27/57, 5 y 6) y Venezuela (LT, 198). Estos países poseen dos características comunes: todos ellos son latinoamericanos y en todas sus legislaciones se encuentra el llamado «fuero» o «amparo» sindical.

En Nueva Zelanda y en Suecia la protección general contra actos discriminatorios se extiende a la participación en la formación de un nuevo sindicato (L 19/73, 150, 1), e), y L 506/36, 3), respectivamente).

En Etiopía no existe una disposición que proteja específicamente a los fundadores; sin embargo, según informaciones del Gobierno, el artículo 30 de la proclamación de 1963 sobre relaciones laborales cubre también las actividades cuyo objeto sea la formación de un sindicato.

Conviene destacar que, en cierto número de países, la protección general contra actos discriminatorios podría cubrir igualmente el período de formación de un sindicato, según la interpretación que de ella se hiciera. En este estudio se citan como ejemplo, principalmente, las legislaciones en que hay disposiciones que *explícitamente* se refieren a una cuestión determinada.

² CT, 223.

³ RS 23-DT/57, 2; RS 27/57, 5 y 6.

⁴ CST, 406, a) y b); D 3378/62, 1, b).

⁵ CT, 385, 386 y 387.

⁶ CT, 517.

⁷ LT, 198.

⁸ CT, 421.

o de la autorización o certificación para negociar, según el caso. Este proceso puede llevar varias semanas, y aun varios meses. Algunos países no ponen límite temporal a la protección especial concedida en estos casos: por ejemplo, Ecuador¹, Guatemala² y Honduras³. Otros han considerado necesario fijar un límite: para Panamá⁴, Perú⁵ y Venezuela⁶ es de tres meses, para Colombia⁷ es de seis meses.

En los casos en que existe un límite se plantea evidentemente un problema cuando vence el plazo de protección sin que la personería jurídica o la inscripción se haya dado o rehusado definitivamente. En uno de los países estudiados, la prensa sindical denunció el caso siguiente: la mayoría de los trabajadores de una empresa constituyeron un sindicato de base y solicitaron de inmediato el otorgamiento de la personería jurídica; habiendo transcurrido el período durante el cual los fundadores estaban amparados sin que la autoridad administrativa se hubiera pronunciado sobre el pedido de personería, el empleador procedió a despedir a todos los dirigentes sindicales; la resolución administrativa que concedía la personería jurídica se adoptó pocos días después, cuando el sindicato, de hecho, había sido eliminado⁸.

Este ejemplo pone de manifiesto la insuficiencia de las cláusulas de protección limitadas a los plazos perentorios establecidos para la constitución de un sindicato, puesto que la decisión sobre el otorgamiento de la personería jurídica de un sindicato o su inscripción en el registro generalmente no dependen de la voluntad de los fundadores. Esa insuficiencia podría subsanarse, sea eliminando los mencionados plazos perentorios, sea autorizando una prórroga cuando el retraso no sea imputable a los fundadores.

Ambito material de protección

Las disposiciones especiales de todos estos países protegen por lo menos contra el despido arbitrario. Pero mientras que Guatemala⁹ y Perú¹⁰ prevén

¹ CT, 421.

² CT, 223, d).

³ CT, 517. La constitución definitiva de un sindicato pone fin, por razones obvias, a las actividades de los fundadores; es por ello que, tanto en Honduras como en Ecuador, la integración de la primera directiva permanente o el otorgamiento de la personería jurídica ponen fin a la protección especial concedida a los fundadores.

⁴ CT, 384, 1.

⁵ RS 27/57, 6.

⁶ LT, 198.

⁷ CST, 406, a).

⁸ Periódico *UTRACUN*, órgano de la Unión de Trabajadores de Cundinamarca, Colombia, diciembre de 1972, pág. 13.

⁹ CT, 223, d).

¹⁰ RS 27/57, 6.

Protección contra la discriminación antisindical

protección especial solamente contra el despido, Colombia¹, Honduras², Panamá³ y Venezuela⁴ la establecen también contra el traslado y cualquier otro desmejoramiento unilateral de las condiciones de trabajo. En el caso particular de Ecuador la protección cubre el despido y el *desahucio*, este último siendo «el aviso con el que una de las partes hace saber a la otra que su voluntad es la de dar por terminado el contrato»⁵. En Argentina, la protección se extiende al despido, a la suspensión y a la modificación de las condiciones de trabajo⁶.

Mecanismos o procedimientos

En contraste con la diversidad de contenido o alcance de esta protección especial, los mecanismos por los cuales se concede esa protección sorprenden por su parecido: en casi todos los casos, el empleador debe obtener previamente una decisión favorable del juez del trabajo. Así ocurre en Colombia⁷, Guatemala⁸, Honduras⁹ y Panamá¹⁰. Venezuela, en cambio, exige que se demuestre la existencia de justa causa, previamente calificada no por un magistrado sino por el inspector del trabajo¹¹.

En Argentina se requiere una resolución previa del Tribunal Nacional de Relaciones Profesionales, órgano administrativo tripartito con amplias facultades jurisdiccionales, que excluya al trabajador de que se trate de la tutela especial prevista por la ley¹².

Ecuador no requiere la intervención ni de la magistratura del trabajo ni de una autoridad administrativa. Su legislación se limita a establecer una

¹ CST, 405.

² CT, 517.

³ CT, 383.

⁴ LT, 198.

⁵ CT, 164.

⁶ L 20615/73, 55 y 60, i).

⁷ CST, 405. Este artículo define el *fuero sindical* como «la garantía de que gozan algunos trabajadores de no ser despedidos, ni desmejorados en sus condiciones de trabajo, ni trasladados a otros establecimientos de la misma empresa o a un municipio distinto, sin justa causa, previamente calificada por el juez del trabajo».

⁸ CT, 223, d). El patrono deberá comprobar previamente, en juicio ordinario sobre rescisión de contrato, que hay justa causa para su terminación. Esta inamovilidad es la misma que la concedida a los miembros del comité ejecutivo de un sindicato.

⁹ CT, 517. A falta de juez del trabajo será competente el juez civil (CT, 516). El procedimiento será sumario. Estas garantías son las mismas que las concedidas a los miembros del comité directivo de un sindicato ya constituido.

¹⁰ CT, 383. Este procedimiento es idéntico al prescrito para los dirigentes de un sindicato ya constituido.

¹¹ LT, 198; además, dice el mismo artículo, de la decisión del inspector del trabajo no se concederá apelación.

¹² L 20615/73, 55 y 57.

prohibición absoluta, sin más¹. La legislación del Perú es más escueta aún: exige la concurrencia de justa causa sin indicar quién deberá calificarla ni cuándo se deberá requerir tal calificación².

¿Qué ocurre cuando el empleador actúa sin solicitar la autorización exigida? En principio, se considera que la medida carece de todo valor jurídico, y el empleador debe reponer al fundador en su situación anterior; así ocurre, por ejemplo, en Panamá³ y Colombia⁴. Sin embargo, pareciera que en la práctica fuera extremadamente difícil obligar al empleador a restablecer la situación del trabajador, sobre todo cuando se trata de reincorporarlo. Al parecer, es ésta la insuficiencia más notoria de los mecanismos de protección que exigen una autorización previa.

Necesidad de protección especial

Todos los países que poseen normas específicas en favor de los fundadores poseen también normas similares en favor de los dirigentes sindicales. Por el contrario, sólo una minoría de los países que poseen normas especiales en favor de los dirigentes extienden esa protección a los fundadores. La protección de unos y otros se presenta, pues, al menos en la realidad legislativa, como dos problemas distintos que quizás deban resolverse de maneras diferentes.

En las conclusiones se analizará más a fondo esta doble situación.

PROTECCION ESPECIAL A LOS DIRIGENTES Y DELEGADOS SINDICALES

Aproximadamente la mitad de los países considerados poseen normas tuitivas especiales en favor de los dirigentes y delegados sindicales⁵. El con-

¹ CT, 421. El desahucio y el despido sólo se autorizan en los casos señalados por el artículo 151 del mismo Código.

² RS 27/57, 6. Esta disposición debe leerse junto con las normas del decreto-ley 18471/70 relativas a la estabilidad en el trabajo y aplicables a todos los trabajadores.

³ En el proceso de reintegro no se discutirá la existencia de la justa causa sino únicamente si se obtuvo o no la necesaria autorización previa que exige el artículo 383 del Código del Trabajo. Este proceso tiene un trámite especial regulado por los artículos 978 y 983 del mismo Código.

⁴ CST, 408.

⁵ Se trata de los siguientes países: Argelia (Or 71-75, 10), Argentina (L 20615/73, 60, h) e i), Brasil (CLT, 543, 3), Colombia (CST, 406 y 407), Ecuador (CT, 168), Egipto (L 19/59, 1 (4)), España (L 2/71, 51, 1; D 1878/71, 6), Finlandia (L 320/70, 53), Francia (CT, L.412-15 y L.436-1), Guatemala (CT, 223, d)), Honduras (CT, 516), Hungría (CT, 16), India (L 14/47, 33 (3)), Italia (L 300/70, 18 y 22), Panamá (CT, 381, 383 y 384), Pakistán (Or 23/69, 8A y 47, 2)), Perú (RS 23-DT/57, 1 y 2; RS 27/57, 6), Rumania (CT, 132, 1)), Trinidad y Tabago (L 23/72, 42 (1)), Turquía (L 1317/70, 20), URSS (CT, 235; D 27.9.71, 29 y 30) y Venezuela (LT, 198).

Las respectivas disposiciones se presentan al final del capítulo, con indicación de sus fuentes, en un cuadro sinóptico que facilita las comparaciones.

Se tendrá en cuenta que en varios países los funcionarios sindicales están expresamente

Protección contra la discriminación antisindical

tenido de estas normas varía sensiblemente de país a país, cualquiera que sea el ámbito examinado de los tres que se habían distinguido anteriormente, es decir: personal, temporal o material. También varían, y quizá sea lo más importante para este estudio, los procedimientos y mecanismos con los cuales se procura hacer cumplir efectivamente las normas especiales objeto de esta sección.

Ámbito personal de protección

Varios países conceden la protección especial de que se trata aquí solamente a los *dirigentes sindicales*, es decir, a los miembros de la directiva de una organización sindical; es el caso, por ejemplo, de Ecuador¹, Egipto², Guatemala³, Honduras⁴, India⁵ y Venezuela⁶. Otros países han optado por amparar solamente a los *delegados y/o representantes sindicales*, es decir, a los trabajadores de la empresa que representan al sindicato o a sus afiliados frente a la dirección de la misma; es el caso, por ejemplo, de Finlandia⁷, Francia⁸ e Italia⁹. Sin embargo, quizás sean mayoría los países que extienden

mencionados pero no reciben más protección que los afiliados en general; es el caso, por ejemplo, de Australia, Canadá, Ghana, Nueva Zelandia y Reino Unido.

Bélgica constituye un caso particular: mientras que el estatuto jurídico de los *delegados del personal* se ha fijado por vía legislativa (ley de 20 de septiembre de 1948), las normas relativas a los *delegados sindicales* se han establecido por vía convencional: acuerdo nacional de 16 y 17 de junio de 1947 y convenciones colectivas elaboradas en conformidad con los principios de este acuerdo. Su artículo 4 disponía, *inter alia*, que las organizaciones de empleadores se obligaban a no despedir a un miembro de las delegaciones sindicales sin informar previamente a la delegación; en tal caso, los sindicatos interesados tendrían la facultad de someter la decisión patronal de despedir a la instancia competente de la comisión paritaria. Estos principios han sido ampliados y precisados en el reciente convenio colectivo del trabajo núm. 5, relativo al estatuto de las delegaciones sindicales, de 24 de mayo de 1971. Según el artículo 18 de este convenio, si la oficina de conciliación de la comisión paritaria no llega a una decisión unánime, el litigio sobre la validez de los motivos invocados para justificar el despido será sometido a la Magistratura de Trabajo (para más detalles sobre este convenio véase Blanpain: «Convention collective de travail...», *op. cit.*).

¹ CT, 168: «... todo trabajador miembro de la directiva de la organización de trabajadores».

² L 19/59, 1 (4) (inciso agregado por el decreto presidencial que promulgó la ley núm. 142 de 1963): miembros de la junta directiva de un sindicato constituido conforme a la legislación laboral y miembros de la junta elegidos de acuerdo con la ley núm. 141 de 1963.

³ CT, 223, d): miembros del comité ejecutivo de un sindicato de trabajadores.

⁴ CT, 516: miembros del comité directivo de una organización sindical.

⁵ L 14/47, 33 (3): miembros del comité directivo u otros dirigentes de un sindicato registrado relacionado con el establecimiento (en su tenor modificado por la ley núm. 45 de 1971, artículo 5).

⁶ LT, 198: miembros de la junta directiva de un sindicato.

⁷ L 320/70, 53.

⁸ CT, L.412-15 (delegados sindicales) y L.436-1 (representante sindical ante el comité de empresa).

⁹ L 300/70, 22.

la protección especial a ambas categorías; entre ellos están, por ejemplo, Brasil¹, España², Panamá³ y Perú⁴.

En algunos casos la distinción entre dirigentes y delegados o representantes sindicales resulta difícil de establecer, sobre todo en los países en donde los primeros actúan también como delegados o representantes sindicales a nivel del taller o de la empresa en que trabajan (se tratará, en general, de sindicatos de empresa). Pero tales casos no presentan mayores dificultades desde el punto de vista jurídico porque la protección especial posiblemente cubra por igual a ambas categorías: en general se protege más bien la «función» que al «funcionario».

Pocos son los países en que esta protección especial abarca también explícitamente a dirigentes sindicales de federaciones y confederaciones; pueden citarse, por ejemplo, Colombia⁵ y Panamá⁶.

Conviene señalar que la mayor parte de los países que poseen normas especiales en favor de estas categorías limitan, de un modo u otro, el número de sus posibles beneficiarios. Así, por ejemplo, algunos países protegen solamente a los dirigentes o representantes de los sindicatos con «personería gremial» o «registrados»; es el caso, por ejemplo, de Argentina⁷ y la India⁸. Otros países señalan un número máximo absoluto: por ejemplo, no más de cinco miembros del comité ejecutivo en Guatemala⁹ y no más de siete en Venezuela¹⁰. En los países donde se autorizan las delegaciones sindicales, por último, el número de delegados sindicales beneficiarios de esta protección

¹ CLT, 543.

² L 2/71, 51.1; D 1878/71, 6.

³ CT, 381, 2 y 4.

⁴ RS 23-DT/57, 1 (representantes) y 2 (miembros de las juntas directivas de los sindicatos reconocidos).

⁵ Dice el artículo 406 del CST: «Están amparados por el fuero sindical: ... c) los miembros de la junta directiva de todo sindicato, federación o confederación de sindicatos, ... y los miembros de las subdirectivas y comités seccionales de los sindicatos previstos en los respectivos estatutos y que actúen en municipio distinto de la sede de la directiva central...»

⁶ CT, 381, 2. Los dirigentes sindicales a que se refiere esta disposición son no solamente los miembros de la directiva de los sindicatos, sino también los miembros de las directivas de las federaciones, confederaciones o centrales de trabajadores.

⁷ L 20615/73, 40-50 (fuero sindical) y 58-59 (fuero sindical especial); esta protección se extiende asimismo a los miembros de una asociación profesional sin personería gremial, pero que forme parte de una de segundo grado (fuero sindical) o de grado superior (fuero sindical especial) con personería gremial.

⁸ L 14/47, 33 (3) (en su tenor modificado por el artículo 5 de la ley núm. 45 de 1971). Los beneficiarios de esta disposición son exclusivamente los llamados *trabajadores protegidos*. Se entiende por trabajador protegido «el que, siendo miembro del comité directivo u ocupando otro cargo de dirigente de un sindicato registrado relacionado con el establecimiento, sea reconocido como tal conforme a los reglamentos dictados a ese respecto».

⁹ CT, 223, d).

¹⁰ LT, 198.

Protección contra la discriminación antisindical

especial suele ser proporcional al número de trabajadores de la empresa; así ocurre, por ejemplo, en Francia¹ y Turquía².

Muy excepcionalmente esta protección especial se extiende a los *suplentes* de dirigentes o delegados sindicales³.

Ambito temporal de protección

La mayoría de los países estudiados garantizan la referida protección durante el tiempo en que dirigentes y delegados o representantes sindicales ejercen su mandato. Entre los demás países hay que citar, por lo menos, dos importantes excepciones: Pakistán y la India restringen la protección especial al periodo durante el cual se desarrolle un proceso sobre un conflicto de trabajo: resuelto el conflicto acaba la protección⁴.

En un cierto número de casos la protección especial comienza *antes* de la elección de un dirigente o delegado sindical: se hablará entonces de la protección de los *candidatos* a funciones sindicales; en otros casos la protección se extenderá hasta *después* de haber cesado el mandato: se hablará entonces de la protección de *ex dirigentes* y *ex delegados* sindicales. De estas categorías se tratará separadamente más adelante; por el momento bastará con señalar que la técnica jurídica generalmente utilizada para proteger a estas categorías consiste en prolongar «hacia atrás» o «hacia adelante»

¹ CT, L.412-11; D 68-1183, 2: el número de delegados de las secciones sindicales varía según el número de trabajadores de la empresa o establecimiento del modo siguiente:

5 a 1 000 trabajadores	1 delegado
1 001 a 3 000 »	2 delegados
3 001 a 6 000 »	3 »
Más de 6 000 »	4 »

² L 1317/70, 20 (4):

Hasta 50 trabajadores	2 delegados
Entre 50 y 200 trabajadores	4 »
Entre 200 y 1 000 trabajadores	6 »
Más de 1 000 trabajadores	8 »

³ En Brasil, por ejemplo, el artículo 543, párrafo 3, de la CLT (en su tenor modificado por la ley núm. 5911, de 27 de agosto de 1973) dispone: «Está prohibido el despido del trabajador sindicalizado a partir del momento del registro de su candidatura a un cargo de dirección o representación sindical y hasta un año después de finalizar su mandato, en caso de que sea electo, *incluso como suplente*, salvo que cometiera falta grave debidamente comprobada en los términos de esta codificación.»

En Colombia, el amparo del «fuero sindical» protege también a los cinco primeros suplentes que figuren en la lista que el sindicato pase al patrono (CST, 407 (1)).

En Panamá, la protección del «fuero sindical» protege por igual a los directivos y a sus suplentes, aun cuando éstos no actúen (CT, 381, 3).

⁴ Or 23/69, 47, 2), y L 14/47, 33, 3), respectivamente. Una norma similar se encuentra en la legislación peruana que asegura la estabilidad de los representantes (sindicales) de los trabajadores «durante la presentación de un pliego de reclamos, la tramitación del mismo y mientras duran los efectos inmediatos de la ejecución de la resolución o acuerdo que le ponga término» (RS 23-DT/57, 1).

—según se trate de candidatos o ex funcionarios— la protección especial establecida en favor de los dirigentes o delegados titulares.

Ambito material de protección

El primer elemento que salta a la vista al comparar las legislaciones de los países que han juzgado necesario proteger en forma especial a los dirigentes o delegados sindicales es que todas, sin excepción, protegen contra la más grave y perjudicial de las discriminaciones, o sea el despido, pero en la mayor parte de los casos no van mucho más lejos.

Algunos países extienden su protección al *desmejoramiento*, es decir, a las modificaciones unilaterales del contrato de trabajo en perjuicio del trabajador; es el caso, por ejemplo, de Argentina¹, Colombia², India³ y Trinidad y Tabago⁴.

En otros países se protege explícitamente contra el *traslado* y el *cambio de puesto* (Brasil⁵, Colombia⁶, Hungría⁷, Italia⁸ y Panamá⁹) o la *suspensión* (Argentina¹⁰, Egipto¹¹ y España¹²).

En dos casos se protege también contra *otras sanciones* de menor gravedad: España¹³ y la India¹⁴; en dos casos contra *sanciones disciplinarias*: Pakistán¹⁵ y la URSS¹⁶; y en un caso contra el *desahucio* o *preaviso*: Ecuador¹⁷.

El contenido de esta protección especial es, pues, muy diferente de país a país. Desde el punto de vista de la técnica jurídica, la que parece más aconsejable es la adoptada por los países en que se protege no solamente contra el despido, sino también, mediante una fórmula amplia, contra cualquier otro acto que de algún modo perjudique al trabajador en razón de sus actividades como dirigente o delegado sindical.

¹ L 20615/73, 60, i).

² CST, 405.

³ L 14/47, 33 (3).

⁴ L 23/72, 42 (1).

⁵ CLT, 543, 3.

⁶ CST, 405.

⁷ CT, 16.

⁸ L 300/70, 22.

⁹ CT, 383.

¹⁰ L 20615/73, 60, g) e i).

¹¹ L 19/59, 2 (disposición agregada por la ley núm. 142 de 1963).

¹² D 1878/71, 6.

¹³ Se trata de sanciones «inferiores al despido»: D 1878/71, 6.

¹⁴ L 14/47, 33, 3), b).

¹⁵ Or 23/69, 47, 2).

¹⁶ CT, 235; D 27.9.71, 30.

¹⁷ CT, 168.

Protección contra la discriminación antisindical

Mecanismos o procedimientos

En general puede decirse que el mecanismo o procedimiento más comúnmente empleado consiste en exigir que la medida o medidas prohibidas por las normas protectoras especiales no se decidan ni ejecuten sino en caso de que concurran motivos suficientes para ello o haya justa causa debidamente comprobada. Se requerirá, pues, que una entidad o autoridad ajena a las partes en conflicto se pronuncie sobre la procedencia o improcedencia del acto que perjudique o pueda perjudicar a un dirigente o delegado sindical. Tanto la naturaleza de esas entidades o autoridades como el momento en que deben pronunciarse varían considerablemente en el escenario internacional, pero se destacan con todo ciertos modelos básicos.

El más generalizado de los procedimientos consiste en exigir la autorización previa del juez del trabajo; así ocurre, por ejemplo, en Brasil¹, Colombia², España³, Guatemala⁴, Honduras⁵, India⁶, Pakistán⁷ y Panamá⁸.

Otros países exigen que la autorización previa sea acordada por el *inspector de trabajo*⁹: es el caso, por ejemplo, de Francia¹⁰, diversos países africanos de habla francesa y Venezuela¹¹.

¹ CLT 543, 3 (en su tenor modificado por el artículo 15 del decreto-ley 229 de 1967): «Queda prohibido despedir al trabajador sindicado, ... salvo si hubiere cometido *falta grave debidamente comprobada* en virtud de la presente codificación.»

² CST, 405: «Se denomina 'fuero sindical' la garantía de que gozan algunos trabajadores de no ser despedidos... sin justa causa, previamente calificada por el juez del trabajo», y 408: «El juez negará el permiso que hubiere solicitado el patrono para despedir a un trabajador amparado por el fuero sindical... si no se comprobare la existencia de justa causa.»

³ D 1878/71, 6, g): «... La Magistratura podrá declarar la procedencia o absoluta improcedencia de la sanción propuesta o bien autorizar al empresario para que dentro de los límites que le señale imponga una sanción menor.»

⁴ CT, 223, d): «No pueden ser despedidos por el respectivo patrono, salvo que éste compruebe previamente... que hay justa causa... Al efecto, los tribunales de trabajo y previsión social deben tramitar esos juicios con toda la rapidez posible...»

⁵ CT, 516: «Los trabajadores miembros de la junta directiva de una organización sindical... no podrán ser despedidos... sin comprobar previamente ante el juez de letras del trabajo respectivo, o ante el juez civil en su defecto, que existe justa causa para dar por terminado el contrato.»

⁶ L 14/47, 33, 3: «... el empleador no podrá adoptar ninguna medida, mientras se desarrolle un proceso sobre un conflicto de trabajo, en contra de un trabajador protegido afectado por dicho conflicto... salvo con autorización escrita y expresa de la autoridad que juzgue la causa». En virtud del artículo 33 A de la misma ley, las autoridades competentes son las audiencias laborales y los tribunales de trabajo.

⁷ Or 23/69, 47, 2: «... los funcionarios de un sindicato registrado no podrán ser despedidos, licenciados o sancionados de otra forma por mala conducta mientras esté pendiente el procedimiento aludido..., salvo con la autorización previa del tribunal de trabajo».

⁸ CT, 383: «El trabajador amparado por el fuero sindical no podrá ser despedido sin previa autorización de los tribunales del trabajo, fundada en una justa causa prevista en la ley...»

⁹ Sobre la intervención de la inspección del trabajo en la apreciación de los motivos de despido de los representantes *electos* del personal, véase OIT: *La inspección del trabajo: Misión, métodos* (Ginebra, 1973), págs. 40-42.

¹⁰ CT, L.412-15: «El despido de un delegado sindical no puede tener lugar sino con la autorización previa del inspector del trabajo o de la autoridad que lo reemplaza...»

¹¹ LT, 198: «... causa justa, calificada previamente por el respectivo inspector del trabajo».

En algunos países se exige la autorización previa de un *órgano sindical*: por ejemplo, en la URSS¹, donde es indispensable el consentimiento previo del *comité sindical local* en caso de traslado o sanciones disciplinarias en contra de uno de sus miembros, y del *organismo sindical superior* en caso de traslado, sanciones disciplinarias o despido de un presidente de comité o de un funcionario sindical; en Hungría², donde la autorización previa de la autoridad sindical inmediatamente superior es necesaria en caso de despido, cambio de puesto o traslado de un funcionario sindical elegido, y en Rumania³, donde deberá consultarse al comité sindical y al organismo sindical de jerarquía superior en caso de rescisión del contrato de trabajo de miembros del comité sindical o de otros órganos sindicales.

Argelia⁴ también exige la autorización previa de un *órgano sindical*, pero acompañada por la autorización del *inspector del trabajo*. Este es un caso ilustrativo de la reunión de dos técnicas distintas, o sea la intervención del inspector del trabajo y la intervención de entidades sindicales.

Por lo menos en dos países la autoridad competente para expedir la autorización previa será un *organismo administrativo* con facultades cuasijudiciales: es el caso de Argentina⁵, en donde el Tribunal Nacional de Relaciones Profesionales debe pronunciar el «desafuero» (excluyendo de la tutela especial al trabajador o trabajadores a cuyo respecto se invoque la existencia de causales justificativas de la medida de que se trate), y de Egipto⁶, en donde ciertos dirigentes sindicales no pueden ser suspendidos o despedidos a menos que así lo disponga la Corte de Disciplina.

Finlandia⁷ posee un mecanismo muy particular: se exige el consentimiento previo de la mayoría de los trabajadores representados cuando se intenta despedir a su delegado sindical.

Tratándose de los representantes sindicales ante el *comité o consejo de empresa*, se suele exigir también el consentimiento previo de este último. Así ocurre en Francia⁸, por ejemplo, en donde se prevé, además, que en caso de desacuerdo dentro del comité de empresa se necesitará la autorización del inspector del trabajo. En España⁹, cuando el representante sindical forma

¹ L 2-VIII/70, 99; D 27.9.71, 30; CT, 235.

² CT, 16.

³ CT, 132, 1).

⁴ Or 71-75, 10.

⁵ L 20615/73, 57 (fuero sindical) y 59 (fuero sindical especial).

⁶ L 19/59, 2.

⁷ L 320/70, 53.

⁸ CT, L.436-1. Se recordará que, en virtud del artículo L.433-1, cada organización sindical reconocida como representativa en la empresa puede designar a un representante ante el comité de empresa.

⁹ D 1878/71, 6, f), *in fine*.

parte del consejo de administración de la empresa, la propuesta de despido requerirá el voto favorable de las tres cuartas partes de los vocales representantes del capital.

La autorización previa del sindicato interesado se necesita en Italia¹ solamente cuando se trata del traslado del delegado sindical, pero no cuando la medida proyectada sea su despido; en este caso, el juez de la causa está facultado para ordenar la reintegración en cualquier estado y grado del juicio, sin tener que esperar —como ocurriría conforme al procedimiento común— hasta que el proceso llegue al estado de sentencia.

El resto de los países estudiados no exigen una autorización previa; constituyen, sin embargo, una pequeña minoría. Aun entre ellos los mecanismos destinados a asegurar la protección de dirigentes y delegados sindicales varían sensiblemente, yendo desde la exigencia de un procedimiento determinado hasta la ausencia de todo procedimiento especial.

Turquía² ordena la conciliación y el arbitraje obligatorios en los casos de despido de delegados sindicales y de no reincorporación de ex dirigentes. Ecuador³ y Perú⁴, en cambio, se limitan a prohibir ciertos actos discriminatorios y a establecer sanciones económicas, sin recurrir a mecanismos o procedimientos especiales. En Trinidad y Tabago⁵, además de la sanción económica, se prescribe una sanción penal de un año de prisión.

Considerados en su conjunto, puede decirse que los mecanismos o procedimientos destinados a hacer efectiva la protección especial de los dirigentes o de los delegados sindicales se caracterizan por el lugar primordial que dan a la *prevención* de los actos discriminatorios, al exigir la autorización previa de diferentes entidades. Pocos son, en cambio, los países que han optado, simplemente, por *agrar las sanciones*.

No está de más destacar el modo distinto en que actúan los mecanismos o procedimientos descritos según sean del tipo «preventivo» o de los tipos «reparativo» y «punitivo», puesto que los primeros actúan antes de que se cometan las discriminaciones y los últimos una vez que se han cometido. Aunque sería prematuro intentar aquí una evaluación de su respectiva eficacia, se puede observar que aparentemente se eligen los mecanismos que eviten la comisión del acto discriminatorio sobre todo cuando se trata de medidas de cierta gravedad, por la calidad de la persona amenazada —por ejemplo, dirigente sindical— o por la naturaleza del acto en sí —por ejemplo, despido.

¹ L 300/70, 22.

² L 1317/70, 30.

³ CT, 168.

⁴ RS 23-DT/57, 1 y 2; RS 27/57, 6.

⁵ L 23/72, 42 (3).

PROTECCION ESPECIAL A LOS CANDIDATOS A FUNCIONES SINDICALES

La necesidad de proteger adecuadamente a los candidatos a funciones sindicales ha sido expresada en dos instrumentos internacionales. En primer lugar, la Recomendación sobre la terminación de la relación de trabajo por iniciativa del empleador, 1963 (núm. 119), sienta que el hecho de ser candidato a representante de los trabajadores no debería ser causa justificada para terminar la relación de trabajo¹. En segundo lugar, la Recomendación sobre la protección y facilidades que deben otorgarse a los representantes de los trabajadores en la empresa, 1971 (núm. 143), propone que se aplique a los trabajadores que sean candidatos o hayan sido presentados como candidatos la protección prevista para los titulares de la referida representación².

La necesidad de proteger de manera específica a los candidatos a dirigentes o a delegados sindicales es fácil de comprender, sobre todo en los países en donde la protección general contra las discriminaciones antisindicales no es totalmente efectiva. Por un lado, esas candidaturas suelen ser las primeras manifestaciones patentes de la intención de participar activamente en una organización sindical, de modo que la parte patronal, si es refractaria a los sindicatos, no dejará pasar la oportunidad de apartar al trabajador o trabajadores de que se trate antes de que sean elegidos y se coloquen en una posición de mayor fuerza relativa. Por otro lado, la eliminación de los candidatos pertenecientes a ciertos sindicatos sirve a veces para neutralizar un sindicato no deseado. Tanto desde el punto de vista del trabajador como del sindicato, pues, la protección de los candidatos es tan de desear como la de los titulares.

A juzgar por las legislaciones nacionales, son relativamente pocos los países en que los candidatos gozan de protección específica, siendo casi siempre esta protección una extensión de la prevista para los titulares de la función o cargo de que se trate.

Ambito personal de protección

Solamente en cuatro países se establece una protección especial tanto para los candidatos a dirigentes como para los candidatos a delegados o represen-

¹ Véase el texto exacto de la disposición en el anexo 1, párrafo 3, b), de la Recomendación número 119.

² Véase el texto exacto de la disposición en el anexo 1, párrafo 7, 2), de la Recomendación número 143. Se recordará que en este instrumento la expresión «representante de los trabajadores» comprende tanto a los «representantes sindicales», es decir, a los nombrados o elegidos por los sindicatos o sus afiliados, como a los «representantes electos», es decir, a los elegidos por los trabajadores de la empresa y cuyas funciones no incluyen actividades reconocidas en el país como prerrogativas exclusivas de los sindicatos (párrafo 2 de la Recomendación). En este estudio no se trata de estos últimos.

Protección contra la discriminación antisindical

tantes sindicales: Argentina¹, Brasil², España³ y Panamá⁴. Italia⁵ ampara en esta forma especial exclusivamente a los candidatos al comité de empresa.

Costa de Marfil⁶ constituye un caso particular, pues sólo posee normas especiales en favor de los delegados del personal, y no de los dirigentes ni de los representantes sindicales. No obstante, la protección prevista para dichos delegados se extiende con el mismo contenido a los candidatos al cargo *presentados en la primera vuelta por un sindicato*.

Al apreciar comparativamente el ámbito personal de protección de estas normas es preciso recordar que en cierto número de países los delegados sindicales son designados directamente por los sindicatos, sin que haya lugar a candidaturas y elecciones. Desaparece entonces el objeto de la protección especial a los candidatos.

Ambito temporal de protección

En lo que respecta al período durante el cual se protege a los candidatos, Argentina⁷, Brasil⁸, Costa de Marfil⁹ y España¹⁰ toman como punto de partida la fecha del registro, la publicación o la proclamación de la candidatura. Pero mientras en Costa de Marfil se señala un límite máximo de tres meses, en los otros países nada se dice al respecto. Panamá¹¹, en cambio, toma como referencia la fecha de las elecciones y retrotrae la protección especial durante el mes anterior a las mismas.

En Italia¹², por último, la protección se extiende hasta el final del tercer mes siguiente al mes en que hayan tenido lugar las elecciones del comité de empresa.

Ambito material de protección

Todos los países citados precedentemente protegen a los candidatos contra el *despido*; solamente tres de ellos —Brasil¹³, Italia¹⁴ y Panamá¹⁵—los

¹ L 20615/73, 53 y 54.

² CLT, 543.

³ L 2/71, 51.1; D 1878/71, 6.

⁴ CT, 384, 3 y 4.

⁵ L 300/70, 22.

⁶ CT, 139.

⁷ L 20615/73, 53 y 54.

⁸ CLT, 543, 3).

⁹ CT, 139.

¹⁰ D 1878/71, 11.

¹¹ CT, 384.

¹² L 300/70, 22; no se indica cuándo comienza esta protección.

¹³ CLT, 543, 3).

¹⁴ L 300/70, 22.

¹⁵ CT, 383.

protegen también contra el *traslado* o cambio de puesto. España¹ los ampara en forma especial contra la *suspensión* y otras *sanciones inferiores*, además del despido, y Panamá² contra las modificaciones unilaterales del contrato de trabajo, además del traslado. La reciente ley sindical argentina protege a los candidatos contra el despido, la suspensión y la modificación de las condiciones de servicio³.

Mecanismos o procedimientos

Los mecanismos y procedimientos para proteger a los candidatos a funciones sindicales son los mismos que se han detallado al tratar de los dirigentes y delegados titulares. Se repetirán *pro memoria* las características esenciales: Brasil⁴, España⁵ y Panamá⁶ exigen el acuerdo previo del juez del trabajo, mientras que la Costa de Marfil⁷ requiere la del inspector del trabajo; Italia⁸ aplica procedimientos distintos según se trate de despido (en que interviene el juez de la causa) o de traslado (en que debe pronunciarse previamente el sindicato); Argentina⁹, finalmente, exige una resolución previa del Tribunal Nacional de Relaciones Profesionales.

PROTECCION ESPECIAL A LOS EX DIRIGENTES Y EX DELEGADOS SINDICALES

La Recomendación núm. 119, ya citada anteriormente, menciona entre las razones que no deberían constituir una causa justificada de despido el «haber actuado» en calidad de representante de los trabajadores¹⁰. A su vez, la Recomendación núm. 143, también citada ya, contiene una disposición similar, aunque concebida en términos más amplios, en el sentido de que podría también otorgarse a los trabajadores que han cesado en sus funciones de representantes de los trabajadores la protección de que deberían gozar los titulares de esas funciones, la cual debe cubrirlos no sólo contra el despido, sino «contra todo acto que pueda perjudicarlos»¹¹.

¹ D 1878/71, 6 y 8.

² CT, 383.

³ L 20615/73, 54.

⁴ CLT, 543, 3).

⁵ D 1878/71, 6.

⁶ CT, 383.

⁷ CT, 139.

⁸ L 300/70, 18 y 22.

⁹ L 20615/73, 57.

¹⁰ Véase en el anexo I el texto exacto de la disposición en el párrafo 3, b).

¹¹ Esta disposición combina el párrafo 5 y el párrafo 7, 2). Véase el anexo I.

Protección contra la discriminación antisindical

A nivel de las legislaciones nacionales, la protección de los ex dirigentes y ex delegados constituye una prolongación «hacia adelante» de la prevista para los dirigentes y delegados titulares, del mismo modo que la protección de los candidatos es en realidad una prolongación «hacia atrás» de las mismas normas.

Esa prolongación «hacia adelante» se basa en razones que también son fáciles de comprender, porque si bien es cierto que los posibles enfrentamientos de los dirigentes y delegados sindicales con la dirección de la empresa en que trabajan, o a la que volverán a trabajar, se sitúan lógicamente durante el periodo de ejercicio de su mandato (con motivo de la presentación de reclamos individuales, de la sumisión y discusión de reivindicaciones colectivas, de la preparación, desencadenamiento o prosecución de una huelga, etc.), también es ése el periodo en que disfrutan de una posición de fuerza relativamente favorable para defenderse contra los intentos de discriminación de la dirección. En cambio, una vez expirado el mandato, se modifica apreciablemente la relación de fuerzas, y la dirección puede ceder a la tentación de «arreglar cuentas» con los dirigentes o delegados que hayan mostrado más dinamismo o intransigencia.

Ambito personal de protección

Algo menos de veinte de los países estudiados poseen disposiciones que protegen específicamente a los dirigentes o delegados sindicales que han cesado en sus funciones. Algunos, como Argelia¹, Ecuador², Guatemala³, Honduras⁴ y Venezuela⁵, sólo amparan a los ex dirigentes. Otros, los menos numerosos, por ejemplo, Francia⁶ e Italia⁷, conceden la protección únicamente a los ex delegados o ex representantes sindicales. Un tercer grupo hace participar de esa protección especial tanto a los ex dirigentes como a los ex delegados o representantes: es el caso de Argentina⁸, Brasil⁹, Colombia¹⁰, España¹¹, Panamá¹² y Perú¹³.

¹ Or 71-75, 10.

² CT, 168.

³ CT, 223, d).

⁴ CT, 516.

⁵ LT, 198.

⁶ CT, L.412-15 y L.436-1.

⁷ L 300/70, 22.

⁸ L 20615/73, 49 (fuero sindical).

⁹ CLT, 543.

¹⁰ CST, 406, c) y d).

¹¹ L 2/71, 51.1; D 1878/71, 6.

¹² CT, 384.

¹³ RS 23-DT/57, 1 y 2.

Puesto que la técnica jurídica casi uniformemente utilizada es la de prolongar una protección especial preexistente, se aplican aquí los mismos límites en cuanto al número y definición de los posibles beneficiarios que en el caso ya examinado de los dirigentes y delegados o representantes.

Ambito temporal de protección

Quizás el aspecto más interesante de la protección especial de ex dirigentes y ex delegados sindicales, desde el punto de vista de la legislación comparada, sea el de su ámbito temporal. Se observó, al tratar de los candidatos, que la prolongación «hacia atrás» de las disposiciones especiales correspondía, en general, al período relativamente corto que va desde la oficialización de las candidaturas hasta las elecciones. En el caso de los ex dirigentes y ex delegados, la prolongación «hacia adelante» se extiende durante un período que va de *tres meses a dos años* a contar de la fecha de la cesación en el cargo.

Esta diferencia de tratamiento se debe, en parte al menos, a que en el caso de los candidatos hay dos puntos de referencia fácilmente determinables: la oficialización de las candidaturas y las elecciones, mientras que en el caso de los ex dirigentes y los ex delegados hay solamente uno: la fecha de la cesación en el cargo. A partir de ese momento, ¿durante cuánto tiempo se ha de mantener la protección especial?

El grupo más numeroso de países ha fijado un período de doce meses: así lo han hecho Argelia¹, Argentina², Brasil³, Ecuador⁴ y Panamá⁵.

Para el grupo que sigue en importancia numérica, ese período es de seis meses: es el caso de Colombia⁶, Francia⁷, Guatemala⁸ y Honduras⁹.

En dos países la prolongación no debe exceder de tres meses o noventa días: Turquía¹⁰ y Venezuela¹¹.

España¹² es el único país en extender esta protección hasta dos años después del cese en el cargo.

¹ Or 71-75, 10, *in fine*.

² L 20615/73, 49.

³ CLT, 543, 3), en su tenor modificado por la ley núm. 5911, de 27 de agosto de 1973.

⁴ CT, 168.

⁵ CT, 384.

⁶ CST, 406, c) y d).

⁷ CT, L.412-15 y L.436-1.

⁸ CT, 223, d).

⁹ CT, 516.

¹⁰ L 274/63, 20, en su tenor modificado por la ley núm. 1317, de 29 de julio de 1970.

¹¹ LT, 198.

¹² D 1878/71, 11.

Protección contra la discriminación antisindical

En un solo caso no se indica limitación alguna: Perú¹ extiende la protección especial contra el despido de los representantes sindicales «mientras duran los efectos inmediatos» de la resolución o acuerdo que ponga término a la tramitación de un pliego de reclamos.

Aunque no es éste el lugar para emitir juicios de valor sobre las diversas técnicas jurídicas citadas, se puede señalar desde ahora que la fijación de un límite tiene la desventaja de la rigidez (pues da la posibilidad de despedir al ex dirigente, en el caso extremo, *unas horas después* de expirar el plazo), pero en cambio, por su precisión objetiva, tiene la ventaja de facilitar la prueba (contrariamente, por ejemplo, a la demostración de que todavía duran los «efectos inmediatos» a que se refiere la legislación peruana). Quizá la técnica jurídica más aconsejable consista en fijar un límite, pero a condición de que sea suficientemente amplio como para proteger adecuadamente, según los usos y prácticas laborales de cada país, a los antiguos titulares de cargos sindicales.

Ambito material de protección

En general, los ex candidatos y ex delegados están protegidos contra los mismos actos discriminatorios que los candidatos y delegados. Conviene señalar, sin embargo, la existencia en algunos países de la llamada «reserva de puesto» en favor de los funcionarios sindicales que han dejado de trabajar en la empresa para consagrarse al ejercicio de sus funciones.

Se encuentran normas de este tipo, por ejemplo, en Argentina², Turquía³ y URSS. A título ilustrativo se transcribe la disposición de este último país⁴:

Todo trabajador relevado de sus funciones profesionales en la empresa, establecimiento u organización por haber sido elegido miembro del comité sindical local o de fábrica volverá a ejercer su trabajo (función) o, si ya no existiese, otro trabajo (función) equivalente en la misma empresa, establecimiento u organización, o bien en otra, siempre y cuando dé su consentimiento, cuando se produzca el vencimiento de su mandato.

Mecanismos o procedimientos

Los mecanismos de aplicación de las normas especiales en favor de los ex dirigentes y ex delegados no difieren de los creados para los dirigentes y delegados sindicales y ya examinados en la correspondiente sección.

¹ RS 23-DT/57, 1; los miembros de las juntas directivas de los sindicatos, en cambio, están protegidos «mientras practiquen actos de representación» (*ibíd.*, artículo 2, y RS 27/57, artículo 6).

² L 20615/73, 51; según esta disposición, el período durante el cual los trabajadores hubieren desempeñado funciones sindicales será considerado período de trabajo a los efectos del cómputo de su antigüedad.

³ L 1317/70, 20, 1); según esta disposición, el trabajador interesado conservará sus derechos de antigüedad en materia de salarios y despidos.

⁴ D 27.9.71, 29.

Cuadro 5. Protección prevista por disposiciones especiales ¹

País	Ambito personal		Ambito temporal	Ambito material	Mecanismo
Argelia*	Miembros de la directiva de las secciones sindicales.		Mientras ejerzan su mandato y hasta un año después.	Despido.	Acuerdo previo de la directiva sindical y aprobación del inspector del trabajo.
Argentina*	Representantes; delegados.		Por todo el tiempo que dure su mandato y hasta un año después.	Despido; suspensión; modificación de las condiciones de trabajo.	Resolución previa del Tribunal Nacional de Relaciones de Trabajo que excluya al trabajador de la tutela del fuero sindical.
[L 20615/73, 49, 50, 53, 54, 55, 57 y 60; i)]	Candidatos.		Desde la oficialización de la candidatura: para el candidato no elegido, por un año desde que debiera haber comenzado a ejercer su mandato, de haber sido elegido.	Idem.	Idem.
	Fundadores.		Por un año a partir del momento en que se realizó la actividad tutelada.	Idem.	Idem.
Brasil*	Directivos; representantes; candidatos; suplentes.		Desde el registro de la candidatura hasta un año después de finalizado el mandato.	Despido; traslado.	Prohibición de despedir, salvo comisión de falta comprobada por el juez del trabajo.
[CLT, 543, 3]					

¹ Los países señalados con un asterisco poseen, además, disposiciones específicas con ámbito general de protección.

Cuadro 5 (continuación)

País	Ambito personal	Ambito temporal	Ambito material	Mecanismo
Colombia* [CST, 406 a 408, y D 3378/62, 1.º b) y 2.º]	Directivos; suplentes de los directivos; representantes.	Mientras dure el mandato y hasta seis meses después.	Despido; desmejoramiento; traslado.	Justa causa previamente cali- ficada por el juez del tra- bajo.
	Fundadores.	Sin exceder de seis meses.	Despido; suspensión; modificación de las condi- ciones de trabajo.	Multas sucesivas.
Costa de Marfil* [CT, 139]	Candidatos a delegados de personal presentados por un sindicato.	Durante tres meses a partir de la publicación de la candidatura.	Despido.	Autorización previa del ins- pector del trabajo.
Ecuador [CT, 168 y 421]	Directivos.	Mientras ejerza sus funciones y hasta un año después.	Despido; desahucio.	Simple prohibición acompa- ñada de sanción pecuniaria.
	Fundadores.	Desde la notificación al ins- pector del trabajo hasta que se integre la primera directiva.	Idem.	Simple prohibición.
Egipto* [L. 19/59, 1 (4) y 2]	Miembros de la junta direc- tiva.	Mientras ejercen sus funcio- nes.	Despido; suspensión.	Decisión previa de la Corte de Disciplina.

<p>España</p> <p>[L 2/71, 51, 1; D 1878/71, 6 y 11]</p>	<p>Dirigentes; representantes; candidatos.</p>	<p>Desde la proclamación de las candidaturas hasta dos años después del cese en el cargo.</p>	<p>Despido; suspensión; otras sanciones inferiores.</p>	<p>Autorización previa de la Magistratura del Trabajo.</p>
<p>Finlandia*</p> <p>[L 320/70, 53]</p>	<p>Delegados sindicales.</p>	<p>Mientras ejercen sus funciones.</p>	<p>Despido.</p>	<p>Consentimiento previo de la mayoría de los trabajadores que representan.</p>
<p>Francia*</p> <p>[CT, L.412-15 y L.436-1]</p>	<p>Delegados sindicales; representantes sindicales ante el comité de empresa.</p>	<p>Mientras ejercen sus funciones y durante los seis meses siguientes al cese en el cargo.</p>	<p>Despido.</p>	<p>Delegados: autorización previa del inspector del trabajo; representantes: consentimiento previo del comité de empresa; en caso de acuerdo, autorización del inspector de trabajo.</p>
<p>Guatemala*</p> <p>[CT, 223, d)]</p>	<p>Miembros del comité ejecutivo (hasta cinco).</p> <p>Fundadores: hasta nueve miembros del comité ejecutivo provisional.</p>	<p>Mientras ejerzan sus cargos y hasta seis meses después.</p> <p>Sin limitación.</p>	<p>Despido.</p> <p>Idem.</p>	<p>Justa causa previamente calificada por los tribunales de trabajo.</p> <p>Idem.</p>
<p>Honduras*</p> <p>[CT, 516 y 517]</p>	<p>Miembros de la junta directiva.</p> <p>Fundadores.</p>	<p>A partir de su elección y hasta seis meses después de haber cesado en sus funciones.</p> <p>Hasta la fecha de recibir la constancia de la personería jurídica.</p>	<p>Despido.</p> <p>Despido; traslado; desmejoramiento.</p>	<p>Justa causa previamente calificada por el juez del trabajo.</p> <p>Justa causa previamente calificada por la autoridad competente.</p>

Cuadro 5 (continuación)

País	Ambito personal	Ambito temporal	Ambito material	Mecanismo
Hungria [CT, 16]	Funcionarios sindicales elegidos.	Mientras ejerzan sus cargos.	Despido; cambio de puesto; traslado.	Autorización previa de la autoridad sindical inmediatamente superior.
India* [L 14/47, 33 (3) y 33A]	Miembros del comité directivo u otro dirigente de un sindicato registrado.	Mientras se desarrolle un proceso sobre un conflicto de trabajo.	Despido; desmejoramiento; otras sanciones.	Autorización previa de la autoridad que juzgue el conflicto de trabajo (audiencia laboral o tribunal de trabajo).
Italia* [L 300/70, 18 y 22]	Delegados sindicales; miembros y candidatos del comité de empresa.	Delegados sindicales y miembros del comité de empresa: hasta un año después de haber expirado su mandato; candidatos: tres meses.	Despido; traslado.	En caso de <i>despido</i> : el juez podrá ordenar el reintegro en cualquier estado y grado del juicio; en caso de <i>traslado</i> : se requiere la autorización previa del sindicato.
Pakistán* [Or 23/69, 8A]	Funcionarios de un sindicato no registrado.	Mientras esté pendiente una solicitud de registro.	Despido; licenciamiento; transferencia; destitución; otras sanciones.	Prohibición absoluta, y penas de multa y/o prisión.
[<i>Ibid.</i> , 47, 2]	Funcionarios de un sindicato registrado.	Mientras esté pendiente un procedimiento sobre un conflicto de trabajo.	Despido; licenciamiento; otras sanciones por mala conducta.	Autorización previa del tribunal de trabajo, y penas de multa y/o prisión.

Panamá* [CT, 381, 383 y 384]	Directivos principales y suplentes; representantes; candidatos.	Desde un mes antes de las elecciones hasta un año después de haber cesado en sus funciones.	Despido; desmejoramiento; traslado.	Justa causa previamente calificada por los tribunales del trabajo.
	Fundadores.	Hasta tres meses después de admitida su inscripción.	Idem.	Idem.
Perú* [RS 23-DT/57, 1 y 2; RS 27/57, 5 y 6]	Miembros de las juntas directivas de sindicatos establecidos.	Cuando ejerciten actos de representación.	Despido.	Prohibición de despedir salvo por causas legales.
	Representantes.	Durante la presentación y tramitación de un pliego de reclamos y mientras duran los efectos inmediatos de la ejecución de la resolución o acuerdo que le ponga término.	Idem.	Idem.
Rumania [CT, 132, 1)]	Fundadores: personeros de los sindicatos en formación.	Tres meses.	Idem.	Idem.
	Miembros del comité sindical o de otros órganos sindicales.	Mientras ejerzan sus funciones.	Despido.	Consulta previa con el comité sindical y con el órgano sindical de jerarquía superior.
Trinidad y Tabago* [L 23/72, 42, 1)]	Funcionario; delegado.	Mientras ejerzan sus funciones.	Despido; desmejoramiento.	Sanciones: multa y prisión.

Protección especial

Cuadro 5 (fin)

Pais	Ámbito personal	Ámbito temporal	Ámbito material	Mecanismo
Turquia* [L 274/63, 20]	Delegados.	Mientras ejerzan sus funciones.	Despido.	Conciliación y arbitraje obligatorios.
	Miembros del comité sindical local.	Mientras ejerzan sus funciones.	Despido.	Consentimiento previo del organismo sindical superior.
	Presidentes de comités; funcionarios.	Idem.	Traslado; sanciones disciplinarias.	Consentimiento previo del comité sindical local.
URSS [CT, 235]			Despido; traslado; sanciones disciplinarias.	Consentimiento previo del organismo sindical superior.
Venezuela* [LT, 198; RLT, 342-359]	Miembros de la junta directiva (hasta siete).	Mientras ejerzan sus cargos y hasta tres meses después.	Despido; traslado; desmejoramiento.	Justa causa, calificada previamente por el inspector del trabajo.
	Fundadores.	Tres meses, a partir de la notificación al patrono del propósito de organizar un sindicato.	Idem.	Idem.

LEGISLACIONES SIN NORMAS ESPECIFICAS CONTRA LA DISCRIMINACION ANTISINDICAL

4

Entre los países estudiados, un grupo relativamente reducido no posee normas específicas, ni generales ni especiales, para proteger a los trabajadores contra posibles actos discriminatorios; se trata de Jamaica, Líbano, Nigeria¹, Sierra Leona, Suiza y Yugoslavia.

La ausencia de normas legales específicas no implica necesariamente la ausencia de toda protección contra actos discriminatorios, pero la que exista será por lo común de carácter *indirecto* y se ejercerá, por ejemplo, al determinar que un despido ha sido abusivo, lo que permitirá otorgar una indemnización por daños y perjuicios al trabajador perjudicado.

Desde el punto de vista de la eficacia de la protección que se estudia en esta obra, la experiencia internacional —tanto si es la acumulada por la OIT como la extraída de la comparación de legislaciones nacionales— indica con claridad la conveniencia de adoptar normas específicas a tales fines².

¹ En este país se prohíbe restringir la afiliación a un sindicato por motivos discriminatorios (D 31/73, 12); pero esta prohibición está dirigida a los sindicatos y no a los empleadores.

² Conviene recordar a este respecto ciertas consideraciones recientemente formuladas por la Comisión de Expertos en Aplicación de Convenios y Recomendaciones, a saber: «Incluso en los países donde los trabajadores gozan de garantías muy apreciables contra la discriminación antisindical, según indican las memorias de sus gobiernos, por existir en ellos sindicatos poderosos y bien organizados, puede ocurrir que algunos empleadores se nieguen a contratar a ciertos trabajadores a causa de su afiliación o de sus actividades sindicales o que tomen medidas discriminatorias contra ellos por esas razones. La Comisión ha opinado hasta ahora que, mientras sea real y operante la protección exigida por el Convenio, no importa que varíen los métodos con que se apliquen sus disposiciones y que, al elegir esos métodos, los gobiernos deben normalmente tener en cuenta factores tales como los antecedentes históricos del sindicalismo del país, la fuerza actual de los sindicatos y la experiencia de sus dirigentes. No obstante, si en un país los trabajadores no estuvieran suficientemente amparados contra los actos de discriminación antisindical, el respectivo gobierno, para cumplir debidamente lo dispuesto por el Convenio, y cualesquiera que fueran los métodos aplicados normalmente, debería tomar las medidas del caso a fin de que se aplique efectivamente la protección prescrita por el Convenio. Esas medidas pueden resultar particularmente necesarias en los países con un movimiento sindical incipiente, pero tal vez deban ser consideradas como una posibilidad también en los países con sindicatos vigorosos y de largo arraigo.» (*Libertad sindical y negociación colectiva*, op. cit., párrafo 149, págs. 66-67.)

**ORGANISMOS Y PROCEDIMIENTOS
PARA PREVENIR, REMEDIAR Y SANCIONAR
LAS DISCRIMINACIONES ANTISINDICALES**

ORGANISMOS ENCARGADOS DE LA APLICACION DE LAS NORMAS PROTECTORAS

5

Muy diversos son los organismos o autoridades que intervienen en la aplicación de las normas protectoras contra discriminaciones antisindicales. Esta diversidad se advierte no solamente al comparar sistemas de países diferentes, sino incluso dentro de algunos de ellos, que hacen intervenir distintas autoridades, alternativa o sucesivamente, según el tipo de discriminación o el estadio del proceso administrativo o judicial.

INSPECCION DEL TRABAJO

En cierto número de países, la inspección del trabajo u otra autoridad administrativa interviene en los casos de discriminación antisindical sea en virtud de su responsabilidad jurídica general de imponer el cumplimiento de las disposiciones legales, sea en virtud de sus facultades específicas en materia de prevención y solución de conflictos y de apreciación de los motivos de despido de dirigentes o delegados sindicales.

Los ejemplos abundan. En Argelia, el inspector del trabajo tiene que dar su aprobación antes de que pueda hacerse efectivo un despido ya admitido por la comisión paritaria de disciplina o por la oficina sindical, creadas ambas por ordenanza¹. En Colombia², la inspección del trabajo está ampliamente facultada para efectuar investigaciones y ordenar medidas preventivas. En Francia³, el despido de un delegado sindical requiere la autorización previa del inspector del trabajo, quien tiene por misión asegurarse de que se respetan las disposiciones legales. En Guatemala⁴, la ley faculta *ampliamente* a la

¹ Or 71-74, 54, y Or 71-75, 10, respectivamente.

² DL 2351/65, 41 (disposición incorporada en el artículo 486 del Código Sustantivo del Trabajo).

³ CT, L.412-15.

⁴ CT, 278 y 281.

Protección contra la discriminación antisindical

Inspección General del Trabajo para velar por el cumplimiento de las leyes laborales y para intervenir en los conflictos del trabajo. En Mali¹, también la inspección del trabajo posee amplios poderes de investigación para vigilar la aplicación de la legislación laboral. En Panamá², cuando existe un caso de discriminación antisindical, el mismo es conocido en primera instancia por las autoridades administrativas del Ministerio de Trabajo y Bienestar Social, es decir, la Dirección General del Trabajo, la cual, si llega a concluir que hay suficiente mérito para sancionar al empleador, lo hace. En Perú³ corresponde a la Autoridad Administrativa del Trabajo prevenir, remediar y sancionar las discriminaciones antisindicales, si el vínculo laboral está vigente o si el trabajador solicita su reposición, pero en caso contrario o si el trabajador solicita el pago de beneficios sociales, corresponde al Fuero Privativo del Trabajo remediar y sancionar³.

La experiencia parece indicar que la intervención de la inspección del trabajo resulta sumamente útil en la *prevención* de discriminaciones antisindicales (en particular en los países donde se requiere su autorización previa para despedir a ciertos trabajadores «protegidos») y en la *preparación de pruebas* que el trabajador despedido podrá hacer valer posteriormente ante un órgano judicial. Estas dos funciones específicas de la inspección del trabajo en materia de protección contra las discriminaciones antisindicales parecen prestarse a un mayor desarrollo y profundización (por ejemplo, extendiendo el requisito de la autorización previa a otros trabajadores y a otras formas de actos discriminatorios, además del despido). Ello contribuiría, sin duda alguna, al mejoramiento de la protección contra las discriminaciones antisindicales.

COMITES SINDICALES, CONSEJOS DE EMPRESA Y COMISIONES PARITARIAS

En algunos países se han establecido dentro de la empresa mismos organismos competentes para intervenir, entre otros casos, en los de discriminación antisindical; de ese género son, por ejemplo, los comités sindicales de Hungría, Rumania y la URSS⁴, los consejos de empresa de la República Federal de Alemania y Austria⁵ y las comisiones paritarias de Argelia⁶. Estos organismos,

¹ CT, 353.

² Respuesta del Gobierno a la OIT.

³ Para un estudio más general de la actividad de la inspección del trabajo, véase OIT: *La inspección del trabajo...*, op. cit., particularmente las secciones sobre prevención y solución de conflictos y sobre apreciación de los motivos de despido de los representantes del personal, páginas 33-42.

⁴ CT, 14, 3 (Hungría), CT, 132, 1) (Rumania) y D 27.9.71, 18 y CT, 208 (URSS).

⁵ L 15.1.72, 75 (1), 102 (1) y 23 (3) (República Federal de Alemania) y L 28.3.47, 25 (Austria).

⁶ Or 71-74, 50 y 54.

particularmente eficaces en la prevención de discriminaciones antisindicales, tienen la doble ventaja de hacer participar a los trabajadores en la vigilancia de actos que tal vez encubran una discriminación antisindical y de poder intervenir no sólo más rápidamente, sino además con cabal conocimiento del ambiente obrero-patronal reinante en la empresa, gracias a su proximidad temporal, funcional y geográfica del acto inculminado.

A pesar de sus aspectos favorables (en tres palabras: participación, inmediatez y conocimiento), estos organismos pueden resultar insuficientes por sí solos para resolver situaciones en que les sea imposible llegar a una decisión o en que el trabajador interesado rechace la que se haya tomado. Así es como algunos países han juzgado oportuno prever también la intervención de jurisdicciones exteriores a la empresa¹.

TRIBUNALES Y ORGANISMOS CUASIJUDICIALES

Fuera del ámbito de la empresa hay una multiplicidad de organismos encargados de la aplicación de las normas tuitivas de fondo; su actuación es de fundamental importancia, aunque al parecer no tanto para prevenir las discriminaciones antisindicales como para remediarlas y sancionar a los autores. Si bien se diferencian considerablemente entre sí por su estructura, composición y facultades, estos organismos pueden reducirse a tres tipos básicos: los tribunales civiles u ordinarios, los tribunales del trabajo y los organismos administrativos especializados con facultades cuasijudiciales².

Tribunales civiles u ordinarios

La aplicación de las normas de fondo en materia de discriminación anti-sindical no está encomendada a tribunales civiles u ordinarios sino en pocos países³; a título ilustrativo se citará el caso de Italia, donde existen normas

¹ En Argelia, según indica la respuesta del Gobierno, el trabajador conserva siempre la posibilidad de recurrir ante el tribunal competente en materia social para que decida el conflicto que lo opone a su empleador. En Austria, el trabajador despedido tiene derecho a recurrir ante la oficina de conciliación si el consejo de empresa no ha aceptado su pedido de hacerlo en su lugar (L 28.3.47, 25 (S)). En la URSS, si el trabajador interesado no estuviere satisfecho de la decisión adoptada por el comité sindical o de fábrica, puede pedir al tribunal popular de distrito (de ciudad) que resuelva el conflicto (CT, 209).

² Esta tipología rudimentaria no tiene más objeto que facilitar la descripción y comparación de las referidas instituciones, aunque no todos los organismos correspondan claramente a un grupo dado; además, en algunos países coexisten organismos que pueden actuar alternativa o sucesivamente.

³ Por ejemplo: Finlandia (se señalará, además, que en este país un tribunal de trabajo se ocupa de los conflictos de intereses relativos a convenios colectivos, y que la Comisión Nacional de Pro-

específicas de fondo. En este país, cuya Constitución prohíbe las jurisdicciones especiales, las controversias laborales son de competencia, en primera instancia, del juez de paz; sin embargo, se ha previsto una excepción al principio general de la atribución de competencias al crearse el *juez de paz único del trabajo*, encargado de la aplicación de la ley núm. 604 de 1966, que establece normas sobre los licenciamientos individuales, y del procedimiento especial para casos de conducta antisindical dispuesto por el artículo 28 de la ley número 300 de 1970, relativa al estatuto del trabajador¹.

En términos generales, y sin particular referencia al caso concreto de Italia, no es posible hablar de los tribunales civiles u ordinarios a propósito de la lucha contra la discriminación antisindical sin mencionar las críticas de que son objeto, entre las cuales las más frecuentes son: excesivo legalismo en el tratamiento de los casos; falta de formación y experiencia de sus magistrados en cuestiones de relaciones obrero-patronales; lentitud y rigidez del procedimiento, y costos de justicia elevados. Pero tampoco sería justo dejar de señalar que las partes interesadas aprecian en dichos tribunales la independencia y estabilidad de que gozan los magistrados de carrera.

Tribunales del trabajo

La mayoría de los países comprendidos en este estudio han escogido la fórmula del tribunal del trabajo, esto es, de un órgano judicial especializado

tección del Trabajo, dependiente del Ministerio de Asuntos Sociales y Salud, se ocupa de la inspección y control del cumplimiento de la legislación laboral en general); Italia, cuyo caso se trata en el texto principal; Mali, que encomienda a los tribunales ordinarios de primera instancia la aplicación de las sanciones previstas por el artículo 386 del Código de Trabajo para las infracciones al artículo 306, relativo a la libertad sindical, sin perjuicio de la competencia atribuida por el mismo Código (artículos 241 y siguientes) a los tribunales de trabajo en materia de conflictos individuales de trabajo; y Suiza, país que, según se recordará, no posee disposiciones específicas sobre discriminación antisindical y donde son aplicables en la materia las normas del llamado «Código de las Obligaciones».

¹ La ley núm. 533, de 11 de agosto de 1973, generalizó la competencia del juez de paz como juez único de primer grado para las controversias laborales. El juez de paz es un magistrado de carrera. Contra sus decisiones se puede interponer recurso de apelación ante el tribunal, y contra las decisiones de éste, recurso de casación por motivo de ilegitimidad. Puede decirse que, en realidad, se trata de un tribunal especializado en materia laboral, por lo menos en primera instancia. De ahí que resulte difícil distinguirlo tajantemente de los tribunales de trabajo.

Sobre el papel del juez de paz en el procedimiento previsto por el artículo 28 de la ley número 300 de 1970, puede verse G. Ghezzi, G. F. Mancini, L. Montuschi y V. Romagnoli: *Statuto dei diritti dei lavoratori* (Bologna, Nicola Zanichelli, 1972), págs. 409 y siguientes. Para una perspectiva de carácter comparativo pueden verse L. Mengoni: «La jurisdiction du travail et de la sécurité sociale en Italie», en Commission des Communautés Européennes: *La jurisdiction du travail et la jurisdiction de la sécurité sociale dans les pays de la Communauté Européenne, Situation au 1^{er} janvier 1968* (Luxemburgo, 1973), Collection du droit du travail, págs. 439-482, y G. Giugni: «The settlement of labor disputes in Italy», en B. Aaron (director de la edición): *Labor courts and grievance settlement in Western Europe* (Berkeley, University of California Press, 1971), páginas 249-337.

en materia laboral¹. Con el establecimiento de este género de órgano se procura conciliar los aspectos favorables de los órganos judiciales con las necesidades y características específicas de los conflictos laborales. Para ello se ha recurrido, por ejemplo, a la incorporación de jueces no profesionales, pero que conozcan más a fondo los intereses de los trabajadores y de los empleadores², al establecimiento de procedimientos más breves y flexibles, a la reducción o eliminación de las costas judiciales a cargo del trabajador y a la ampliación de las facultades en materia de investigación y de apreciación de pruebas³.

¹ Se han establecido tribunales del trabajo, por ejemplo, en la República Federal de Alemania (ley de 3 de septiembre de 1953 sobre tribunales del trabajo, en su tenor modificado por la ley de 2 de diciembre de 1955, por el artículo 124 de la ley de 15 de enero de 1972 sobre organización de las empresas y por la ley de 26 de mayo de 1972 sobre la designación de los jueces y la provisión de la presidencia de los tribunales), Brasil (CLT, 643-735), Colombia (CPT, 2 y artículos concordantes), Francia (CT, L.511-1 a L.519-1), Guatemala (CT, 283-320), India (L 14/47, 7), Malasia (L 35/67, 18-30), México («juntas de conciliación y arbitraje», LFT, 604 y artículos siguientes), Nueva Zelandia (L 19/73, 32-62), Pakistán (Or 23/69, 32-52), Panamá (CN, 75; CT, 520 y artículos siguientes; disposiciones vigentes de la ley núm. 67 de 1947, conforme al artículo 1064, 7), del mismo Código), Perú (DS 007/71-TR), Reino Unido (L 31.7.74, anexo 1, 4, 16 y 17), Suecia (L 254/28, en su tenor modificado), Trinidad y Tabago (L 23/72, 4-19), Turquía (L 5521/50) y Venezuela (ley orgánica de tribunales y de procedimiento del trabajo, de 18 de noviembre de 1959).

En Bélgica también se han establecido tribunales del trabajo (ley de 10 de octubre de 1967 relativa al Código Judicial, artículos 81-83 y 578-583); sin embargo, y debido a la naturaleza penal de las normas específicas en materia de discriminación antisindical (L 24.5.21, 3 y 4), la aplicación de esas normas compete a la jurisdicción penal.

La bibliografía sobre este tema, particularmente complejo y en rápida mutación, es abundante. Véase J. de Givry: «Labour courts as channels for the settlement of labour disputes: An international review», en *British Journal of Industrial Relations* (Londres, London School of Economics and Political Science), noviembre de 1968, págs. 364-373, así como Commission des Communautés Européennes: *La jurisdiction du travail...*, op. cit., y B. Aaron (director de la edición): *Labor courts...*, op. cit.

² En la República Federal de Alemania, los tribunales del trabajo están integrados por un magistrado de carrera y dos jueces honorarios designados a propuesta de las organizaciones de trabajadores y de empleadores; en Brasil, los tribunales del trabajo están compuestos de magistrados de carrera y vocales trabajadores y empleadores, por partes iguales; en Francia, los *conseils de prud'hommes* (o sea, consejos de jueces legos) están integrados por miembros elegidos por los trabajadores y por los empleadores, por partes iguales; en México, las juntas de conciliación y arbitraje son cuerpos colegiados integrados por un representante del Estado, un representante de los trabajadores y un representante de los empleadores; en Nueva Zelandia, el tribunal del trabajo está compuesto por un juez letrado y dos miembros designados a propuesta de los sindicatos y de las organizaciones de empleadores; en el Reino Unido, los tribunales del trabajo están presididos por un jurista e integrados por dos miembros no profesionales con experiencia en el campo laboral; en Suecia, el tribunal del trabajo está compuesto por un presidente, letrado y con experiencia como juez, y ocho miembros, de los cuales dos son trabajadores y dos empleadores; en Turquía, el tribunal del trabajo está compuesto por un representante de los empleadores y un representante de los trabajadores, bajo la presidencia de un juez designado al efecto.

³ Así, por ejemplo, la Magistratura del Trabajo del Brasil posee amplias facultades para apreciar la veracidad de los dichos que le sean sometidos; en Colombia, los jueces laborales tienen amplias facultades de apreciación y pueden fallar *extra-petita* o *ultra-petita*; la instancia ante un *conseil de prud'hommes*, en Francia, se desarrolla conforme a un procedimiento simplificado y gratuito, teniéndose en cuenta el contexto de la situación cuando se trata de decidir en materia de discriminaciones antisindicales; las juntas de conciliación y arbitraje de México dictarán sus laudos sin sujetarse a reglas sobre la estimación de las pruebas, apreciando los hechos según los miembros de la junta lo crean en debida conciencia; en Nueva Zelandia, el tribunal arbitral está facultado para dictar reglas procesales; en Pakistán, la Magistratura del Trabajo está autori-

Protección contra la discriminación antisindical

A pesar de las ventajas notorias que tienen los tribunales del trabajo, en materia de protección contra las discriminaciones antisindicales, en comparación con los tribunales ordinarios, todavía se les suelen hacer dos críticas principales: lentitud de los trámites y legalismo en la consideración de los casos.

Organismos administrativos con funciones cuasijudiciales

Los organismos administrativos especializados con funciones cuasijudiciales presentan características muy peculiares. En primer lugar, son órganos no judiciales, aunque sus procedimientos procuran asegurar a las partes todas las garantías inherentes al proceso judicial. En segundo lugar, se especializan en cuestiones laborales de una doble manera: por la competencia que en razón de la materia les asignan las leyes y por la formación y experiencia exigidas a las personas que los integran. Por último, para la ejecución o revisión de sus decisiones generalmente se debe recurrir ante órganos judiciales. Se han establecido organismos de esta índole, por ejemplo, en Argentina¹, Canadá², Estados Unidos³, Etiopía⁴, Filipinas⁵, Ghana⁶, Japón⁷ y Pakistán⁸;

zada para efectuar las investigaciones adecuadas a los hechos del caso y atribuir la debida importancia a los indicios y circunstancias del caso; en Panamá, los tribunales laborales están ampliamente facultados para examinar toda circunstancia de hecho relevante y necesaria para el caso a efectos de determinar, en particular, la buena fe de las partes; en Perú se apreciarán las pruebas conforme al principio de la sana crítica, teniéndose debidamente en cuenta los indicios y circunstancias que rodean al caso; los órganos judiciales laborales del Reino Unido poseen las siguientes características comunes: rapidez de los trámites, flexibilidad de procedimientos, espíritu de conciliación (se dan a las partes todas las oportunidades posibles para entenderse); en Suecia, el tribunal de trabajo tiene facultades más amplias que los tribunales ordinarios para requerir las pruebas que estime necesarias debido a que los casos laborales a menudo tienen repercusiones sobre terceros.

¹ Tribunal Nacional de Relaciones Profesionales (L 20615/73, 61-77, D 1045/74, 20, y D 1191/74).

² Consejo de Relaciones de Trabajo de Canadá (CT, parte V, 111-123; véase también el reglamento del Consejo, de 9 de abril de 1973).

³ Consejo Nacional de Relaciones de Trabajo (NLRA, 3-6 y 10-12).

⁴ Junta de Relaciones de Trabajo (P 210/63, 4-19).

⁵ Comisión Nacional de Relaciones de Trabajo (CT, 261-271).

⁶ Tribunal de Prácticas Laborales Ilícitas (L 299/65, 3-33 y anexo 2).

⁷ Comités de relaciones profesionales o comisiones de relaciones de trabajo, según la traducción del japonés que se emplee (L 174/49, 19-27). Véase el procedimiento de estos organismos para examinar quejas relativas a prácticas indebidas de trabajo en OIT: *Boletín Oficial*, suplemento especial, vol. XLIX, núm. 1, enero de 1966: *Informe de la Comisión de Investigación y de Conciliación en Materia de Libertad Sindical relativo a las personas empleadas en el sector público en el Japón*, págs. 89-91.

⁸ Comisión Nacional de Relaciones de Trabajo (Or 23/69, 22A-22F; véase asimismo el reglamento relativo al procedimiento de la Comisión, de 18 de abril de 1973). Recuérdese que en este país existen también tribunales de trabajo, igualmente competentes en casos de discriminación antisindical. Las decisiones de la Comisión son definitivas y no pueden ser objeto de recurso alguno ante un tribunal u otra autoridad (Or 23/69, 22D y 22E).

todos ellos son competentes para aplicar las normas de fondo relativas a las prácticas desleales de trabajo, entre las cuales se incluyen diversas formas de discriminación antisindical. A título ilustrativo se describirá el Consejo Nacional de Relaciones de Trabajo de los Estados Unidos¹.

Se ha atribuido a este Consejo Nacional competencia exclusiva, en primera instancia, en todas las situaciones reguladas por la ley sobre relaciones de trabajo, cuyo artículo 8, a), 3), prohíbe cualquier discriminación antisindical.

El Consejo está integrado por cinco miembros nombrados por el Presidente de Estados Unidos con el acuerdo del Senado; cada miembro es designado por cinco años, no pudiendo ser revocado sino en caso de negligencia o falta grave en el ejercicio de su cargo. La estructura del Consejo está organizada de modo tal que la Oficina del Asesor General, que en realidad es una unidad independiente, ejerce las funciones de investigación y de iniciación de la querrela respectiva, mientras que los cinco miembros del Consejo desempeñan la función judicial. Como la sede central del asesor general está en Washington, DC, sus funciones son desempeñadas por oficinas regionales, que en 1970 eran treinta y una.

Cualquier persona puede formular una denuncia por discriminación antisindical ante una oficina regional; ésta investiga los hechos en que se funda para determinar si es presumible que haya habido una violación de la ley. Si así lo estima, formula una acusación en debida forma; en caso contrario, esto es, si el director de la oficina regional decide no formular acusación alguna, el denunciante puede apelar ante el asesor general, cuya decisión es definitiva.

Una vez promovida la acción, la primera medida de la oficina regional consiste en procurar un arreglo entre las partes. Si no lo logra, convoca una audiencia presidida por un «juez de derecho administrativo»². En el curso de la vista de la causa, un abogado de la oficina regional actúa como fiscal mientras que la parte demandada y su abogado asumen la defensa. Una vez pronunciada la decisión del juez, la parte que resulte perdedora puede apelar

¹ Para más detalles sobre la estructura y funciones de este organismo pueden verse OIT: *La situación sindical en Estados Unidos*, Memoria presentada por una misión de la Oficina Internacional del Trabajo (Ginebra, 1960), págs. 49-53; Jay E. Shanklin: «El Consejo Nacional de Relaciones de Trabajo de Estados Unidos», *RIT*, vol. LXI, núm. 6, junio de 1960, págs. 577-603. Se encontrará un resumen de las decisiones del Consejo referentes a la discriminación antisindical en el capítulo sobre prácticas desleales de trabajo de los informes anuales que somete el Consejo al Presidente de los Estados Unidos y al Congreso (*Annual Report of the National Labor Relations Board*, Washington, DC, Government Printing Office). Puede consultarse además una exposición del contenido y evolución de esas decisiones en Charles J. Morris (director de la edición): *The developing labor law: The Board, the courts and the National Labor Relations Act* (Washington, DC, The Bureau of National Affairs Inc., 1971), capítulo 6, págs. 111-134, y suplemento para 1972, págs. 15-20.

² Los funcionarios que desempeñaban un cargo similar hasta 1971 se llamaban *trial examiners* (literalmente: «examinadores del juicio»).

ante el Consejo, en Wáshington, DC. El Consejo normalmente decide en comités de tres miembros, basándose en el acta de la vista de la causa y en el fallo del juez. Contra la decisión final del Consejo puede apelarse ante un Tribunal Federal de Apelación, cuya sentencia puede a su vez recurrirse ante la Corte Suprema (*petition for certiorari*).

El Consejo Nacional carece de facultades para hacer ejecutar directamente sus decisiones, de modo que, en caso de negativa del empleador de acatar su fallo, tiene que requerir del tribunal de apelación competente una orden ejecutoria¹.

Huelga señalar que no todos los organismos administrativos del tipo que interesa aquí corresponden al modelo que se acaba de examinar. Con todo, generalizando se puede decir que, teóricamente al menos, tienen de por sí muchos aspectos favorables. El primero reside en su grado de especialización —en lo que a discriminaciones antisindicales se refiere— mayor que el de los tribunales del trabajo, que por lo común son competentes en todos los conflictos individuales de trabajo. El segundo estriba en su mayor flexibilidad en materia de estructura y procedimiento, lo cual debería de permitirles adaptarse mejor y más rápidamente a unas relaciones profesionales en permanente mutación. El tercero reside en que, estando generalmente dotados de facultades amplias en materia de prevención y de reparación de prácticas desleales (entre las cuales se encuentra la discriminación antisindical), les resulta más fácil ajustar sus decisiones a las circunstancias específicas del caso.

No obstante las ventajas señaladas, se han formulado contra ellos algunas críticas. La primera se refiere a la posibilidad de que gravite sobre ellos la influencia de las autoridades públicas, lo que, según se dice a veces, se manifiesta por variaciones perceptibles de su jurisprudencia en uno u otro sentido. La segunda se basa en la frecuente lentitud de los procesos en que actúan, especialmente porque tienen que recurrir a órganos judiciales para hacer ejecutar sus decisiones y porque éstas pueden ser objeto de apelación o revisión en sede judicial. La tercera ataca los costos administrativos elevados que supone el establecimiento de tales organismos, en particular cuando ya existen órganos judiciales especializados o a los que se podría especializar sin mayores

¹ Para la descripción que precede se ha utilizado como base la información proporcionada por el Gobierno de Estados Unidos. El Consejo Nacional ha sido objeto, en su país, de elogios y de críticas. Respecto de las medidas que podrían contribuir a perfeccionarlo puede verse W. Gomberg y B. Samoff: «Improving administrative effectiveness of the NLRB», en *Labor Law Journal* (Chicago), abril de 1972, págs. 201-220. Véase un interesante análisis de otras soluciones posibles en lugar del Consejo en F. L. Lyne: «The National Labor Relations Board and suggested alternatives», *ibid.*, julio de 1971, págs. 408-423. Para una evaluación comparativa de los tribunales del trabajo frente al Consejo Nacional, véase B. Aaron: «Labor courts: Western European models and their significance for the United States», en *UCLA Law Review* (Berkeley), volumen 16:847, 1969, págs. 847-882.

gastos. Se mencionará como última crítica la de quienes opinan que la naturaleza nacional de estos organismos menoscaba las autonomías provinciales de los países con estructura federal¹.

ORGANISMOS TRIPARTITOS CON FUNCIONES CUASIJUDICIALES

En algunos países se han establecido organismos tripartitos, integrados por representantes del gobierno y de los grupos de empleadores y de trabajadores, facultados para intervenir en la solución de conflictos de trabajo. Este tipo de organismos se encuentra, por ejemplo, en Indonesia², Irak³ y la República Árabe Siria⁴; a título ilustrativo se describirán los «comités de terminación de los contratos de trabajo» de Irak.

Estos comités están integrados por las siguientes personas: un funcionario del Ministerio de Trabajo y Asuntos Sociales nombrado por el Ministro, que será presidente del comité, lo convocará, presidirá sus reuniones y firmará las decisiones; un funcionario encargado de los asuntos de personal, nombrado por el director general de trabajo, que será secretario del comité; un representante de los empleadores elegido por el Ministerio citado, previa consulta con las organizaciones de empleadores, como vocal; un representante de la Federación General de Sindicatos, nombrado por la junta ejecutiva de la misma, como vocal, y un representante de la dirección de uno de los principales sindicatos existentes en la provincia, elegido por la junta ejecutiva de la Federación antedicha, que actuará asimismo como vocal⁵.

¹ Refiriéndose al Tribunal Nacional de Relaciones Profesionales de Argentina, un autor sostiene que «... una vez más se ha avasallado el federalismo», y sugiere «... dejar al arbitrio de las provincias la creación de tribunales locales que, en contacto directo con los problemas, estarían en condiciones de resolver con celeridad y más inmediato conocimiento de causa las cuestiones que se les sometiesen» (Carlos P. Szternszejn: «Anotaciones en torno de la nueva ley de asociaciones profesionales de trabajadores», en *Derecho Laboral* (Buenos Aires), febrero de 1974, página 75). La actuación del Consejo Nacional de Relaciones de Trabajo de Estados Unidos también ha planteado problemas a causa de la estructura federal del país (véase, por ejemplo, A. Cox y D. C. Bok: *Labor Law* (Nueva York, The Foundation Press, 1969), parte 7: «Federalism and labor relations», págs. 1165-1220).

² Ley núm. 22, de 8 de abril de 1957, sobre la solución de los conflictos de trabajo. El empleador que tiene el propósito de dar por terminada la relación de trabajo debe discutirlo con la organización de trabajadores pertinente, o bien con el trabajador interesado si éste no es miembro de un sindicato; en caso de desacuerdo, el conflicto se somete a una comisión regional tripartita, contra cuyo laudo podrá recurrirse en revisión ante la comisión central, igualmente tripartita.

³ CT, 38.

⁴ Decreto-ley núm. 49, de 3 de julio de 1962, sobre el despido individual, en su tenor modificado por el decreto-ley núm. 127, de 9 de junio de 1970. El empleador que desee despedir a un trabajador deberá obtener previamente la aprobación de una comisión denominada «comisión de cuestiones de despido», que se creará en cada circunscripción administrativa y estará integrada por tres delegados gubernamentales, un delegado de los empleadores y un delegado de los sindicatos de trabajadores.

⁵ CT, 38; se señalará que estos comités son competentes únicamente en el sector privado; se han establecido comités con funciones similares para el sector público (CT, 36 y 37).

Protección contra la discriminación antisindical

El empleador no tiene derecho a terminar el contrato de ningún trabajador sin la aprobación previa del comité respectivo¹. El comité adopta sus decisiones por mayoría de miembros presentes; si una decisión se adopta por mayoría de votos, los miembros disidentes pueden plantear el caso ante el tribunal del trabajo competente, siendo válida la decisión del comité hasta que dicho tribunal decida con carácter definitivo. Si la decisión se adopta por unanimidad de los presentes, pasa a ser firme e inapelable².

Los organismos de este tipo tienen la ventaja, por un lado, de que hacen participar en el control de ciertos actos discriminatorios a todas las partes directamente interesadas —el Estado, como garante de la libertad sindical, los trabajadores y los empleadores—, y por otro, de que pueden intervenir activamente en la prevención de despidos de origen antisindical. En cambio, por lo menos tratándose del ejemplo estudiado, al no estar facultados para intervenir sino en los casos de despido, tienen un campo de acción limitado.

¹ CT, 40.

² CT, 43.

PROCEDIMIENTOS PARA LA PREVENCIÓN DE LOS ACTOS DE DISCRIMINACIÓN ANTISINDICAL

6

Los procedimientos para la prevención de los actos antisindicales que se describirán a continuación¹ se caracterizan por varios elementos comunes: todos hacen posible una acción sistemática e institucionalizada para evitar que se cometan esos actos, y por consiguiente todos actúan con anterioridad a la posible realización de dichos actos; todos exigen la intervención de un organismo, jurisdicción o autoridad que pueda controlar, entre otras cosas, el carácter no discriminatorio de la decisión que el empleador se propone tomar.

Antes de entrar en la descripción de los procedimientos es interesante observar que muchas de las respuestas recibidas señalan el *carácter disuasivo* de las disposiciones legales que consagran la libertad sindical y prohíben sus violaciones, especialmente cuando se prevén sanciones civiles o penales². La eficacia de esta función preventiva general parece depender principalmente de tres factores: en primer lugar, de que empleadores y trabajadores conozcan el contenido de las normas pertinentes de modo que sepan a qué atenerse en caso de violación; en segundo lugar, de que sean efectivamente aplicadas por las autoridades competentes³, y en tercer lugar, de que las sanciones previstas sean suficientemente severas.

Los procedimientos preventivos de que se tiene noticia son muy diversos. Para facilitar su análisis se los agrupará según el tipo de autoridad, jurisdicción u organismo al que corresponda intervenir.

¹ Sólo se estudiarán aquí los procedimientos preventivos de carácter general, es decir, los aplicables a todos los trabajadores; en cuanto a los que protegen a categorías especiales —delegados y funcionarios sindicales, por ejemplo—, véase el capítulo 2.

² Así lo indican respuestas provenientes, por ejemplo, de la República Federal de Alemania, Canadá, Estados Unidos, Finlandia, Francia, Italia, Japón, Malasia, México, Nigeria, Reino Unido, Suecia y Trinidad y Tabago.

³ Numerosas respuestas de origen sindical señalan que los textos legales muchas veces no se aplican en la práctica.

INTERVENCION DE LA INSPECCION DEL TRABAJO ¹

En Mali² se requiere la autorización previa del inspector del trabajo para despedir a un asalariado contratado por más de tres meses, a menos que sea empleado doméstico. El procedimiento previsto es el siguiente: el empleador que desee efectuar un licenciamiento solicita la autorización correspondiente, indicando los motivos para justificar el despido y la fecha propuesta; en el plazo de diez días hábiles a partir del envío de la solicitud, la Dirección del Trabajo o la Inspección Regional del Trabajo comunica al solicitante que concede o niega la autorización de despido o que desea proceder a encuesta o verificación por estimarlo útil antes de decidir. Si no hubiere respuesta en el plazo prescrito, la autorización se considerará otorgada. Las partes podrán recurrir al tribunal de trabajo, que decidirá en última instancia; este recurso tendrá efecto suspensivo por lo que respecta a la decisión del empleador.

El inspector del trabajo no podrá autorizar un despido cuando éste se deba a la actividad sindical del trabajador o al hecho de que esté o no esté afiliado a un sindicato determinado³.

Hay que destacar dos características muy positivas de este procedimiento preventivo: en primer lugar, se aplica a todos los trabajadores, en general (salvo los contratados por menos de tres meses y los empleados domésticos), y no sólo a determinadas categorías, como los «trabajadores protegidos» que se encuentran en otras legislaciones; en segundo lugar, puede iniciarse en todo momento, puesto que no se prevén límites de tiempo, en vez de actuar únicamente durante ciertos períodos, por ejemplo, «mientras dura un mandato sindical» o «mientras dura un conflicto colectivo de trabajo». Contrariamente al ámbito temporal, el ámbito material de este procedimiento es restringido: sólo se refiere al despido y no comprende las otras formas de discriminación antisindical prohibidas por el artículo 306 del mismo Código del Trabajo⁴.

INTERVENCION DE LA AUTORIDAD ANTE LA CUAL TIENE LUGAR UN PROCESO RELATIVO A UN CONFLICTO COLECTIVO

En la India, cuando existe un conflicto colectivo de trabajo⁵, se requiere la autorización escrita y expresa de la autoridad que lo examine para que el

¹ Sobre la función del inspector del trabajo en procedimientos preventivos especiales, véase página 62.

² CT, 38.

³ CT, 42, 1), y 306, 1).

⁴ Véase el contenido de esta norma en el cuadro 4.

⁵ La expresión «conflicto de trabajo» designa todo conflicto o litigio entre empleadores, o entre empleadores y trabajadores, o entre trabajadores, a propósito del empleo o de la no admisión al empleo, de las condiciones de contratación o de las de trabajo de una persona (L 14/47, 33, 2), k)).

empleador pueda modificar las condiciones de empleo en perjuicio de los trabajadores interesados, o despedirlos o sancionarlos por faltas de disciplina relacionadas con el conflicto; esta autorización previa es exigida mientras se desarrolle un acto de conciliación ante un conciliador o una junta, o un proceso ante una audiencia laboral o un tribunal de trabajo, nacional o estatal¹.

Este procedimiento preventivo es muy amplio tanto en lo que se refiere a las personas protegidas como en lo tocante a las formas de discriminación antisindical que puede impedir. Padece, sin embargo, de dos limitaciones: su ámbito temporal de aplicación se reduce al lapso durante el cual se desarrolla el proceso relativo al conflicto de trabajo, y la autorización previa es exigida únicamente si se trata de cuestiones relacionadas con el conflicto.

En Pakistán², el empleador no podrá despedir, licenciar o sancionar de otra manera a un trabajador (salvo por mala conducta y sin relación con el conflicto) sin la autorización previa del conciliador³, mientras no haya terminado el acto de conciliación, ni sin la autorización previa del árbitro⁴, del tribunal de trabajo⁵ o del tribunal de apelación⁶, mientras no haya terminado la vista de la causa relativa a un conflicto de trabajo⁷.

Las características de este procedimiento son similares a las del instituido en la India; sin embargo, las limitaciones que se señalaron a ese propósito posiblemente se hayan superado en Pakistán al establecerse un organismo especializado con amplias facultades en materia de prevención de prácticas desleales (entre las cuales se encuentran las discriminaciones antisindicales). A continuación se tratará de ese organismo.

INTERVENCION DE ORGANISMOS ADMINISTRATIVOS ESPECIALIZADOS CON FUNCIONES CUASIJUDICIALES

La Comisión Nacional de Relaciones Industriales de Pakistán⁸ está expresamente facultada para intervenir no solamente cuando se ha ejercido

¹ L 14/47, 33, 1), a) y b). Existe un procedimiento similar en favor de los «trabajadores protegidos» (*ibid.*, 33, 3).

² Or 23/69, 47, 1), a) y b). Se ha establecido un procedimiento similar en favor de los funcionarios sindicales de un sindicato registrado (*ibid.*, 47, 2).

³ *Ibid.*, 27.

⁴ *Ibid.*, 31.

⁵ *Ibid.*, 35.

⁶ *Ibid.*, 38.

⁷ A tenor del artículo 2, XIII), de la misma ordenanza, un «conflicto de trabajo» es todo conflicto o divergencia entre empleadores, entre empleadores y trabajadores, o entre trabajadores, a propósito del empleo o no empleo, o de las condiciones de empleo o de trabajo de cualquier persona.

⁸ Or 23/69, 22A (en su tenor modificado por la ordenanza núm. IX de 1972), y reglamento relativo al procedimiento y funciones de la Comisión Nacional de Relaciones Industriales, 1973, artículo 32, 2).

Protección contra la discriminación antisindical

una práctica desleal (categoría a la que pertenecen las discriminaciones anti-sindicales), sino también cuando haya probabilidades de que se ejerza, y en ese caso, la Comisión está autorizada para tomar todas las medidas que sean necesarias a fin de impedir que llegue efectivamente a cometerse.

La acción preventiva de la Comisión puede ser de gran alcance, dado que las disposiciones de fondo relativas a la discriminación antisindical cubren a todos los trabajadores, tanto durante el empleo como durante los trámites de la contratación, y virtualmente contra todas las formas posibles de discriminación antisindical¹. En la práctica también parece ser que la acción de la Comisión ha resultado eficaz².

INTERVENCION DE ORGANISMOS TRIPARTITOS CON FUNCIONES CUASIJUDICIALES

En Irak, ningún trabajador puede ser despedido sin la aprobación previa del comité competente entre los comités de terminación de los contratos de trabajo que se describieron en el capítulo 5 como ejemplo de organismo tripartito con funciones cuasijudiciales³. El procedimiento previsto es el siguiente: el empleador presentará una solicitud de resolución del contrato de trabajo indicando los motivos que la justifican; de esta solicitud se enviará copia al trabajador interesado, advirtiéndole que en caso de que no responda se considerará que aprueba su contenido⁴. El comité examinará la solicitud y los documentos que la acompañen, concederá audiencia al trabajador y examinará las pruebas que éste presente; podrá pedir al empleador que facilite las explicaciones pertinentes, y decidirá luego⁵. Ahora bien, la solicitud de rescisión será denegada si el trabajador ocupare un cargo sindical⁶ o si se estimare que la solicitud no se funda en alguna de las faltas graves expresamente previstas por la legislación⁷.

Este procedimiento, si bien permite impedir que se despida a un trabajador por motivos sindicales, tiene la limitación notoria de que sólo se aplica a los casos de licenciamiento.

¹ Véase el contenido de la disposición pertinente en el cuadro 4.

² El Gobierno señala en su respuesta que están disminuyendo los actos de discriminación antisindical desde que se creó la Comisión.

³ CT, 38. Se recordará que existen organismos similares en Indonesia y Siria.

⁴ *Ibid.*, 40.

⁵ *Ibid.*, 42.

⁶ *Ibid.*, 29, a).

⁷ *Ibid.*, 34.

INTERVENCION DEL CONSEJO DE EMPRESA

En la República Federal de Alemania¹, el consejo de empresa debe velar por que no se ejerza ninguna discriminación con respecto a una persona ocupada en la empresa por razón de su actividad u orientación sindical². A tal efecto, deberán someterse a la aprobación previa del consejo todas las directivas relativas a la elección del personal en caso de contratación, traslado, reagrupamiento y despido. En caso de que el consejo no apruebe una medida proyectada, el empleador podrá solicitar la intervención de un organismo de conciliación cuya decisión hará las veces de acuerdo entre empleador y consejo de empresa³.

Este procedimiento preventivo, como ya se señaló, tiene la ventaja de hacer participar a los trabajadores de la empresa en el control de la aplicación de las normas que los protegen contra las discriminaciones antisindicales, pero no puede aplicarse donde no funciona un consejo de empresa (sea porque el número de trabajadores es inferior al requerido, sea porque el consejo todavía no se ha constituido, sea porque el que exista no funcione efectivamente); además, en el ejemplo examinado aquí, el empleador está autorizado para aplicar ciertas medidas relativas al personal antes de que el consejo de empresa dé a conocer su posición al respecto, o aun después de que el consejo haya rehusado su aprobación, si estima que se trata de un caso de necesidad material urgente y a título provisional⁴.

En Austria⁵ se requiere el consentimiento previo del consejo de empresa para todos los licenciamientos; el consejo puede oponerse, en el plazo de tres días después de haber recibido la comunicación del empleador, si considera que el motivo del despido es, *inter alia*, la actividad sindical del trabajador. El empleador no puede hacer efectivo el despido, so pena de nulidad, antes de la expiración de ese plazo. Si el consejo se opone al licenciamiento y, a pesar de ello, el empleador lo efectúa, el consejo de empresa o el propio trabajador despedido pueden recurrir ante la comisión de conciliación⁶.

Según indican comentarios de origen sindical, la eficacia de este procedimiento preventivo está menoscabada por el reducido campo de aplicación

¹ L 15.1.72, 7-20.

² *Ibid.*, 75 (1).

³ *Ibid.*, 76, 95, 99 y 102. Tratándose de un despido, el empleador deberá mantener al trabajador en su puesto mientras dure el litigio.

⁴ *Ibid.*, 100 (1). Estas medidas provisionales comprenden la contratación, incorporación, reagrupamiento y traslado; el despido no se incluye.

⁵ L 28.3.47, 25.

⁶ Esta comisión consta de tres miembros: un presidente y dos asesores pertenecientes, uno, al sector de los empleadores, y el otro, al de los trabajadores. Su consentimiento previo es necesario, so pena de nulidad, para despedir a un miembro del consejo de empresa (L 28.3.47, 18, en su tenor modificado por el artículo 12 de la ley de 13 de julio de 1971).

Protección contra la discriminación antisindical

de la ley sobre consejos de empresa y por las deficiencias del procedimiento de la comisión de conciliación, ya que, por ejemplo, el recurso incoado no tiene efecto suspensivo y la prueba está a cargo del trabajador. Cabe señalar, asimismo, que la única forma de discriminación a que es aplicable el sistema descrito es el licenciamiento.

INTERVENCION DE UN ORGANISMO SINDICAL

En Rumania¹ se deberá consultar previamente al comité sindical en todos los casos de rescisión del contrato de trabajo por iniciativa de la unidad.

En la URSS² se prohíbe la rescisión del contrato de trabajo por iniciativa de la administración de la empresa, establecimiento u organización, sin previo consentimiento del comité sindical local o de fábrica (salvo en los casos de falta grave o de fuerza mayor limitativamente previstos³). La administración podrá resolver el contrato de trabajo en el plazo de un mes a partir de la fecha en que el comité sindical comunique su acuerdo. La ausencia del consentimiento previo exigido causa la ilegalidad del licenciamiento, y en tal caso el trabajador despedido se verá reintegrado en sus funciones.

Estos procedimientos se limitan sólo a los casos de despido como una de las formas posibles de discriminación antisindical.

En Hungría⁴ se encuentra el llamado «veto sindical», institución típica del derecho laboral de ese país, que también puede actuar preventivamente⁵; sin embargo, como se trata de un procedimiento fundamentalmente suspensivo, que actúa normalmente una vez que la decisión ha sido adoptada por la dirección de la empresa, se lo examinará más adelante.

INTERVENCION DE UNA COMISION PARITARIA INTERNA

En el capítulo anterior se habían mencionado, a propósito de los organismos creados dentro de la propia empresa, las comisiones paritarias de Argelia. Se trata de comisiones permanentes de disciplina que funcionan en el sector

¹ CT, 132 (1). Se prevé un procedimiento similar en favor de los miembros del comité sindical o de otros órganos sindicales, en cuyo caso se debe consultar al órgano sindical de jerarquía superior (*ibid.*).

² L 2-VIII/70, 18; D 27.9.71, 18; CT, 35. Se ha establecido un procedimiento similar en favor de los miembros del comité sindical, los presidentes de comités y los funcionarios sindicales; en estos dos últimos casos se exige el consentimiento del organismo sindical superior (CT, 235).

³ CT, 33.

⁴ CT, 14, 3).

⁵ Véase «Les droits syndicaux à l'usine», en *Revue syndicale hongroise* (Budapest), 1973, números 8-9, pág. 22.

Procedimientos para prevenir la discriminación

socializado de la economía¹ y a las cuales los directores de empresa deben someter obligatoriamente todas las cuestiones relativas a la disciplina del personal, salvo en caso de urgencia. Están integradas por representantes de la asamblea de trabajadores y un número igual de personas designadas por la dirección de la empresa en razón de su competencia².

¹ Or 71-74, 54. En el sector privado existe un procedimiento preventivo que ampara únicamente a los miembros y ex miembros de la directiva del sindicato (Or 71-75, 10).

² *Ibid.*, 50.

REMEDIOS PREVISTOS CONTRA LOS ACTOS DE DISCRIMINACION ANTISINDICAL

7

A la multiplicidad de formas con que puede presentarse una discriminación antisindical corresponde, en la legislación y la práctica nacionales, toda una gama de medidas que, una vez cometido el acto discriminatorio o incluso mientras se está cometiendo, permitan remediarlo suspendiendo provisional o definitivamente sus efectos y reparando sus consecuencias.

Antes de comenzar a describir y, cuando sea oportuno, a evaluar brevemente los tipos particulares de remedios, conviene señalar que en algunos países se faculta ampliamente a la autoridad respectiva para adoptar las medidas que estime necesarias y adecuadas a fin de reparar los efectos de la discriminación antisindical. Las ventajas de esta técnica jurídica saltan a la vista: permite dar al remedio la forma que más se ajuste a las características del acto discriminatorio cometido, seguir la evolución de las relaciones obrero-patronales elaborando nuevas soluciones a medida que surgen otros problemas y perfeccionar rápidamente los remedios de acuerdo con los resultados obtenidos en la práctica, sin tener que esperar una acción legislativa. La utilización de esta técnica jurídica necesitaría, como contrapartida, una cierta especialización de los organismos facultados para ponerla en práctica, a fin de limitar los riesgos de errores de apreciación. A título de ejemplo se citarán algunos países que utilizan esta técnica jurídica.

En los Estados Unidos¹, el Consejo Nacional de Relaciones de Trabajo está facultado para tomar todas las medidas que sean necesarias a fin de poner remedio a una discriminación antisindical; en la práctica, esas medidas se adaptan a las características del acto discriminatorio respectivo, pudiendo ser tan variadas como los mismos actos².

¹ NLRA, 10, c), junto con 8, a), 1), y 8, a), 3). Sobre la acción del Consejo en materia de prácticas desleales de los empleadores (entre las cuales se cuentan los actos de discriminación antisindical) puede verse OIT: *La situación sindical en Estados Unidos, op. cit.*, págs. 65-69.

² Indicación de la respuesta gubernamental, que señala cómo se desarrollan los casos típicos de discriminación en que se despiden a un trabajador a causa de su participación en actividades

Protección contra la discriminación antisindical

El sistema establecido en Japón¹ en materia de prácticas desleales (que, como se ha dicho, comprenden la discriminación antisindical) se basa en el «principio de la restitución», conforme al cual la comisión de relaciones de trabajo competente ordenará al empleador que restablezca la situación existente antes de la comisión del acto discriminatorio condenado².

En Malasia³, finalmente, el Tribunal de Trabajo está facultado para dictar el laudo «que estime necesario o adecuado» en caso de infracción a la norma que prohíbe los actos de discriminación antisindical⁴.

SUSPENSION DE LA MEDIDA DISCRIMINATORIA

En cierto número de países se encuentran procedimientos que permiten suspender los efectos de un acto denunciado como discriminatorio hasta que la autoridad competente decida sobre el fondo. Se trata en general de procedimientos sumarios que, al evitar la consolidación de los referidos efectos, ponen al trabajador discriminado en una posición más favorable para el proceso litigioso que normalmente se incoará en forma paralela. Aparte esas características comunes, las modalidades de los procedimientos, como se verá a continuación, varían de país a país.

La legislación de Argentina considera práctica desleal todo trato discriminatorio, cualquiera que sea su forma, en razón del ejercicio de derechos sindicales. Ahora bien, en caso de hechos u omisiones de los empleadores que *prima facie* configuren prácticas desleales, el Tribunal Nacional de Relaciones Profesionales podrá, a pedido de la parte querellante, disponer medidas de no innovar y, en su caso, retrotraer el estado de las cosas a su situación anterior, estableciendo transitoriamente el cese de los efectos del acto cuestionado⁵.

sindicales: normalmente, el Consejo ordena su reincorporación con pago de los salarios no percibidos y la fijación de anuncios en que el empleador notifica que no aplicará más medidas discriminatorias y que tomará las disposiciones ordenadas por el Consejo. Véase un estudio de la elaboración de nuevos remedios, ilustrado con ejemplos, en Morris (director de la edición): *The developing labor law...*, *op. cit.*, págs. 854-857, y suplemento para 1972, págs. 15-16.

¹ L 174/49, 7, 1), y 27, 2).

² Indicación de la respuesta gubernamental, la cual señala asimismo que el sistema vigente en materia de prácticas desleales da primacía a los remedios, y no a la prevención o la sanción de los actos discriminatorios, mientras que en el primer periodo de la posguerra estuvo en vigor un sistema que preveía sanciones penales contra los empleadores que incurrieran en prácticas indebidas de trabajo; el sistema actual es considerado superior en razón de las características de las relaciones obrero-patronales en este país.

³ L 35/67, 7, 3).

⁴ *Ibid.*, 5, 1), b) y e); véase el cuadro 4 (protección prevista por disposiciones generales). Esta ley establece, además, ciertos remedios específicos como la reintegración del trabajador despedido.

⁵ L 20615/73, 66. La legislación anterior preveía solamente la medida precautoria de «no innovar» y por un periodo no mayor de sesenta días (L 14455/58, 44).

Este procedimiento presenta, teóricamente al menos¹, características muy positivas: se aplica a todos los trabajadores (y no ya únicamente a ciertas categorías como, por ejemplo, los amparados por el fuero sindical) y respecto de cualquier forma de discriminación antisindical².

En Egipto³, un trabajador despedido sin causa justificada tiene derecho a solicitar que se suspenda la ejecución del despido. El procedimiento previsto es el siguiente: la solicitud se presenta ante el organismo administrativo competente, que adoptará las medidas necesarias para solucionar el conflicto por amigable componenda; en caso de fracaso, y en un plazo de una semana a más tardar a partir de la presentación de la solicitud, dicho organismo deberá remitirla al juez de urgencia del tribunal competente, quien, dentro de los tres días del envío de la solicitud al tribunal, fijará audiencia para el examen de la solicitud de suspensión. El juez deberá dictar sentencia en un plazo de dos semanas a partir de la primera audiencia y su sentencia será inapelable. En caso de ordenar que se suspenda la ejecución, obligará al mismo tiempo al empleador a pagar el salario correspondiente al período transcurrido desde la fecha de despido y elevará los antecedentes al tribunal, que juzgará sobre el fondo del asunto.

Conviene destacar que si el despido constituyere una infracción al artículo 231 del Código de Trabajo (que prohíbe las discriminaciones antisindicales), la prueba de que no obedece al motivo mencionado en el mismo artículo será de la incumbencia del empleador⁴.

Al activo de este procedimiento se señalará que es aplicable a cualquier trabajador; en cambio, no permite suspender sino la ejecución de un despido antisindical y no la de otras formas de discriminación (traslado, desmejoramiento, por ejemplo).

El Consejo Nacional de Relaciones de Trabajo de Estados Unidos está facultado para solicitar, en algunos casos, un mandamiento judicial para que se suspendan provisionalmente los efectos de una decisión que perjudique a un trabajador si éste afirma haber sido despedido o sancionado por su participación en actividades sindicales⁵. Este recurso se emplea generalmente en casos de clara y flagrante violación de las normas que prohíben las prácticas antisindicales y cuando los trabajadores interesados sufrirían graves e irrepa-

¹ Como la ley 20615 fue promulgada hace relativamente poco tiempo (el 11 de diciembre de 1973), al igual que su decreto reglamentario (núm. 1045, de 3 de abril de 1974), no se dispone aún de informaciones sobre la aplicación de esta medida.

² La nueva ley considera práctica desleal, *inter alia*, el «practicar trato discriminatorio, cualquiera que sea su forma, en razón del ejercicio de los derechos sindicales tutelados por esta ley» (artículo 60, j); este inciso no se encontraba en la ley anterior).

³ CT, 75.

⁴ *Ibid.*, penúltimo apartado.

⁵ NLRA, 10, j).

Protección contra la discriminación antisindical

rables perjuicios durante el tiempo que se necesite hasta que el Consejo se pronuncie sobre el fondo del asunto ¹.

El uso limitado que actualmente se hace de este procedimiento se debe, según indicaciones del Gobierno, principalmente a que su trámite es muy pesado ²; a pesar de ello, en el decenio pasado se ha tendido a utilizarlo con mayor frecuencia ³. Su carácter discrecional (puesto que el Consejo decide si cabe o no solicitar el mandamiento judicial provisional, sin que la ley dé al trabajador interesado derecho a exigirlo) no ha dejado de dar lugar a algunas críticas.

Hay quienes opinan que el Consejo debería solicitar automáticamente un mandamiento judicial suspensivo cada vez que se trate de la denuncia de una discriminación antisindical, a fin de hacer reincorporar inmediatamente al trabajador despedido mientras se prosiguen los trámites.

En Hungría, y conforme al llamado «veto sindical», el comité de empresa del sindicato tiene derecho a formular objeciones si comprueba que las disposiciones adoptadas por la empresa son contrarias a los reglamentos que rigen las condiciones de trabajo o que el trato que se da a los trabajadores constituye una ofensa para la moral socialista. La aplicación de las disposiciones objetadas será suspendida hasta que el órgano autorizado se pronuncie ⁴.

En la práctica se procede como sigue: los organismos sindicales de la empresa se esfuerzan, en primer lugar, por evitar que se adopten las medidas que consideran criticables; si no lo logran, comunican por escrito su veto a la dirección de la empresa. Si el dirigente competente acepta el veto y deja sin efecto la medida atacada, el problema se considera solucionado; si no

¹ La jurisprudencia de los tribunales exige que haya «urgencia» y que el derecho de los trabajadores despedidos se perciba con claridad (véanse, por ejemplo, «Brown v. National Union of Marine Cooks and Stewards», en *LRRM*, vol. 29, 1951, pág. 2124, y «Johnston v. Wellington Mfg. Div., West Point Mfg. Co.», *ibid.*, vol. 49, 1961, pág. 2536). La imposición de estas condiciones parece contribuir al poco uso que se hace del procedimiento, lo cual disminuye su potencial tuitivo.

² Antes de que se pueda solicitar un mandamiento judicial suspensivo, la oficina regional del asesor general debe incoar una queja; además, para solicitarlo se necesita una autorización previa del Consejo, desde su sede de Washington, donde se procede caso por caso. Se ha señalado que el procedimiento se aplicaría probablemente con mayor flexibilidad y rapidez si se descentralizara la concesión de tales autorizaciones, por ejemplo, encomendándolas a los directores regionales.

³ Así lo muestran los informes anuales del Consejo: en 1961 se solicitó sólo un mandamiento judicial en virtud del artículo 10, *jj*; en 1962, 11; en 1963, 15; en 1964, 18; en 1965, 22; en 1967, 22; en 1968, 16; en 1970, 18; en 1972, 21. Se notará la rápida progresión desde 1961 hasta 1965 y el estancamiento desde entonces hasta 1972. En términos absolutos, estas cifras muestran que poco se recurre a este procedimiento, a pesar de su enorme potencial como remedio provisional y de que, como lo señalan dos autores, los sindicatos lo solicitan «con gran frecuencia y vigor» (Gomberg y Samoff, *op. cit.*, pág. 215).

⁴ CT, 14, 3), y D 34/67, 8.

está de acuerdo con el veto, el asunto se eleva al ministerio competente, cuya decisión es de obligado cumplimiento para la dirección de la empresa (pero no para el sindicato). Si el ministerio mantiene la decisión de la dirección, o si la medida objeto del veto no es eliminada de manera satisfactoria, el sindicato de la empresa recurre ante un organismo sindical superior (que será su propia dirección a nivel nacional). En este caso, los representantes del ministerio y de la organización sindical se reúnen para discutir el asunto y llegar a una solución común. Durante todo este proceso, la dirección de la empresa debe suspender la aplicación de la medida atacada¹.

En Italia se ha establecido un procedimiento que da la posibilidad de suspender una sanción disciplinaria hasta que la instancia competente se pronuncie sobre su procedencia². Según el trámite previsto, todo trabajador objeto de una sanción disciplinaria (no siendo el despido sanción disciplinaria) puede, dentro de los veinte días siguientes, solicitar o hacer solicitar por la asociación a que esté afiliado o en la cual haya depositado mandato, dirigiéndose para ello a la oficina provincial de trabajo y pleno empleo, la constitución de una comisión de conciliación y arbitraje integrada por un representante de cada una de las partes interesadas y por un tercer miembro designado de común acuerdo o, a falta de acuerdo, nombrado por el director de la oficina del trabajo. La sanción disciplinaria se suspenderá hasta que la comisión se haya pronunciado al respecto. Si el empleador no nombra su representante ante la comisión aludida dentro de un plazo de diez días, la sanción disciplinaria quedará sin efecto; si recurriere ante la autoridad judicial, la sanción disciplinaria quedará en suspenso hasta que se dicte laudo.

La respuesta de origen gubernamental señala que, aunque esta medida no ha sido prevista específicamente para atender a las discriminaciones anti-sindicales, su aplicabilidad en la materia es evidente, puesto que en Italia las sanciones disciplinarias injustificadas son uno de los instrumentos más típicos de la discriminación antisindical³.

En Japón, la autoridad específicamente competente para intervenir en casos de discriminación antisindical es el comité de relaciones profesionales (también llamado comisión de relaciones de trabajo), que no está facultado para ordenar la suspensión de los efectos de una medida discriminatoria mientras se sustancia por ante el mismo el proceso sobre el fondo del asunto⁴. Sin embargo, se ha desarrollado un recurso con estas características sobre la

¹ Véanse «Les droits syndicaux à l'usine», *loc. cit.*, y János Vajda: «Le syndicat élève son veto», *ibid.*, 1974, núm. 3, pág. 8.

² L 300/70, 7.

³ Se advertirá que no se prevé la posibilidad de suspender la ejecución de un despido anti-sindical en perjuicio de un trabajador no «protegido».

⁴ L 174/49, IV, 19-27.

Protección contra la discriminación antisindical

base de los artículos 755 y 760 del Código de Procedimientos Civiles, aplicándose actualmente la protección a casos de despido y de transferencias discriminatorias¹.

En Nigeria, un trabajador que se considere víctima de una discriminación antisindical puede dirigirse a su sindicato, y el caso podrá ser planteado como conflicto laboral ante el Tribunal Laboral de Arbitraje, que está facultado para ordenar la suspensión temporal del acto de que se trate².

En Pakistán, el trabajador interesado puede recurrir ante un tribunal inferior de trabajo o ante la Comisión Nacional de Relaciones Industriales, los cuales están facultados para suspender la decisión que lo perjudica³.

La legislación de Suecia no prevé ningún recurso con efecto suspensivo; sin embargo, el acuerdo de 20 de febrero de 1970 concluido entre la Confederación de Sindicatos de Suecia (LO) y la Confederación de Empleadores de Suecia (SAF)³, relativo a los delegados sindicales de empresa, dispone que si los miembros de los sindicatos observasen que una decisión de despedir al delegado sindical se ha basado en sus actividades como tal, éste continuará dentro de la empresa hasta que las organizaciones profesionales respectivas hayan terminado de negociar al respecto o hasta que el tribunal de trabajo haya decidido la cuestión⁴.

Esta disposición presenta, sin duda alguna, un gran interés como procedimiento tuitivo en favor de una categoría especial de trabajadores. Pero en el ambiente sindical, como lo señala la respuesta correspondiente, se querría ir más lejos, y la respuesta propone que se mejore la legislación actual estableciéndose un procedimiento similar aplicable a todos los trabajadores, de modo que queden autorizados a permanecer en sus puestos hasta que las partes hayan negociado al respecto o el tribunal de trabajo se haya pronunciado sobre el caso⁵.

¹ Véase Yasuhiko Matsuda: «Judicial procedure in labor disputes in Japan», en *Japan Labor Bulletin* (Tokio), mayo de 1973, págs. 7-10 (primera parte), y junio de 1973, págs. 4-8 (segunda parte). Sumario y expeditivo en sus comienzos, el trámite de este recurso se ha ido haciendo cada vez más lento y pesado (la duración media, que era de 5,5 meses en 1958, pasó a 13,8 meses en 1961), con lo que es dable suponer que ha perdido gran parte de su significación original.

² Indicación de la respuesta gubernamental.

³ Puede verse el texto completo del acuerdo en OIT: *Acuerdos básicos y declaraciones conjuntas obrero-patronales sobre relaciones de trabajo*, serie Relaciones de trabajo, núm. 38 (Ginebra, 1971), páginas 228-231.

⁴ *Loc. cit.*, artículo 6, pág. 231. Sin embargo, según el propio acuerdo, el derecho a permanecer en el empleo no será válido si el despido se ha basado en actos de naturaleza tal que den derecho al empleador a rescindir inmediatamente el contrato de trabajo.

⁵ El Gobierno ha anunciado la presentación de un proyecto de ley (1973: 129), relativo a la protección del empleo, conforme al cual el empleador deberá invocar causas objetivas para terminar una relación de trabajo, y la cuestión de la validez de la terminación se someterá a los tribunales en caso de conflicto; el trabajador tendrá derecho a permanecer en su trabajo hasta que dicho conflicto haya sido resuelto (véase OIT: *Terminación de la relación de trabajo*, op. cit., parte 2, página 138).

Aunque la legislación de Yugoslavia no contiene disposiciones de fondo específicas en materia de discriminación antisindical, posee un recurso con efectos suspensivos que podría aplicarse en casos de esta índole. En efecto, surtirá efectos suspensivos toda reclamación presentada por una persona por estimar que no se ha aplicado debidamente el procedimiento de adquisición de la condición de trabajador en régimen de asociación o que un trabajador que ha adquirido tal condición no reúne las condiciones prescritas, o bien por estimar un trabajador que se ha violado un derecho a que sea acreedor por razón del trabajo en régimen de asociación¹.

NULIDAD DE LA MEDIDA DISCRIMINATORIA

Cierto número de países ordenan la anulación del acto calificado de discriminación antisindical. Desde el punto de vista jurídico, la nulidad es la más grave de las sanciones, y, en principio al menos, el más fuerte de los remedios: si el orden jurídico niega toda existencia al acto atacado, sus consecuencias deberían igualmente desaparecer sin dejar siquiera rastro. En la práctica, sin embargo, los efectos de un acto discriminatorio son difíciles de borrar; la declaración de nulidad no será sino un comienzo de reparación que, aunque quizás insuficiente de por sí para restablecer una relación laboral profundamente deteriorada, constituirá un sólido punto de apoyo para reanudar una relación jurídica, primero, y una relación laboral, luego.

Algunos países poseen disposiciones muy amplias que abarcan casi todas las formas de discriminaciones antisindicales; es el caso, por ejemplo, de la República Federal de Alemania, Argentina, Italia y Suecia. Otros, en cambio, no recurren a la nulidad más que tratándose de medidas gravemente perjudiciales para el trabajador afectado².

En la República Federal de Alemania, todo acto de discriminación antisindical es declarado nulo en virtud de un precepto constitucional³; en par-

¹ L 13.4.73, 61.

² Las técnicas utilizadas para aplicar este remedio son básicamente dos: o bien se prescribe la nulidad de toda discriminación antisindical —como en Italia—, o bien se prescribe la nulidad de ciertas medidas —traslados o despidos, por ejemplo—, en razón de vicios de forma (falta de una autorización previa prescrita por la ley) o de fondo (falta de causa justificada, por ejemplo), que pueden estar inspiradas por motivos antisindicales o de otro género. En el caso de esta segunda técnica, se tratará de una protección de carácter más general —la protección contra despidos injustificados, por ejemplo—, que comprenderá *también* ciertas formas de discriminaciones antisindicales.

La primera de estas técnicas tiene las ventajas de centrar mejor el problema, de abarcar las diferentes formas que puede asumir una discriminación antisindical y de posibilitar el dictado de normas —sustantivas y procesales— más adecuadas a una violación específica de la libertad sindical.

³ CF, 9, 3).

ticular, será jurídicamente nulo un despido socialmente injustificado —tal sería el caso cuando fuese motivado por razones antisindicales— pronunciado contra un trabajador que haya cumplido dieciocho años de edad y cuya relación de trabajo haya subsistido durante más de seis meses¹, y todo despido efectuado sin consultar previamente al consejo de empresa².

Conviene señalar una diferencia, muy importante en la práctica, entre la acción por nulidad fundada en la norma constitucional y la basada en la ley relativa a la protección de los trabajadores contra el despido: mientras esta última impone al empleador la prueba de las circunstancias de hecho en que parezca fundado el licenciamiento³, aquélla deja a cargo del trabajador la prueba del carácter antisindical del acto impugnado. En este último caso, así como también cuando se trata de un presunto acto de discriminación antisindical en ocasión de tomar el empleo, la dificultad de probar la intención discriminatoria del empleador constituye, según el parecer expresado en la respuesta sindical, el más serio de los obstáculos con que tropieza en la práctica una adecuada protección contra discriminaciones antisindicales⁴.

La nueva ley argentina de asociaciones profesionales de trabajadores dispone la invalidez del acto motivante de una práctica desleal —entre las cuales se encuentran todas las formas posibles de discriminación antisindical—; en consecuencia, el empleador deberá reincorporar al trabajador que hubiese despedido o suspendido o restablecer las condiciones de trabajo modificadas y abonarle las remuneraciones que haya dejado de percibir como consecuencia de la medida calificada de práctica desleal⁵.

La legislación italiana declara nulos y sin efectos los pactos o actos encaminados sea a supeditar el empleo de un trabajador a la condición de que se afilie o no se afilie a una organización sindical, o a que cese de formar parte de ella, sea a despedir a un trabajador, discriminarlo en cuanto a la asignación de calificaciones o de funciones o en materia de traslados o medidas disciplinarias, o bien a ocasionarle otros perjuicios por razón de su afiliación a un sindicato, de sus actividades sindicales o de su participación en una huelga⁶.

¹ L 25.8.69, I (2).

² L 15.1.72, 102.

³ *Ibid.*, *in fine*. En caso de despido por necesidades urgentes de la empresa, incumbirá al trabajador la prueba de las circunstancias de hecho que acrediten la carencia de justificación social del despido (*ibid.*, (3)).

⁴ Para salvar este obstáculo, en la respuesta sindical se propone imponer al empleador la carga de la prueba en todo caso de discriminación antisindical y establecer una serie de presunciones legales según las cuales se considerará, en ciertas y determinadas circunstancias, que una medida tomada por el empleador constituye una discriminación antisindical.

⁵ L 20615/73, 73, en relación con el artículo 60.

⁶ L 300/70, 15. Se advertirá la semejanza de esta disposición con el artículo 1 del Convenio número 98 en lo que concierne a la ejemplificación de las formas de discriminación prohibidas, pero esta semejanza no es identidad, puesto que la norma italiana en cuestión incluye también una referencia explícita a la participación en una huelga.

Esta norma de fondo, amplísima en su alcance, se completa con una disposición que prevé un trámite procesal especial, sumario y de urgencia, para reprimir todo caso de conducta antisindical¹; no es de extrañar entonces que las normas jurídicas citadas hayan sido señaladas por los trabajadores consultados como una gran conquista legislativa². Al igual que en la legislación alemana, en caso de despido se impone al empleador la carga de la prueba³; en los otros casos corresponderá al trabajador —o al sindicato que lo represente— demostrar el carácter discriminatorio de la medida impugnada⁴.

En Suecia se encuentra también una norma sustantiva que dispone la nulidad prácticamente de todas las formas posibles de discriminación anti-sindical⁵; la dificultad más importante con que tropieza la aplicación de esta disposición es la de la carga de la prueba⁶.

El resto de los países que prescriben la nulidad como remedio lo hacen con alcances más limitados. Así, por ejemplo, en Austria se dispone la nulidad del licenciamiento injustificado y, en particular, el de los trabajadores miembros del consejo de empresa⁷; en Hungría, el despido abusivo de cual-

¹ El procedimiento previsto es el siguiente: a solicitud de los órganos locales de las asociaciones sindicales nacionales interesadas, el juez de paz letrado convoca a las partes dentro de los dos días siguientes y reúne información sumaria. Si en su opinión el comportamiento del empleador impide o coarta el ejercicio de la libertad sindical, así como el derecho de huelga, ordena al empleador que ponga fin a su comportamiento ilícito y elimine sus efectos; esta orden tiene fuerza ejecutoria (L 300/70, 28).

² De fuente sindical se señala también que la aplicación de esta legislación no es suficiente en la práctica, pues depende, siempre según esa fuente, entre otros factores, de la situación política general, de la presencia de un sindicato fuerte y de la orientación del juez que entienda la causa.

³ L 300/70, 18. Esta disposición se encontraba ya en la ley núm. 604 de 1966, relativa a los licenciamientos individuales, cuyo artículo 5 establecía que «incumbirá al empleador aportar prueba de la existencia de la justa causa o del motivo justificado de licenciamiento». La ley de 1970 ha introducido con respecto al despido varias innovaciones importantes: en primer lugar, tratándose de la reintegración, la ley de 1966 dejaba al empleador la alternativa de reincorporar o de pagar una indemnización (artículo 8), mientras que la ley de 1970 obliga a la reintegración o al pago del salario desde la fecha de la sentencia hasta el día de la reinstalación (artículo 18); en segundo lugar, la ley de 1966 se aplicaba solamente a las empresas con más de 35 dependientes (artículo 11), mientras que la nueva ley se aplica a las empresas industriales y comerciales con más de 15 dependientes y a las agrícolas con más de 5 dependientes (artículo 35); en tercer lugar, la nueva ley contiene disposiciones tuitivas especiales en favor de dirigentes de delegaciones sindicales de empresas (artículos 22 y 18) (véase *Statuto dei diritti dei lavoratori*, opúsculo publicado por tres confederaciones de trabajadores: CGIL, CISL y UIL (Roma, Editorial Stasind, sin fecha), pág. 8).

⁴ L 300/70, 28; conforme a la respuesta gubernamental, en el procedimiento previsto en este artículo se aplicaría la disposición general del artículo 2697 del Código Civil, según el cual quien pretenda hacer valer un derecho en juicio debe probar los hechos que constituyen su fundamento.

⁵ L 506/36, 3, en su tenor modificado por la ley núm. 332 de 1940.

⁶ Indicación de la respuesta de origen sindical, la que señala que este problema está siendo examinado por un comité en el cual están representadas las organizaciones profesionales de trabajadores y de empleadores.

⁷ L 28.3.47, 25 (3) y 18 (1) (en su tenor modificado por la ley de 13 de julio de 1971).

Protección contra la discriminación antisindical

quier trabajador¹; en Argelia, el licenciamiento de un miembro del comité sindical sin la debida autorización previa²; en Brasil, el despido y la transferencia de ciertos «trabajadores protegidos»³, y en Francia, el despido de los «trabajadores protegidos»⁴. Por último, se notará que en ciertos países se dispone en términos generales la nulidad de los actos o contratos que impliquen la violación de la libertad de afiliarse a un sindicato⁵ o la renuncia o disminución de los derechos reconocidos a los trabajadores⁶.

La anulación de una medida discriminatoria debería entrañar el completo restablecimiento de la situación de hecho que existía precedentemente, puesto que la medida en cuestión se considera como no existente. Es por ello que, como técnica jurídica, la nulidad abre las puertas a la más amplia de las reparaciones: restablecimiento de la relación laboral en idénticas condiciones a las anteriores y pago de la remuneración y otros beneficios que el trabajador afectado habría percibido o adquirido desde que la medida en cuestión se hizo efectiva hasta la fecha en que se declara la nulidad. En la realidad, sin embargo, el restablecimiento de la situación anterior tropieza con serias dificultades. Una de ellas, de carácter sociológico, es la resistencia de ciertos empleadores a aceptar las consecuencias prácticas de una anulación, es decir, a conducirse en el futuro como si nada hubiera ocurrido. Otra limitación, de carácter jurídico esta vez, reside en que ciertos sistemas legales consideran que el restablecimiento de la situación anterior (inclusive la reintegración en caso de despido) constituye una obligación de hacer y que, en consecuencia, corresponde aplicar las normas de derecho civil que permiten reemplazarla por una indemnización, desvirtuándose así el potencial que la nulidad posee en tanto que comienzo de reparación.

La superación de la primera de las dificultades señaladas escapa a las posibilidades de una acción legislativa; más bien pareciera ser una cuestión de actitudes personales de ciertos empleadores sobre las que quizás podría actuarse por medio de programas de información y de educación. Respecto

¹ CT, 29: «A instancias del trabajador, la autoridad competente... podrá anular el despido si el motivo invocado por la empresa no fuese verídico o si el despido se realizase con infracción de las disposiciones legales concernientes al ejercicio de dicho derecho o de las restricciones correspondientes...»

² Or 71-75, 10: «El despido [de un miembro o ex miembro de la oficina sindical] pronunciado en infracción de las presentes disposiciones [consulta previa a dicha oficina y aprobación del inspector de trabajo] será nulo y sin valor...»

³ CLT, 543, 3, en su tenor modificado por la ley núm. 5911 de 1973.

⁴ CT, L.412-15 y L.436-1.

⁵ Tanzania, Or 47/55, 14 A, 2) (en su tenor modificado por la ordenanza núm. 10 de 1960).

⁶ Es el caso, por ejemplo, de Guatemala (CT, 12) y Panamá (CT, 8). Disposiciones de este tipo son el corolario del carácter de orden público reconocido a las normas laborales y tienen por objeto garantizar un mínimo de derechos a los trabajadores; para ser aplicables en materia de discriminación antisindical será necesario que la legislación nacional consagre, también, el derecho a la libertad sindical y su protección respecto de actos discriminatorios.

de la segunda, la solución es, jurídicamente al menos, de una extrema sencillez: no admitir que el restablecimiento de la situación laboral pueda ser reemplazado por el pago de una indemnización¹.

REINTEGRACION EN EL EMPLEO, CON O SIN PAGO DE LOS SALARIOS DEJADOS DE PERCIBIR

Este remedio consiste en el restablecimiento de la relación laboral que existía antes del despido y, si correspondiera, el pago de las remuneraciones perdidas. En algunos casos no será necesario restablecer el vínculo jurídico subyacente; así ocurre, en general, en aquellos países en que los actos de discriminación antisindical se consideran nulos y sin efectos.

La reintegración con pago de los salarios no percibidos parece ser la más completa de las reparaciones para la forma de conducta discriminatoria antisindical que se considera la más grave de todas: el despido. Conviene destacar que un despido antisindical no es lo mismo que un simple despido injustificado: aquél no solamente carece de justa causa, sino que, además, vulnera un derecho fundamental que el Estado reconoce y garantiza al trabajador afectado: su libertad sindical, y perjudica al sindicato del que es miembro.

Dicho muy escuetamente:

En caso de despido injustificado:

la acción del empleador sólo repercute en el trabajador.

En caso de despido discriminatorio antisindical:

la acción del empleador repercute

{	en el Estado;
	en el sindicato;
	en el trabajador.

En esas condiciones, la reintegración efectiva, con pago de las remuneraciones perdidas, parece ser el remedio más adecuado para el licenciamiento antisindical, puesto que a la ausencia de toda falta por parte del trabajador (que se limita a ejercer un derecho) se suma una grave violación del orden jurídico por parte del empleador.

Numerosos son los países que prevén la reintegración, con o sin pago de la remuneración no percibida, para el caso de despido injustificado en general;

¹ Esta es la solución adoptada por el artículo 18 de la ley italiana núm. 300 de 1970; véase *supra*, pág. 107, nota 3.

estas disposiciones protegerán también a las víctimas de licenciamientos motivados por razones antisindicales. Pero también hay cierto número de países que disponen la reincorporación como remedio específico contra actos discriminatorios. Dados el alcance de este trabajo y el hecho de que existe un estudio reciente de la reincorporación e indemnización como medios de reparación del despido injustificado en general¹, no se citarán aquí a título de ejemplo sino los países que prevén la reincorporación como remedio específico contra un despido antisindical. Entre ellos se distinguen dos grupos: en unos se dispone el reintegro de cualquier trabajador despedido por razones antisindicales, mientras que en los otros la reintegración no se prevé sino en favor de ciertas categorías especiales (trabajadores «protegidos» o «amparados», por ejemplo). Se los considerará en este orden.

En Argentina², el empleador «deberá reincorporar al trabajador que hubiere despedido... y abonarle las remuneraciones que haya dejado de percibir como consecuencia de la medida calificada de práctica desleal».

En Australia³, el empleador convicto de infracción a la prohibición de despedir con motivo de la afiliación o actividad sindical de un trabajador podrá ser condenado por el tribunal instructor a que reembolse los salarios perdidos y a que reintegre al trabajador en su antiguo puesto o en un puesto semejante.

El Consejo de Relaciones de Trabajo de Canadá⁴ está facultado para ordenar la reintegración y el pago de los salarios caídos de un trabajador despedido en razón de su afiliación o actividad sindical.

En Egipto⁵, el tribunal competente podrá ordenar la reposición del trabajador si el despido constituyere una infracción a sus derechos sindicales; en este caso, la prueba de que el despido no obedece a motivos antisindicales será de la incumbencia del empleador.

El Consejo Nacional de Relaciones de Trabajo de Estados Unidos puede ordenar, en caso de práctica desleal, la reintegración del trabajador despedido con o sin pago de la remuneración no percibida⁶.

¹ OIT: *Terminación de la relación de trabajo*, op. cit., párrafos 90-100, págs. 49-54.

² L 20615/73; a tenor del artículo 60 de la misma ley, se considera práctica desleal, entre otras, el despido antisindical.

³ L 1904-1970, 5, 5). Sobre este punto puede verse E. I. Sykes y H. I. Glasbeek: *Labour Law in Australia* (Sydney, Butterworths, 1972), págs. 88-92.

⁴ CT, V, 189 (b) (i) y (ii).

⁵ CT, 75, 6 y 7, en relación con el artículo 231. Sobre este punto puede verse M. Attia Salem: «Means and ways of settling labour disputes in Egypt», en *Labour* (El Cairo), núm. 9, diciembre de 1973, págs. 61-63.

⁶ NLRA, 10, c). Los autores de un reciente estudio sobre este remedio concluyeron que su eficacia era cuestionable, sugiriendo diversas medidas para mejorarla: 1) el Consejo debería explicar, en cada caso, sus derechos al trabajador discriminado; 2) se debería dar amplia publicidad a todos los casos de práctica desleal; 3) se podrían imponer multas severas a los empleadores

La legislación de Etiopía¹ prohíbe despedir de su empleo a una persona por pertenecer a un sindicato. Aunque esta disposición no se acompaña de la indicación explícita de que en tal caso corresponderá la reintegración, la Junta de Relaciones de Trabajo de ese país así lo ha entendido².

El Tribunal de Prácticas Laborales Ilícitas de Ghana está facultado para ordenar que se reponga al trabajador en el empleo, en las mismas condiciones, y que se le pague la suma que determine a título de compensación por la pérdida de salario ocasionada por la infracción³.

El Tribunal de Trabajo de Malasia está facultado, por una parte, para tomar las medidas que estime necesarias o adecuadas a fin de reparar una discriminación antisindical, y por otra, para ordenar la reintegración del trabajador discriminado en el empleo anterior o en un puesto similar, con pago de las remuneraciones no percibidas⁴.

En Nueva Zelandia se prevé, en todo caso de despido antisindical, el pago de las remuneraciones no percibidas; además, y a discreción del tribunal competente, se podrá ordenar la reintegración del trabajador⁵.

La legislación de Suecia no prevé expresamente la reintegración del trabajador licenciado por motivos antisindicales, pero los tribunales pueden ordenarla, junto con el pago de las remuneraciones no percibidas, fundándose en la disposición que declara nulos y sin efectos los actos contrarios al derecho de asociación⁶.

En Trinidad y Tabago, país en que un acto de discriminación antisindical se considera un delito, el magistrado que dicte la condena de prisión, la multa o ambas podrá también ordenar que se reembolsen al trabajador todos los salarios que haya perdido y que, no obstante cualquier disposición legislativa

autores de un despido antisindical; 4) convendría establecer un sistema de control de la ejecución de las reintegraciones a fin de evitar otras discriminaciones; 5) se podría modificar la ley citada para establecer medidas punitivas (E. C. Stephens y W. Chaney: «A study of the reinstatement remedy under the National Labor Relations Act», en *Labor Law Journal*, enero de 1974, páginas 31-41).

¹ P 210/63, 30 (c).

² Véase el caso «Sera Mikael Brick Factory v. The Association of Demissie Eshete et al.», en *Journal of Ethiopian Law* (Addis Abeba), vol. III, núm. 1, junio de 1966, págs. 13-17. Se ha señalado que esta decisión ilustra la insuficiencia de la reparación pecuniaria otorgada por el Código Civil (art. 2573) en caso de despido injustificado; véase D. Haile: «Penal and Civil Law aspects of dismissal without cause», *ibid.*, vol. VIII, núm. 2, diciembre de 1972, págs. 532-537 (en particular la nota 12, pág. 535).

³ L 299/65, 32, 2).

⁴ L 35/67 (en su tenor modificado), 5 y 46A, respectivamente.

⁵ L 19/73, 150 (4), a). La legislación anterior (L 72/54, 167) no contenía una disposición que autorizara la reintegración; se había considerado entonces que la protección prevista era de alcance limitado, entre otras razones, por la ausencia de ese remedio (véase, por ejemplo, D. L. Mathieson: *Industrial law in New Zealand* (Wellington, Sweet and Maxwell, 1970), vol. I, págs. 53-56).

⁶ Indicaciones de las respuestas de origen gubernamental, sindical y empresarial. La disposición aludida es el artículo 3, párrafo 4, de la ley núm. 506 de 1936, en su tenor modificado por la ley núm. 332 de 1940.

en contrario, se reintegre al trabajador en su puesto anterior o en otro semejante¹.

Pasando ahora al grupo de países, ya aludido, en que la reintegración no se prevé sino en favor de ciertas categorías especiales de trabajadores², cabe señalar que las correspondientes normas tuitivas, en esencia, sólo difieren de las descritas en los párrafos anteriores, y aplicables a la generalidad de los asalariados, por su campo de aplicación limitado a los llamados «trabajadores protegidos o amparados»: fundadores de sindicatos, dirigentes, candidatos a funciones sindicales, delegados, etc. Sería repetitivo, pues, describir aquí ejemplos de tales normas. Parece útil, en cambio, detenerse brevemente en ciertos procedimientos especiales de urgencia, que permiten la rápida reintegración de esos trabajadores.

En Italia, la reintegración de un trabajador no puede decidirse sino al final del juicio correspondiente. Sin embargo, en caso de despido de dirigentes de delegaciones sindicales de empresa, el juez podrá, *en cualquier estado y grado del juicio* y a solicitud conjunta del trabajador y del sindicato a que esté afiliado o que lo haya designado para que lo represente, decidir mediante orden la reintegración del trabajador en su empleo cuando estime que los elementos de prueba presentados por el empleador no son pertinentes o suficientes³.

El Código de Trabajo de Panamá ha establecido un procedimiento especial, llamado «proceso de reintegro», para el caso de despido de un trabajador amparado por el fuero sindical⁴. Este procedimiento se caracteriza por la concentración de los actos procesales, su índole expeditiva y la prohibición de acumular otra cuestión. El trabajador despedido presentará su solicitud de reintegración al juez de turno con certificados que acrediten su calidad de trabajador amparado y el hecho de que su despido no fue autorizado mediante sentencia ejecutoria. Al mismo tiempo presentará prueba, al menos indiciaria, de la relación laboral. El juez dictará el mismo día mandamiento de reintegro, cuando procediere, que será notificado al empleador de inmediato y surtirá efectos desde el momento en que se dicte.

En Francia sólo podrá despedirse a un delegado sindical previo dictamen

¹ L 23/72, 42 (3). Al trabajador corresponderá probar los hechos que constituyen la infracción; el empleador será entonces sancionado a menos que demuestre la ausencia de premeditación (*ibid.*, (4)).

² Véase el capítulo 3, subsecciones «Ámbito material de protección», págs. 55, 61, 66 y 70.

³ L 300/70, 18, 4), en relación con el artículo 22. Además, según el último párrafo del artículo 18, y tratándose únicamente de esa categoría de trabajadores, el empleador que no acate la sentencia o la orden de reintegración, si ésta no hubiere sido impugnada, quedará obligado, respecto de cada día de demora, a pagar al fondo de ajuste de las pensiones una suma igual a la retribución diaria del trabajador.

⁴ CT, 978 a 983. Están amparados por el fuero sindical los trabajadores a que se refieren los artículos 381, 383 y 384 del mismo Código (véase el cuadro 5).

conforme del inspector de trabajo o de la autoridad que lo sustituya¹. En caso de despido de un delegado sindical sin la autorización prescrita, el juez de jurisdicción sumaria, en virtud de un procedimiento judicial de urgencia, puede ordenar la reintegración inmediata del trabajador afectado, so pena de hacer pagar una multa diaria hasta que se efectúe la reincorporación ordenada. Este procedimiento judicial de urgencia se comenzó a aplicar, en lo que a la reintegración de delegados sindicales se refiere, sólo en 1969². Se ha revelado particularmente eficaz para la protección de esa categoría especial de trabajadores³ y se ha propuesto su aplicación a otras situaciones en que estaría en causa el ejercicio de la libertad sindical⁴.

Este procedimiento tiene la ventaja primordial de que el trabajador afectado puede conservar su empleo hasta que el tribunal competente se pronuncie sobre el fondo; en realidad, sus efectos prácticos vienen a ser similares a los de un recurso judicial o administrativo con efectos suspensivos.

INDEMNIZACION POR LOS DAÑOS Y PERJUICIOS OCASIONADOS

El clásico remedio del derecho civil de imponer a quien causa un daño la obligación de repararlo se traduce, cuando el perjuicio se debe a una discriminación antisindical, en la obligación de pagar una suma de dinero al traba-

¹ CT, L.412-15 (que reproduce el artículo 13 de la ley núm. 68-1179, de 27 de diciembre de 1968, relativa al ejercicio del derecho sindical en las empresas).

² La aplicación de este procedimiento a casos de licenciamiento de delegados sindicales es obra de la jurisprudencia. Dos son las sentencias que la han consagrado: la primera de ellas es la del Tribunal de Gran Instancia de Montpellier en el caso «Bonhoure c. Société Domaison», de 17 de noviembre de 1969 (puede verse en J. Pélissier: *Documents de droit du travail* (Paris, Editions Montchrestien, 1971), págs. 607-608, y en *Recueil Dalloz-Sirey*, 1970, J.238, y *Jurisprudence sociale*, 1970, 7); la segunda es la del Tribunal de Casación (Cámara Social) en el caso «Société Comptoir des Revêtements Revet-sol c. Dal Poz», de 14 de junio de 1972 (puede verse en *Droit social*, 1972, núm. 9, págs. 465-466). Estas decisiones han considerado que el licenciamiento irregular de un delegado sindical constituía «vía de hecho», lo que hacía competente en la especie al juez de jurisdicción sumaria (se advertirá que un autor considera que es superfluo recurrir a la noción de «vías de hecho» después de que el artículo 73 de la ley de 28 de julio de 1973 ha facultado al presidente de un tribunal de gran instancia para intervenir en todas las materias en que no existe un procedimiento de urgencia: véase L. Boyer, nota a la sentencia del Tribunal de Apelaciones de Burdeos en el caso «Carrefour Sogara c. Astruc», de 24 de mayo de 1973, en *Recueil Dalloz-Sirey*, 1973, págs. 666-671).

³ Indicación de una respuesta de origen sindical.

⁴ El juez de jurisdicción sumaria de Paris se declaró competente en una solicitud de reintegración formulada por un sindicato en favor de dos militantes despedidos en el curso de una huelga; el juez consideró que se daba en la especie la irregularidad evidente que constituía la «vía de hecho». La doctrina ya había considerado la posibilidad de extender este procedimiento de urgencia a casos de despido irregular o abusivo de trabajadores ordinarios (véase la nota de Jean Savatier a la sentencia del Tribunal de Casación, de fecha 14 de junio de 1972, en *Droit social*, 1972, núm. 9, páginas 466-468). Se advertirá, a este respecto, que la ley de 13 de julio de 1973 relativa a la rescisión del contrato de trabajo de duración indeterminada dispone en su artículo 24 p que el tribunal

jador que ha sido víctima del acto discriminatorio. Es verdad que, en el campo de las relaciones obrero-patronales, la indemnización por daños y perjuicios se conoce sobre todo en los casos de ruptura injustificada del contrato de trabajo, y que son muchos los países que la prescriben como única reparación posible en caso de despido abusivo¹, pero también son numerosos los que la prevén en caso de discriminación antisindical².

Ahora bien, entre las legislaciones que establecen el pago de daños y perjuicios en caso de discriminación antisindical, algunas lo ofrecen como único remedio disponible³, mientras que la mayoría de las estudiadas lo combinan con el remedio principal, a fin de completar en lo necesario la reparación debida, o le dan carácter sustitutivo, por ejemplo, de la reincorporación o del restablecimiento en el puesto.

Vista como remedio específico para los casos de discriminación antisindical, la indemnización de los daños y perjuicios causados padece de ciertas limitaciones. En primer lugar, una reparación pecuniaria no parece del todo adecuada para remediar un acto que lleva en sí no solamente un aspecto económico (la pérdida del salario, por ejemplo), sino también —y principalmente— la restricción del ejercicio de una libertad fundamental (la de asociarse y de participar en actividades sindicales). En segundo lugar, prescribir la indemnización de los daños y perjuicios como único remedio en caso de discriminación antisindical significaría, en los hechos, autorizar la comisión de tales actos contra el pago de una suma de dinero. En tercer lugar, la cuantía de los daños y perjuicios causados por el elemento específicamente antisindical del acto impugnado será, en algunos casos, difícil de establecer: ¿cómo tasar, por ejemplo, los daños y perjuicios en caso de traslado discriminatorio antisindical sin reducción de salarios ni disminución alguna de los beneficios indirectos?

Las limitaciones señaladas permiten afirmar que este tipo de reparación, por completa que sea la indemnización concedida, es a menudo insuficiente como único remedio contra un acto de discriminación antisindical. En cambio,

«puede proponer» la reintegración en caso de despido injustificado; en caso de negativa del trabajador o del empleador, el tribunal acordará una indemnización al asalariado (sobre el alcance de esta disposición pueden verse Jean Pélissier: «La réforme du licenciement», en *Recueil Dalloz-Sirey*, cuaderno 32.º, crónica XXXVII, septiembre de 1973, pág. 257, y G. Lyon-Caen y M. C. Bonnetête: «La réforme du licenciement à travers la loi du 13 juillet 1973», en *Droit social*, núm. 11, noviembre de 1973, págs. 496 y 506).

¹ Véase OIT: *Terminación de la relación de trabajo*, op. cit., parte 4 B, párrafo 96, nota 1, página 52.

² Están entre esos países la República Federal de Alemania, Argentina, Austria, Bélgica, Brasil, Camerún, Canadá, Colombia, Costa de Marfil, Costa Rica, Chad, Dahomey, Ecuador, Finlandia, Francia, Ghana, Guinea, Italia, Japón, Mali, México, Nueva Zelandia, Perú, Senegal, Suecia, Suiza, Tanzania, Trinidad y Tabago, Túnez, Yugoslavia y Zaire.

³ Por ejemplo, en Costa de Marfil (CT, 41), Chad (CT, 37, *in fine*), Dahomey (CT, 7 y 38), Finlandia (L 320/70, 51), Guinea (CT, 71.2.3), Mali (CT, 42 y 306), Senegal (CT, 29) y Zaire (CT, 49).

da la impresión de ser sumamente útil como complemento de un remedio principal, por ejemplo, si se suma a la anulación de la medida discriminatoria.

RESTABLECIMIENTO DEL TRABAJADOR SUSPENDIDO, TRASLADADO O DESMEJORADO

La reposición del trabajador víctima de una suspensión, traslado o desmejoramiento discriminatorio en el puesto o situación que tenía antes se asemeja, evidentemente, a la reintegración, que también constituye un «restablecimiento» de la situación anterior. No obstante, se les dedican aquí dos secciones aparte porque jurídicamente estos dos tipos de remedios tienen una diferencia esencial: la reintegración supone que hubo ruptura del contrato o de la relación laboral, mientras que el restablecimiento se efectúa sin que se haya producido tal ruptura. Este último remedio puede ser a veces el resultado de la nulidad de una medida juzgada antisindical, pero, pese a ello, algunos legisladores han estimado útil preverlo expresamente.

En Argentina¹, por ejemplo, la calificación que efectúa el Tribunal Nacional de Relaciones Profesionales al considerar el acto impugnado como configurativo de una práctica desleal (entre las cuales se encuentran las discriminaciones antisindicales) obliga al empleador a restablecer las condiciones de trabajo modificadas. Si el empleador no cambia de actitud, el trabajador tiene derecho a ejecutar judicialmente la orden del Tribunal (organismo administrativo) persiguiendo se condene al empleador a volver las cosas a su estado anterior.

En Colombia², si se comprobare que un trabajador amparado fue trasladado o desmejorado sin sujeción a las normas que regulan el fuero sindical, el juez ordenará la restitución del trabajador al lugar donde antes prestaba sus servicios o a sus anteriores condiciones de trabajo.

En Ghana³, si el Tribunal de Prácticas Laborales Ilícitas estimare que una persona ha seguido una práctica laboral ilícita que suponga la modificación de las condiciones de empleo de un trabajador, podrá ordenar al empleador que adopte las medidas que especifique en la orden para reponer al trabajador en las mismas condiciones.

La importancia práctica de este remedio reside en que, por un lado, especifica los alcances de la declaración de nulidad de una medida antisindical y, por otro, prescribe un remedio apropiado para una amplia gama de actos

¹ L 20615/73, 73 y 74.

² CST, 405 y 408, último apartado.

³ L 299/65, 32, 2).

Protección contra la discriminación antisindical

discriminatorios (suspensión, traslado y desmejoramiento) que, sin alcanzar la gravedad del despido, pueden sin embargo tener considerables repercusiones en las condiciones de empleo y la actividad sindical del trabajador discriminado.

PUBLICIDAD DE LAS DECISIONES, JUDICIALES O ADMINISTRATIVAS, RELATIVAS A MEDIDAS ANTISINDICALES

En casos de discriminación antisindical, el Consejo Nacional de Relaciones de Trabajo de Estados Unidos normalmente ordena al empleador que fije anuncios en los lugares de trabajo donde la discriminación ha tenido lugar para hacer saber a su personal que no seguirá más la conducta discriminatoria de que se trata y que acatará la decisión del Consejo¹. Esta publicidad tiene por objeto informar ampliamente a los trabajadores sobre decisiones del Consejo referentes a casos en que el interés general está en causa². Se ha estimado en este país que una adecuada publicidad contribuye a mejorar la eficacia de las decisiones del Consejo³.

El interés práctico de este remedio complementario reside, por una parte, en que se logra una mayor penetración de las normas jurídicas en los lugares mismos de trabajo donde deben ser respetadas, y por otra parte, en que se puede así conseguir el apoyo moral de los trabajadores interesados para hacer cumplir las decisiones de los organismos encargados de la aplicación de las disposiciones de fondo en esta materia.

En Filipinas se había considerado útil facultar expresamente al anterior Tribunal de Relaciones de Trabajo (abolido por el reciente Código del Trabajo de 1974) para que ordenase al empleador la fijación de carteles con la decisión del Tribunal en lugares accesibles a todos los trabajadores; también en ese país existía la opinión de que tal publicidad contribuía a la aplicación efectiva de las decisiones del Tribunal⁴.

¹ Esta medida, no prevista expresamente por la legislación, ha sido desarrollada por la casuística del Consejo.

² Se han prescrito otros medios de publicidad: envío postal de un anuncio a cada trabajador, distribución de anuncios a los trabajadores, lectura de anuncios a los trabajadores, publicación de anuncios por los diarios (véase Morris (director de la edición): *The developing labor law, op. cit.*, páginas 870-872).

³ Véase, por ejemplo, Stephens y Chaney, *op. cit.*, págs. 40-41.

⁴ L 875/53, 5, c). Véase, por ejemplo, P. V. Fernández y C. D. Quiason: *The law of labor relations* (Manila, Central Book Supply, 1963), párrafo 1254, pág. 483.

PRINCIPALES SANCIONES CONTRA ACTOS DE DISCRIMINACIÓN ANTISINDICAL

8

Numerosos son los países en que, además de las medidas protectoras tendientes a prevenir o remediar los actos de discriminación antisindical, se prevén sanciones, aplicables genérica o específicamente, para castigar a quienes los cometen¹. Pero el efecto punitivo no es su única finalidad, puesto que se ha señalado con frecuencia el poder disuasivo que tienen cuando son severas y se aplican en la práctica. Así, pues, castigar y disuadir son las funciones que se les atribuye y reconoce comúnmente, y el resultado que se obtiene de hecho es un mayor respeto de las disposiciones legales tuitivas, con la consiguiente disminución de las represalias antisindicales, ya que, al igual que en otros campos, la perspectiva del castigo contiene al que se propone discriminar y la sanción rápida y severa hace reflexionar a quien ya cometió el acto ilegal².

Sea cual fuere el peso que se atribuya a las sanciones en un sistema de protección contra discriminaciones antisindicales, es indiscutible que son

¹ Es el caso, por ejemplo, de la República Federal de Alemania (L 15.1.72, 101), Argelia (Or 71-75, 21), Argentina (L 20615/73, 77), Australia (L 1904-1970, 5, 1) y 1A), Austria (L 140/48, 133), Bélgica (L 24.5.21, 3 y 4), Brasil (CLT, 553, a), Camerún (CT, 186, 1), 1.º y 2.º), Colombia (CST, 354, 2)), Costa Rica (CT, 612), Chad (CT, 68), Ecuador (CT, 575 y 579), Egipto (CT, 231), España (Código Penal, 499 bis), Filipinas (CT, 327), Finlandia (L 320/70, 54), Francia (CT, L.461-2 y L.461-3), Guatemala (CT, 272, a)), Hungría (D 17/68 y Código Penal, 127 b)), India (L 14/47, 31, i)), Italia (L 300/70, 38), Japón (L 174/49, 38), Malasia (L 35/67, 46A, 2), Mali (CT, 386), México (LFT, 878, VI), Nueva Zelandia (L 19/73, 150, 1)), Pakistán (Or 23/69, 53), Panamá (CT, 389), Perú (DL 18668/70, 1-8), Senegal (CT, 248), Tanzania (Or 47/55, 154), Trinidad y Tabago (L 23/72, 42, 3)), Turquía (L 274/63, 31, 3)), URSS (Código Penal, 137) y Venezuela (LFT, 264).

Se advertirá que la mayoría de estas disposiciones no sancionan específica y exclusivamente la discriminación antisindical; pero se encuentran normas específicas, por ejemplo, en Argentina, Australia, Bélgica, Colombia, Egipto, Finlandia, Francia, India, Italia, Malasia, Mali, Nueva Zelandia, Pakistán, Panamá, Trinidad y Tabago y Turquía.

² Es interesante constatar que dos autores, refiriéndose a la legislación de un país que no prevé sanciones de ningún tipo, sugieren la imposición de multas severas en caso de despido discriminatorio y la modificación de la legislación de fondo en la materia para prever medidas punitivas contra quienes violaren repetidamente sus disposiciones, a efectos de mejorar la eficacia de la protección contra discriminaciones antisindicales (véase Stephens y Chaney, *op. cit.*, págs. 40-41).

Protección contra la discriminación antisindical

un medio de acción de gran importancia como complemento de las medidas preventivas y los remedios previstos, pero hay que recalcar que deben conceptuarse como complemento de la prevención y de los remedios, porque quizá la sanción no debería ser sino un último recurso.

Las sanciones previstas son básicamente dos¹: el pago de una suma en dinero (multa)² y la privación de la libertad (arresto o prisión).

En muchos de los países considerados se prevé únicamente el pago de una multa, cuya cuantía generalmente varía entre un mínimo y un máximo y que se incrementa en caso de reincidencia³; en otros se dispone el pago de una multa o una pena privativa de la libertad, o ambas sanciones a la vez⁴.

¹ Aunque se han propuesto también otras clases de sanciones, como, por ejemplo, la descalificación del empleador como contratista del Estado y la imposición de daños y perjuicios punitivos del doble o triple.

² El artículo 137 del Código Penal de la URSS, que sería aplicable en caso de discriminación antisindical, prevé, además de una multa, las penas de trabajo correctivo por un máximo de un año y el despido.

³ En Argentina, por ejemplo, la multa prescrita no podrá ser inferior a un importe equivalente al de las remuneraciones que el empleador abone a la totalidad de su personal en un día normal de labor ni superior al importe de la que abone en treinta días; en el supuesto de reincidencia, la multa anterior podrá quintuplicarse (L 20615/73, 77); en Australia se prescriben multas fijas de 25 o de 50 libras, según la infracción (L 1904-1970, 5, 1), y 5, 1A); en Egipto se prevé una multa no inferior a 20 ni superior a 100 libras egipcias, impuesta tantas veces como personas hayan sido víctimas de la contravención (CT, 231); en Finlandia se prescribe una multa sin señalarse su cuantía (L 320/70, 54), y la insignificancia de las sanciones efectivamente impuestas constituye una de las dificultades con que tropieza la protección contra discriminaciones antisindicales, según comentario gubernamental; en Nueva Zelandia se prevé una multa de hasta 100 libras (L 19/73, 150 (i)); en Panamá se impone una multa de 100 a 2 000 balboas, duplicándose sucesivamente por cada vez que el empleador incurra en la falta (CT, 389); en Turquía se prescribe una multa de 500 a 2 000 libras (L 274/63, 31, 3)).

⁴ Es el caso, por ejemplo, de Bélgica, donde se prevé una pena de prisión de ocho días a un mes y de multa de 50 a 500 francos, o una de estas penas solamente (L 24.5.21, 3 y 4); en Camerún se prescribe una multa de 5 000 a 70 000 francos y pena de prisión de seis días a un mes, o una sola de estas penas (CT, 186, 1), 1 y 2), y en caso de reincidencia se impondrá siempre la pena de prisión; en Francia hay que distinguir dos supuestos: la violación del artículo L.412-2 del Código del Trabajo (donde se prohíbe toda discriminación antisindical), que hace incurrir en multa de 2 000 a 5 000 francos y, en caso de reincidencia, en una pena de prisión de dos meses a un año y en multa de 4 000 a 10 000 francos, o en una de estas dos penas solamente (CT, artículo L.461-3), o bien, segundo supuesto, la comisión del delito de obstrucción al ejercicio del derecho sindical definido por los artículos L.412-1 y L.412-4 a L.412-16, castigado con prisión de dos meses a un año y una multa de 2 000 a 10 000 francos, o con una de estas penas solamente (CT, L.461-2); en la India se prescribe pena de prisión de hasta seis meses o multa máxima de 1 000 rupias, o ambas penas (L 14/47, 31, 1)); en Italia se sanciona con multa de 100 000 a 1 000 000 de liras o con prisión de quince días a un año, o con ambas penas en casos más graves, la infracción a la disposición que prohíbe supeditar el empleo de un trabajador a la condición de que se afilie o no se afilie a una asociación sindical, o bien a que cese de formar parte de ella (L 300/70, 38); en Malasia se prevé una pena de prisión de hasta doce meses, o una multa no mayor de 2 000 dólares, o ambas penas (L 35/67, 46A, 2)); en Mali se sanciona la infracción a la disposición que prohíbe la discriminación antisindical (CT, 386) con multa de 3 000 a 10 000 francos y, en caso de reincidencia, con multa de 10 000 a 30 000 francos y con prisión de seis a diez días, o con una de estas penas solamente; en Pakistán se prevé una pena de prisión no superior a cuatro años, una multa de hasta 5 000 rupias o la imposición de ambas penas (Or 23/69, 53); en Trinidad y Tabago el empleador que cometiere una discriminación antisindical incurrirá en un delito sancionado con multa de 5 000 dólares, con pena de prisión de un año, o con ambas penas (L 23/72, 42 (3)).

En ninguno de los países estudiados se prescribe solamente una pena privativa de la libertad.

Para que una sanción pecuniaria sea efectiva parece necesario que su monto sea suficientemente elevado; en efecto, la reducida cuantía de ciertas multas las haría ineficaces en la práctica porque el empleador prefiere pagarla en vez de abstenerse de discriminar. En lo que a las penas privativas de la libertad se refiere, su eficacia parece depender no tanto de su duración cuanto de que sean efectivamente aplicadas por las autoridades competentes, sin lo cual se convierten rápidamente en letra muerta¹.

¹ Son frecuentes los comentarios de origen sindical que, refiriéndose a las sanciones, señalan que las cuantías de las multas no son suficientemente elevadas y que las penas privativas de la libertad no se aplican sino raras veces. Unas reformas legislativas recientes han agravado considerablemente, en varios países, las sanciones aplicables en esta materia, aunque en realidad parecen obedecer a la intención de agravar en general las penas impuestas a las infracciones de la legislación laboral. La insuficiencia de las sanciones anteriores ha motivado, *inter alia*, esas reformas legislativas; véanse, por ejemplo, el decreto-ley núm. 18688, de 1970, en el Perú, y la ley núm. 72-617, de 5 de julio de 1972, en Francia, cuyas disposiciones se incorporaron en el Código del Trabajo francés en virtud del decreto núm. 73-1047, de 15 de noviembre de 1973; sobre los motivos y alcances de esta reforma puede verse J. M. Combette: «Les nouvelles pénalités applicables en cas d'infractions au droit du travail», en *Droit social*, núm. 4, abril de 1973, págs. 231-254.

CONCLUSIONES

Al leer las conclusiones que siguen, el lector tendrá en cuenta que este trabajo de investigación no es, en absoluto, el punto final de la cuestión. Todo lo contrario, el mismo se ha pensado y elaborado a partir del análisis de realidades muy concretas —sean ellas jurídicas o sociales— con el propósito de que sea un punto de partida para la acción sobre realidades igualmente concretas. La protección contra discriminaciones antisindicales debería ser un capítulo importante de toda política social; este estudio tiene por objeto contribuir a mejor solucionar, en la práctica, los diferentes problemas que plantea el establecimiento de medios adecuados para lograr esa protección.

En el curso de los capítulos precedentes se ha procurado precisar, en la medida en que un estudio sobre más de cincuenta países lo permite, la envergadura de los problemas que plantean las discriminaciones antisindicales, las características de los diferentes sistemas nacionales de protección y los aspectos en que ese amparo parece más necesario o donde es menos eficaz. Ha llegado el momento ahora de mirar esos aspectos particulares desde cierta distancia para considerar la cuestión con visión global.

IMPORTANCIA DEL PROBLEMA

Una constatación se impone en primer lugar: las diferentes formas de discriminación antisindical constituyen un grave problema en las relaciones obrero-patronales de ciertos países. Sus efectos perjudican tanto a los trabajadores individualmente como a los sindicatos en su función de instituciones esenciales para el establecimiento y desarrollo de relaciones profesionales sanas e ininterrumpidas.

Los trabajadores y los sindicatos, al ser los más directamente afectados, son también los primeros interesados en que se establezca un sistema de protección eficaz, pero no son en modo alguno los únicos. El asunto interesa también a los Estados, como garantes de la libertad fundamental de asociación

Protección contra la discriminación antisindical

sindical, y a los empleadores que no recurren a prácticas antisindicales en sus relaciones con los sindicatos y sus afiliados.

El concurso de esas tres partes—Estado, sindicatos y empleadores— parece igualmente deseable para que un sistema de protección funcione eficazmente, aunque cabe al Estado la responsabilidad de garantizar el respeto al derecho de sindicación.

RECAPITULACION DE LOS ACTOS DE DISCRIMINACION ANTISINDICAL

Se ha podido comprobar también que son múltiples las formas que puede asumir una discriminación antisindical, y que su frecuencia varía de país a país. El *despido* es, de lejos, la más frecuente y la más grave. Todo sistema de protección deberá prestar especial atención a fin de impedir que se produzcan tales despidos, de repararlos si se produjeran y, en su caso, de sancionarlos severamente. No se olvidarán, sin embargo, otras formas más insidiosas de discriminar, tales como el *cambio de tareas* y el *traslado*: bajo apariencias inofensivas pueden encubrir un medio eficaz de neutralizar a un sindicalista activo o de sancionar profesionalmente a un afiliado leal a su sindicato.

Ciertas formas de discriminación antisindical parecen extremadamente difíciles de controlar: así, por ejemplo, las practicadas *con ocasión de la obtención del empleo* y la *formación de «listas negras»*. Ambas tienen lugar en una esfera de la actividad del empleador —la de selección y reclutamiento de personal— a la que difícilmente tienen acceso los sindicatos y los organismos responsables de la protección de la libertad sindical.

Igualmente difíciles de controlar son ciertas formas paradójicas de discriminación antisindical como, por ejemplo, el *otorgamiento de tratamiento de favor* en el plano económico o profesional con objeto de disuadir al trabajador de que se afilie a un sindicato o bien de inducirlo a que se incorpore al sindicato dominado por la empresa.

Un nuevo tipo de discriminaciones antisindicales retendrán la atención: se trata de las practicadas por sociedades multinacionales y consistentes en *amenazas de transferencia de fábricas* a otro país, y la *desviación de las inversiones* proyectadas en un país hacia otro, con objeto de desalentar la afiliación sindical de su personal o su participación en actividades sindicales. Aunque es de presumir que se han practicado en relativamente pocas ocasiones discriminaciones de esta índole, sus consecuencias siempre serán muy graves debido al número de trabajadores afectados.

ELEMENTOS DE UN SISTEMA EFICAZ DE PROTECCION

En términos generales puede afirmarse que la presencia de *sindicatos fuertes y responsables* contribuye más eficazmente al control de los actos

antisindicales que cualquier otro elemento, ya se trate de un organismo o de disposiciones legales. Un sistema eficaz de protección contra tales actos requiere, pues, que se facilite la implantación y promueva el desarrollo de las organizaciones sindicales.

Se ha observado, sin embargo, que en ciertos países la presencia de sindicatos sólidamente implantados no ha sido suficiente para erradicar las prácticas antisindicales, por lo que también allí se ha recurrido a la *promulgación de leyes* y a la creación de *organismos apropiados* para aplicarlas. Estas medidas son aún más necesarias en países con un desarrollo sindical incipiente o geográficamente despajejo.

NECESIDAD DE UNA LEGISLACION APROPIADA

La mayoría de los países comprendidos en este estudio poseen normas específicas de fondo que prohíben las discriminaciones antisindicales. Las técnicas jurídicas utilizadas en la redacción de esas normas son, básicamente, tres: o una disposición de carácter general, o una disposición que enumera detalladamente las diferentes formas de actos incriminados, o una síntesis entre estos dos modelos extremos consistente en una prohibición de carácter general acompañada de una enumeración, no limitativa, de las formas más graves de discriminaciones antisindicales. Esta última parece la técnica jurídica más aconsejable dado que permite conciliar la precisión en el enunciado de lo que se proscribe con la necesaria flexibilidad en su aplicación.

Sea cual fuere la técnica jurídica empleada, pareciera de primordial importancia que las normas en cuestión identificaran claramente las medidas consideradas actos de discriminación antisindical y señalaran sin ambigüedad las consecuencias que entrañaría la comisión de tales actos. El campo de aplicación de estas normas deberá, además, comprender a todos los trabajadores a quienes se reconozcan los derechos sindicales.

En la definición del ámbito de validez temporal de las normas de fondo se debería tener en cuenta que el artículo 1 del Convenio núm. 98 se refiere no solamente a las discriminaciones antisindicales que se cometieran *durante el empleo* sino también *con ocasión de la contratación*. El hecho de que en ciertos países donde existen normas con tales características se haya tropezado con serias dificultades para aplicarlas no debería desalentar a aquellos que se proponen sancionarlas. Las dificultades de aplicación pueden superarse en muchos casos estableciendo organismos dotados de medios de acción adecuados.

Ciertos países han estimado necesario sancionar normas específicas de fondo, además de las normas tuitivas de alcance general, para proteger espe-

Protección contra la discriminación antisindical

cialmente a determinadas categorías de trabajadores tales como los fundadores de un sindicato, sus dirigentes y delegados. La justificación principal de tales normas reside, como se ha señalado, en que la actividad sindical de estos trabajadores los expone más a ser objeto de discriminaciones antisindicales. Sin duda que donde tales riesgos existen, esas normas se justifican plenamente. Sin embargo, la preocupación por proteger a esas categorías especiales no debería hacer olvidar que los trabajadores en general necesitan asimismo una protección suficiente.

En la sección pertinente se había señalado que la protección de los fundadores de sindicatos y la de los dirigentes quizás debieran resolverse de maneras distintas, al menos en la realidad legislativa.

En efecto, la protección especial de los fundadores parece ser particularmente aconsejable en los países con estructuras sindicales basadas sobre todo en los sindicatos de empresa: allí, la eliminación de los fundadores puede retardar por largo tiempo la sindicalización de los trabajadores del establecimiento sin que les sea posible procurarse ayuda del exterior, como podrían hacerlo en los países donde la estructura sindical está basada en los sindicatos por industria. Pero incluso en este último tipo de estructura se justificaría una protección especial si el movimiento sindical del país no fuera suficientemente fuerte e independiente, o si estuviera desigualmente implantado según las regiones o zonas.

Por el contrario, no parece ser indispensable proteger con disposiciones especiales a los fundadores en los países cuya legislación y práctica ofrecen una protección general eficaz contra los actos de discriminación antisindical, puesto que participar en la formación de un sindicato constituye indiscutiblemente una actividad sindical.

APLICACION EFECTIVA DE LAS NORMAS JURIDICAS

Con frecuencia se ha señalado, especialmente en comentarios de origen sindical, que las disposiciones legislativas existentes no son aplicadas en la práctica. Ello se debería, entre otras cosas, a la falta de instituciones apropiadas, a la insuficiente formación profesional del personal responsable de la aplicación, a interferencias de orden político, a la carencia de normas procesales adecuadas, a la falta de recursos materiales, y aun a la ignorancia de la existencia de tales normas por parte de los trabajadores afectados (que no las invocan) o de las autoridades de aplicación.

Esta anomalía, al parecer más extendida de lo que podría imaginarse, pone de manifiesto que, si bien unas normas jurídicas apropiadas son un elemento fundamental en todo sistema de protección contra las discriminaciones

antisindicales, no bastan para que el mismo funcione eficazmente, y deben ir acompañadas por instituciones dotadas de estructuras y medios de acción adecuados.

CREACION DE ORGANISMOS ADECUADOS PARA GARANTIZAR EL DERECHO DE SINDICACION

La *inspección del trabajo* cumple un papel muy importante en la prevención de discriminaciones antisindicales, especialmente en los países en que se requiere su autorización previa para proceder al despido de ciertos dirigentes y delegados sindicales. La extensión de este requisito de la previa autorización del inspector del trabajo a otras medidas que quizá encubran una discriminación antisindical —traslado, descenso de categoría, desmejoramiento en general, por ejemplo— y a los trabajadores en general, además de los «protegidos» o «amparados», en el caso de situaciones especiales como, por ejemplo, durante la creación de un sindicato o con motivo de un conflicto colectivo, contribuiría grandemente a aumentar la eficacia de la protección contra prácticas antisindicales. Se señalará también la utilidad de los inspectores del trabajo en la preparación de pruebas —actas de infracciones, por ejemplo— que podrán ulteriormente hacerse valer ante una autoridad judicial.

En ciertos países se han establecido, dentro de la propia empresa, organismos que hacen participar estrechamente a los trabajadores en el control de la aplicación de la legislación laboral en general y el respeto del derecho de sindicación en particular; se trata, por ejemplo, de los *comités sindicales de fábrica*, de los *consejos de empresa* y de ciertas *comisiones paritarias* internas. Estos organismos parecen ser particularmente eficaces en la prevención de discriminaciones antisindicales, sobre todo cuando se requiere su consentimiento previo para la adopción de medidas importantes relativas al personal. Las informaciones recibidas indicarían que cuanto más amplias son las facultades de tales organismos en esta materia, menos son los casos en que el trabajador afectado debe recurrir a entidades exteriores a la empresa para hacer valer sus derechos.

Tales entidades exteriores a la empresa, sin embargo, son útiles para el caso de que los organismos anteriores no logren una solución satisfactoria y son incluso indispensables cuando los referidos organismos no existen o carecen de facultades suficientes. La más tradicional de las jurisdicciones exteriores son los *tribunales ordinarios*, civiles o penales, pero se ha visto que la mayoría de los países han abandonado progresivamente el modelo de los tribunales ordinarios civiles debido, *inter alia*, a la lentitud y rigidez de sus procedimientos y a la falta de una cabal comprensión de la dinámica de las relaciones laborales, optando por organismos más especializados. Los tribu-

nales penales conservan su jurisdicción, en general, en aquellos países en que una discriminación antisindical constituye un delito sancionado con pena privativa de la libertad.

Los *tribunales del trabajo*, órganos judiciales especializados en materia laboral, son el tipo de organismo más frecuentemente encargado de la aplicación de las normas tuitivas de fondo sobre discriminaciones antisindicales. Se aprecia en este tipo de organismo, además de la independencia característica de los órganos judiciales en general, su mayor competencia para resolver conflictos laborales y sus procedimientos más flexibles y apropiados al carácter específico de esos conflictos. Con frecuencia se integran los tribunales del trabajo con miembros trabajadores y empleadores que aportan su experiencia vivida de los problemas laborales.

Los tribunales del trabajo intervienen principalmente en la reparación y sanción de las discriminaciones antisindicales. En lo que a su acción preventiva se refiere, se señalará que algunos países exigen la autorización previa del juez del trabajo para proceder al despido de los dirigentes o delegados sindicales amparados por el llamado «fuero sindical». La ampliación de este procedimiento preventivo en favor de otras categorías de trabajadores, además de los «amparados», o su extensión a otras medidas graves capaces de encubrir una discriminación antisindical, contribuiría indudablemente a mejorar los sistemas de protección respectivos.

Además de los tribunales judiciales —civiles, penales, laborales—, se encuentran *organismos administrativos con funciones cuasijudiciales*, especializados en la aplicación de las disposiciones de fondo relativas a las «prácticas desleales» o «prácticas inequitativas» de trabajo, entre las cuales figuran diferentes formas de discriminación antisindical. Tales organismos poseen el más alto grado de especialización en lo que a prácticas antisindicales se refiere, estando generalmente dotados de amplias facultades de investigación, apreciación y decisión. Se han revelado particularmente eficaces en el desarrollo de toda una gama de remedios ajustados a las circunstancias de cada caso.

La naturaleza administrativa de estos organismos los obliga a recurrir ante órganos judiciales para hacer ejecutar sus decisiones, lo que entorpece considerablemente la eficacia de su intervención. Es por ello que organismos de esta índole recientemente creados —por ejemplo, la Comisión Nacional de Relaciones de Trabajo de Pakistán—, o cuya legislación de base ha sido recientemente modificada —como la del Tribunal Nacional de Relaciones Profesionales de Argentina, por ejemplo—, han sido dotados de facultades jurisdiccionales muy extendidas.

De todos modos, los comentarios recibidos de las organizaciones profesionales de trabajadores y de empleadores, así como las informaciones comunicadas por los gobiernos de los países en que se han establecido organismos

de estos tipos, hacen pensar que la naturaleza judicial o administrativa de los mismos no es un factor decisivo. Más importantes parecen ser la idoneidad profesional de su personal, la legislación de fondo y de forma existente, los procedimientos previstos y los medios materiales puestos a su disposición.

CARGA DE LA PRUEBA Y LENTITUD DEL PROCESO

Cualquiera sea el tipo de organismo establecido para reparar y sancionar las discriminaciones antisindicales, hay dos problemas comunes a casi todos ellos: la lentitud del proceso y la dificultad en probar que ciertos actos del empleador estén motivados por la afiliación o la actividad sindical del trabajador.

Respecto de la duración de los procesos en que se juzga una medida alegada antisindical, se la estima generalmente desde un mínimo de varios meses hasta un máximo de varios años. En cualquier caso, es fácil de imaginar que un trabajador, que vive de su empleo, soportará difícilmente tan larga espera. Para solucionar este problema se han previsto, en algunos países, procedimientos sumarios de urgencia para las formas más graves de discriminación antisindical, especialmente para el despido. La adopción de procedimientos de esta índole contribuiría a mejorar el sistema de protección de aquellos países donde la duración de los procesos sobrepasa el límite de lo razonable.

La dificultad en probar un acto de discriminación antisindical del empleador se explica por tratarse de la prueba de un elemento intencional, y por lo tanto subjetivo e intangible, que es generalmente imposible de determinar de modo directo. Las más de las veces se debe recurrir a una demostración por exclusión, es decir, probando que el trabajador víctima de la medida ha actuado con entera corrección (o por lo menos tan correctamente como otros trabajadores no sancionados), así como al aporte de indicios y otros elementos de juicio tendientes a probar que la medida tomada no puede explicarse sino por su afiliación o su participación en actividades sindicales. Se comprenderá fácilmente que la aplicación rígida del principio procesal civilista en virtud del cual quien afirma un hecho debe probarlo conduce, en la práctica, a imponer al trabajador la carga de una prueba difícil o imposible de presentar.

Para solucionar este problema, la legislación sustantiva o procesal de algunos países consagra el principio de la inversión de la prueba: alegado que fuera el carácter discriminatorio antisindical de una medida, corresponderá al empleador demostrar la licitud de su proceder. Otros países facultan ampliamente a los organismos competentes para investigar a fin de establecer la motivación real de la conducta del empleador (aplicación del principio de

Protección contra la discriminación antisindical

la «verdad material», en vez del principio de la «verdad formal») y para apreciar los indicios y otras circunstancias que rodean a cada caso, con objeto de facilitar la prueba del elemento subjetivo.

DESARROLLO DE LA PREVENCIÓN

Los sistemas de protección de los países comprendidos en este estudio podrían clasificarse en tres categorías según se destaque más en ellos la prevención, la reparación o las sanciones.

En aquellos en que se acentúan las medidas tendientes a evitar que las discriminaciones se produzcan, los conflictos causados por actos antisindicales son generalmente resueltos a nivel de la empresa. El procedimiento más utilizado para prevenir la comisión de discriminaciones antisindicales consiste en exigir la autorización o el consentimiento previo de un organismo, jurisdicción o autoridad que puede controlar, en esa oportunidad, el carácter no discriminatorio de la medida que el empleador se propone tomar.

A juzgar por los comentarios recibidos, tanto de fuente gubernamental como sindical, las medidas de carácter preventivo en general, y el procedimiento aludido en particular, habrían producido resultados muy positivos. Relativamente pocos son, sin embargo, los países que poseen disposiciones que permitan una acción preventiva general.

Las ventajas de una prevención eficaz son múltiples: la relación laboral no sufre menoscabo alguno, el trabajador no estará obligado a intentar procesos largos y de resultados inciertos, los órganos judiciales o administrativos no tendrán que intervenir sino supletoriamente. Por estas ventajas, y otras menores, se sugiere el desarrollo de la acción preventiva como uno de los medios más eficaces para mejorar un sistema de protección contra actos de discriminación antisindical.

PERFECCIONAMIENTO DE LOS REMEDIOS

La mayoría de los sistemas de protección considerados dan un lugar destacado a la reparación de los efectos causados. La gama de los remedios previstos es muy vasta; su variedad refleja así la multiplicidad de formas que puede asumir una discriminación antisindical. El objetivo final de todos estos remedios es simple de enunciar: reparar integralmente al trabajador por todos los efectos perjudiciales, económicos y profesionales, causados por el acto discriminatorio. Pero este objetivo no siempre se alcanza. A veces la legislación no prevé sino unos pocos remedios, que no sirven para reparar

adecuadamente todos los actos discriminatorios posibles. Otras veces, a pesar de haberse previsto el remedio adecuado, éste no se aplica o se aplica imperfectamente. En este terreno, pues, la solución no pareciera ser multiplicar los remedios posibles sino perfeccionar los ya existentes de modo que se ajusten apropiadamente a las características de cada caso.

De la gama de remedios previstos, dos merecen especial atención: la *suspensión de la medida discriminatoria* y la *reintegración del trabajador despedido*. La suspensión impide la consolidación de los efectos de una medida discriminatoria hasta que la autoridad competente se haya pronunciado sobre el fondo del asunto. Este remedio presenta para el trabajador afectado la inestimable ventaja de mantener su empleo y su remuneración, poniéndolo así en una posición más favorable respecto del proceso litigioso que normalmente se incoará en forma paralela.

La reintegración efectiva del trabajador despedido constituye el remedio integral por excelencia en caso de licenciamiento antisindical. Con respecto a un simple despido injustificado, se señalará que un despido discriminatorio antisindical no solamente carece de justa causa sino que, además, vulnera un derecho fundamental garantizado por el Estado: el derecho de sindicación. A ello se agrega que, mientras que en caso de despido injustificado «simple» se perjudica únicamente al trabajador afectado, un despido antisindical perjudica tanto al trabajador como al sindicato del cual es afiliado, delegado o dirigente. No debería entonces asimilarse sin más consideraciones un despido antisindical a un despido injustificado: aquél constituye una forma agravada de despido sin causa.

Es por ello que la reintegración efectiva, con pago de las remuneraciones perdidas, pareciera tanto más adecuada en caso de despido antisindical cuanto que, en tal situación, a la ausencia de falta por parte del trabajador (que se limita a ejercer un derecho) se suma una grave violación del orden jurídico por parte del empleador.

APLICACION DE LAS SANCIONES PREVISTAS

Pocos son los sistemas de protección que dan especial relieve a las medidas punitivas, aunque en muchos países se prevén sanciones aplicables en caso de discriminación antisindical, además de las otras medidas tuitivas de carácter preventivo o reparativo. Las sanciones, cuando son suficientemente severas y efectivamente aplicadas, cumplen dos funciones: castigar al autor de la discriminación y disuadir a quienes proyectan cometerlas.

Las sanciones previstas son básicamente dos: el pago de una suma en dinero (multa) y la privación de la libertad (arresto o prisión); en unos países

Protección contra la discriminación antisindical

se ordena únicamente el pago de la multa, en otros la multa o la prisión, o ambas sanciones a la vez.

Las sanciones, según parece, han resultado muy eficaces en la protección de los trabajadores cuando su cuantía es suficientemente elevada, tratándose de multas, y cuando son efectivamente aplicadas, tratándose de penas privativas de la libertad. Sin embargo, sólo deberían ser el complemento de una acción más vigorosa en materia de prevención y de reparación.

EDUCACION E INFORMACION

Cabe señalar, finalmente, que son frecuentes los comentarios que señalan como una de las causas profundas de las discriminaciones antisindicales la insuficiente comprensión, en amplios sectores de la población, de las funciones sociales de los sindicatos. También se ha señalado que en muchas oportunidades la comisión de discriminaciones antisindicales o su aceptación pasiva se debe aparentemente a la ignorancia, tanto por parte de los trabajadores como por parte de los empleadores, de sus derechos y deberes respectivos en materia de relaciones profesionales. Esto ocurriría especialmente en pequeñas y medianas empresas, sin sindicatos o mal organizadas sindicalmente, localizadas lejos de los grandes centros urbanos.

Conforme a este modo de ver la cuestión, un sistema de protección limitado a la solución de los casos uno por uno carecería de la perspectiva adecuada para resolver el problema en su conjunto. Un esfuerzo de educación sería entonces necesario para que la sociedad entera aceptara y apoyara la implantación y desarrollo de sindicatos y percibiera las discriminaciones antisindicales como violaciones de uno de sus valores fundamentales: la libertad sindical.

ANEXOS

1. NORMAS Y PRINCIPIOS INTERNACIONALES DE LA OIT (EXTRACTOS)

RESOLUCION DE MEXICO SOBRE LA PROTECCION DEL DERECHO DE SINDICACION Y DE NEGOCIACION COLECTIVA, 1946¹

Toda vez que la libertad sindical del trabajador individualmente considerado puede peligrar por las medidas de discriminación dirigidas contra él en el momento de su contratación para el trabajo, o durante el término de su empleo, la legislación debería prohibir cualquier acto del empleador, o de sus agentes, que tenga por objeto:

- a) subordinar la contratación del trabajador a la condición formal de que no se adhiera a un sindicato determinado o se retire del sindicato de que es miembro;
- b) ocasionar perjuicios o molestar de cualquier modo a un trabajador por el hecho de ser miembro, agente o dirigente de un sindicato determinado;
- c) despedir a un trabajador por el único motivo de ser miembro, agente o dirigente de un sindicato determinado; y
- d) ejercer, en general, cualquier presión sobre el trabajador, tendiente a constreñirlo para que se afilie o no se afilie a un sindicato determinado.

CONVENIO SOBRE EL DERECHO DE SINDICACION Y DE NEGOCIACION COLECTIVA, 1949 (NUM. 98)

Artículo 1

1. Los trabajadores deberán gozar de adecuada protección contra todo acto de discriminación tendiente a menoscabar la libertad sindical en relación con su empleo.

2. Dicha protección deberá ejercerse especialmente contra todo acto que tenga por objeto:

- a) sujetar el empleo de un trabajador a la condición de que no se afilie a un sindicato o a la de dejar de ser miembro de un sindicato;

¹ Adoptada por la tercera Conferencia de los Estados de América Miembros de la OIT.

Protección contra la discriminación antisindical

- b) despedir a un trabajador o perjudicarlo en cualquier otra forma a causa de su afiliación sindical o de su participación en actividades sindicales fuera de las horas de trabajo o, con el consentimiento del empleador, durante las horas de trabajo.
-

Artículo 3

Deberán crearse organismos adecuados a las condiciones nacionales, cuando ello sea necesario, para garantizar el respeto al derecho de sindicación definido en los artículos precedentes.

RECOMENDACION SOBRE LA TERMINACION DE LA RELACION DE TRABAJO, 1963 (NUM. 119)

.....

2. 1) No debería procederse a la terminación de la relación de trabajo a menos que exista una causa justificada relacionada con la capacidad o la conducta del trabajador o basada en las necesidades del funcionamiento de la empresa, del establecimiento o del servicio.

2)

3. Entre las razones que no deberían constituir una causa justificada para la terminación de la relación de trabajo figuran las siguientes:

- a) la afiliación a un sindicato o la participación en sus actividades fuera de las horas de trabajo o, con el consentimiento del empleador, durante las horas de trabajo;
- b) ser candidato a representante de los trabajadores o actuar o haber actuado en dicha calidad;
- c) presentar de buena fe una queja o participación en procedimientos entablados contra un empleador por razón de violaciones alegadas de la legislación;
- d) la raza, el color, el sexo, el estado matrimonial, la religión, la opinión política, la procedencia nacional o el origen social.

4. El trabajador que considere haber sido objeto de una terminación injustificada de su relación de trabajo debería, a menos que la cuestión haya sido resuelta de modo satisfactorio mediante los procedimientos que pudieran existir o que puedan establecerse de conformidad con la presente Recomendación en la empresa, establecimiento o servicio, tener derecho, dentro de un plazo razonable, a recurrir contra su terminación, asistido, si así lo desea, por una persona que lo represente, ante un organismo instituido en virtud de un contrato colectivo o ante un organismo neutral tal como un tribunal, un árbitro, una junta de arbitraje u otro organismo análogo.

CONVENIO SOBRE LOS REPRESENTANTES DE LOS TRABAJADORES, 1971 (NUM. 135)

Artículo 1

Los representantes de los trabajadores en la empresa deberán gozar de protección eficaz contra todo acto que pueda perjudicarlos, incluido el despido por razón de su condición de representantes de los trabajadores, de sus actividades como tales, de su

afiliación al sindicato, o de su participación en la actividad sindical, siempre que dichos representantes actúen conforme a las leyes, contratos colectivos u otros acuerdos comunes en vigor.

RECOMENDACION SOBRE LOS REPRESENTANTES DE LOS TRABAJADORES, 1971 (NUM. 143)

III. PROTECCIÓN DE LOS REPRESENTANTES DE LOS TRABAJADORES

5. Los representantes de los trabajadores en la empresa deberían gozar de protección eficaz contra todo acto que pueda perjudicarlos, incluido el despido por razón de su condición de representantes de los trabajadores, de sus actividades como tales representantes, de su afiliación al sindicato, o de su participación en la actividad sindical, siempre que dichos representantes actúen conforme a las leyes, contratos colectivos u otros acuerdos comunes en vigor.

6. 1) Cuando no existan suficientes medidas apropiadas de protección aplicables a los trabajadores en general, deberían adoptarse disposiciones específicas para garantizar la protección efectiva de los representantes de los trabajadores.

2) Tales disposiciones podrían incluir medidas como las siguientes:

- a) definición detallada y precisa de los motivos que pueden justificar la terminación de la relación de trabajo de los representantes de los trabajadores;
- b) exigencia de consulta, dictamen o acuerdo de un organismo independiente, público o privado, o de un organismo paritario antes de que el despido de un trabajador sea definitivo;
- c) procedimiento especial de recurso accesible a los representantes de los trabajadores que consideren que se ha puesto fin injustamente a su relación de trabajo, o que sus condiciones de empleo han sido modificadas desfavorablemente, o que han sido objeto de trato injusto;
- d) por lo que se refiere a la terminación injustificada de la relación de trabajo de los representantes de los trabajadores, el establecimiento de una reparación eficaz que comprenda, a menos que ello sea contrario a los principios fundamentales de derecho del país interesado, la reintegración de dichos representantes en su puesto, con el pago de los salarios no cobrados y el mantenimiento de sus derechos adquiridos;
- e) imponer al empleador, cuando se alegue que el despido de un representante de los trabajadores o cualquier cambio desfavorable en sus condiciones de empleo tiene un carácter discriminatorio, la obligación de probar que dicho acto estaba justificado;
- f) reconocer la prioridad que ha de darse a los representantes de los trabajadores respecto de su continuación en el empleo en caso de reducción del personal.

7. 1) La protección prevista en virtud de lo dispuesto en el párrafo 5 de la presente Recomendación debería asimismo aplicarse a los trabajadores que son candidatos, o que han sido presentados como candidatos, mediante los procedimientos apropiados existentes, a la elección o al nombramiento de representantes de los trabajadores.

2) La misma protección podría también otorgarse a los trabajadores que han cesado en sus funciones de representantes de los trabajadores.

2. LISTA DE TEXTOS LEGISLATIVOS Y CONVENCIONALES

Alemania (Rep. Fed.)

Ley de 3 de septiembre de 1953 relativa a los tribunales de trabajo (*SL* 1953—Al. (RF) 2).
Abreviatura: L 3.9.53.

Ley de 2 de diciembre de 1955 que modifica la ley relativa a los tribunales de trabajo (*SL* 1955—Al. (RF) 2).

Ley relativa a la protección de los trabajadores contra el despido, en su texto refundido de 25 de agosto de 1969 (*SL* 1969—Al. (RF) 3). *Abreviatura*: L 25.8.69.

Ley de 15 de enero de 1972 sobre organización de las empresas (*SL* 1972—Al. (RF) 1).
Abreviatura: L 15.1.72.

Ley de 26 de mayo de 1972 por la que se modifican los títulos de los jueces y de los jueces honorarios y la constitución de la presidencia de los tribunales (*Bundesgesetzblatt*, parte I, pág. 841). *Abreviatura*: L 26.5.72.

Argelia

Código del Trabajo, libro III. *Abreviatura*: CT, l III.

Ordenanza núm. 71-74, de 16 de noviembre de 1971, relativa a la gestión socialista de las empresas (*SL* 1971—Argl. 2). *Abreviatura*: Or 71-74.

Ordenanza núm. 71-75, de 16 de noviembre de 1971, relativa a las relaciones colectivas de trabajo en el sector privado (*SL* 1971—Argl. 3). *Abreviatura*: Or 71-75.

Argentina

Ley núm. 20615, de 29 de noviembre de 1973, sobre las asociaciones profesionales de trabajadores (*Boletín Oficial*, 17 de diciembre de 1973, pág. 2). *Abreviatura*: L 20615/73.

Ley núm. 14455, de 8 de agosto de 1958, sobre las asociaciones profesionales de trabajadores (*SL* 1958—Arg. 1), reemplazada por la citada precedentemente.

Decreto núm. 1045, de 3 de abril de 1974; reglamentación de la ley núm. 20615 (*Boletín Oficial*, 9 de abril de 1974). *Abreviatura*: D 1045/74.

Decreto núm. 1191, de 17 de abril de 1974, sobre el Tribunal Nacional de Relaciones Profesionales (*Boletín Oficial*, 25 de abril de 1974). *Abreviatura*: D 1191/74.

Australia

Ley de 1904-1956 sobre conciliación y arbitraje (*SL* 1956—Austrl. 1). *Abreviatura*: L 1904-1956.

Ley núm. 53, de 24 de junio de 1970, por la que se modifica la de 1904-1969 sobre conciliación y arbitraje y se dictan disposiciones a otros efectos (*SL* 1970—Austrl. 1). *Abreviatura*: L 1904-1970.

Austria

Ley de 5 de abril de 1930 sobre la protección de la libertad de trabajo y de reunión (*SL* 1930—Autr. 1; en francés y en inglés solamente). *Abreviatura*: L 5.4.30.

Ley federal de 28 de marzo de 1947 que instituye un sistema representativo en las empresas (ley sobre los consejos de empresa) (*SL* 1947—Autr. 2; en francés y en inglés solamente). *Abreviatura*: L 28.3.47.

Ley federal núm. 140, de 2 de junio de 1948, que sienta principios para la reglamentación del derecho de trabajo en la agricultura y silvicultura (ley de trabajo rural) (*SL* 1948—Aus. 2). *Abreviatura*: L 140/48.

Ley federal de 23 de julio de 1962 por la que se modifica la de 28 de marzo de 1947 (ley sobre los consejos de empresa), en su texto modificado (*SL* 1965—Aus. 2B). *Abreviatura*: L 23.7.62.

Ley federal de 7 de julio de 1965 por la que nuevamente se modifica y completa la ley sobre consejos de empresa (*SL* 1965—Aus. 2A). *Abreviatura*: L 7.7.65.

Ley federal de 13 de julio de 1971 por la que se modifica la ley sobre consejos de empresa (*SL* 1971—Aus. 2). *Abreviatura*: L 13.7.71.

Bélgica

Ley de 24 de mayo de 1921 sobre libertad de asociación (*SL* 1921—Bel. 2-3; en francés y en inglés solamente). *Abreviatura*: L 24.5.21.

Ley de 20 de septiembre de 1948 sobre la organización de la economía (*SL* 1948—Bél. 8), que en su sección IV, artículos 14 a 18, se refiere a los consejos de empresa.

Ley de 10 de junio de 1952 relativa a la salud y a la seguridad de los trabajadores, así como a la salubridad del trabajo y de los lugares de trabajo (*SL* 1952—Bél. 3).

Ley de 27 de junio de 1960 relativa a la indemnización de los trabajadores despedidos por cierre de empresa (*SL* 1960—Bél. 6A).

Ley de 16 de enero de 1967 por la que se modifican la ley de 20 de septiembre de 1948 sobre la organización de la economía y la ley de 10 de junio de 1952 relativa a la salud y a la seguridad de los trabajadores, así como a la salubridad del trabajo y de los lugares de trabajo (*SL* 1967—Bél. 1, A y B).

Ley de 10 de octubre de 1967 relativa al Código Judicial (*Moniteur belge*, 31 de octubre de 1967). *Abreviatura*: L 10.10.67.

Ley de 21 de noviembre de 1969 por la que se modifica la legislación sobre los contratos de trabajo (*SL* 1969—Bél. 2), y por cuyo artículo 16 se insertó en la ley de 10 de marzo de 1900 sobre el contrato de trabajo el artículo 24^{er} relativo a la indemnización en caso de despido abusivo.

Acuerdo nacional sobre delegaciones sindicales, de 1947 (OIT: *Acuerdos básicos y declaraciones conjuntas obrero-patronales sobre relaciones de trabajo*, serie Relaciones de trabajo, núm. 38 (Ginebra, 1971), págs. 8-11).

Protección contra la discriminación antisindical

Convenio colectivo de trabajo núm. 5, de 24 de mayo de 1971, relativo a las delegaciones sindicales en la empresa (interprofesional), concluido en el Consejo Nacional del Trabajo.

Brasil

Codificación de leyes del trabajo, aprobada por el decreto-ley núm. 5452, de 1.º de mayo de 1943 (*SL* 1943—Bra. 1; en francés y en inglés solamente). *Abreviatura*: CLT.

Decreto-ley núm. 229, de 28 de febrero de 1967, por el que se modifican disposiciones de la Codificación de leyes del trabajo y se dictan otras disposiciones (*SL* 1967—Bra. 2). *Abreviatura*: DL 229/67.

Ley núm. 5911, de 27 de agosto de 1973, por la que se da nueva redacción al párrafo 3 del artículo 543 de la Codificación de leyes del trabajo (*Diário Oficial*, núm. 166, 29 de agosto de 1973, pág. 8593).

Camerún

Ley núm. 67-LF-6, de 12 de junio de 1967, por la que se promulga el Código de Trabajo (*SL* 1967—Cam. 1). *Abreviatura*: CT.

Orden núm. 10, de 17 de junio de 1968, sobre aplicación del artículo 24 del Código de Trabajo (*SL* 1968—Cam. 1).

Canadá

Código (federal) del Trabajo (*Revised Statutes of Canada*, 1970, vol. V). *Abreviatura*: CT.

Ley de 7 de julio de 1972 que modifica el Código del Trabajo de Canadá (*Statuts du Canada*, 1972, 21 Eliz. II; 4ª session du 28º Parlement, febrero-septiembre de 1972). *Abreviatura*: CT.

Reglamento del Consejo de Relaciones de Trabajo de Canadá, de 9 de abril de 1973 (*Gazette du Canada*, parte II, vol. 107, núm. 8, 25 de abril de 1973, pág. 923).

Colombia

Decreto-ley núm. 2158, de 24 de junio de 1948, sobre procedimiento en los juicios de trabajo (*SL* 1948—Col. 2). *Abreviatura*: CPT (por «Código Procesal del Trabajo»).

Decreto núm. 2663, de 5 de agosto de 1950, sobre Código Sustantivo del Trabajo (*SL* 1950—Col. 3A). *Abreviatura*: CST. (Como la numeración de los artículos del Código fue modificada después de haber sido publicado en la *Serie Legislativa*, se cita la que está actualmente en vigor.)

Decreto núm. 1489 de 1952 por el cual se reglamentan los decretos núms. 2094 de 1949 y 2663 de 1950 en cuanto se relacionan con el Departamento Nacional de Supervigilancia Sindical del Ministerio del Trabajo (*Diario Oficial*, 2 de agosto de 1952). *Abreviatura*: D 1489/52.

Decreto núm. 616, de 26 de febrero de 1954, por el cual se modifican los Códigos Sustantivo y Procesal del Trabajo (*SL* 1954—Col. 1A). *Abreviatura*: D 616/54.

Decreto legislativo núm. 0204, de 6 de septiembre de 1957, por el cual se dictan normas sobre el fuero sindical (*SL* 1957—Col. 1). *Abreviatura*: DL 0204/57.

Decreto núm. 3378, de 19 de diciembre de 1962, por el cual se protege y reglamenta el derecho de asociación consagrado en los artículos 353 y 354 del Código Sustantivo del Trabajo (*SL* 1962—Col. 1). *Abreviatura*: D 3378/62.

Decreto legislativo núm. 2351, de 4 de septiembre de 1965, por el cual se hacen unas reformas al Código Sustantivo del Trabajo (*SL* 1965—Col. 1). *Abreviatura*: DL 2351/65. (Se cita el artículo correspondiente enmendado del Código.)

Costa de Marfil

Ley núm. 64-290, de 1.º de agosto de 1964, por la que se instituye el Código de Trabajo (*SL* 1964—C.M. 1). *Abreviatura*: CT.

Costa Rica

Ley núm. 2, de 27 de agosto de 1943, por la que se instituye el Código del Trabajo (*SL* 1943—C.R. 1; en francés y en inglés solamente). *Abreviatura*: CT.

Chad

Ley núm. 7-66, de 4 de marzo de 1966, por la que se promulga el Código de Trabajo y Previsión Social (*SL* 1966—Chad 1). *Abreviatura*: CT.

Dahomey

Ordenanza núm. 33 P.R./M.F.P.T.T., de 28 de septiembre de 1967, por la que se promulga el Código de Trabajo (*SL* 1967—Dah. 1). *Abreviatura*: CT.

Ecuador

Código del Trabajo. Codificación de la Comisión Jurídica, vigente desde el 7 de junio de 1971 (*SL* 1971—Ecu. 1). *Abreviatura*: CT.

Egipto

Ley núm. 19 de 1959 sobre la aplicación de la ley sobre ministerio público y juicios disciplinarios a ciertos miembros del personal de los establecimientos públicos y compañías y sociedades privadas (*Al-yarida al-rasmiya*, 17 de enero de 1959). *Abreviatura*: L 19/59.

Ley núm. 91, de 5 de abril de 1959: Código del Trabajo (*SL* 1959—RAU 1). *Abreviatura*: CT.

Orden núm. 96 de 1962 por la que se determinan las penas disciplinarias (*SL* 1962—RAU 1). *Abreviatura*: Or 96/62.

Ley núm. 142 de 1963 que aplica las disposiciones de la ley sobre ministerio público y juicios disciplinarios a miembros de la junta directiva de organizaciones profesionales de trabajadores constituidas de acuerdo con la legislación laboral y a miembros elegidos del directorio en compañías privadas, sociedades y establecimientos (*Al-yarida al-rasmiya*, 19 de octubre de 1963). *Abreviatura*: véase ley núm. 19 de 1959.

España

Ley de 17 de octubre de 1940 relativa a la organización de los tribunales de trabajo (*SL* 1940—Esp. 6; en francés y en inglés solamente). *Abreviatura*: L 17.10.40.

Protección contra la discriminación antisindical

Ley sobre el contrato de trabajo, de 24 de febrero de 1944 (*SL* 1944—Esp. 1), modificada por el decreto núm. 44, de 26 de octubre de 1956 (*SL* 1956—Esp. 3). *Abreviatura*: L 24.2.44.

Decreto núm. 909, de 21 de abril de 1966, sobre el procedimiento laboral (*Boletín Oficial del Estado*, 23 de abril de 1966). *Abreviatura*: D 909/66.

Ley sindical núm. 2, de 17 de febrero de 1971 (*SL* 1971—Esp. 1). *Abreviatura*: L 2/71.

Decreto núm. 1878, de 23 de julio de 1971, por el que se regula el régimen jurídico de garantías de los cargos sindicales electivos (*SL* 1971—Esp. 4). *Abreviatura*: D 1878/71.

Orden de 18 de diciembre de 1972 por la que se regula el procedimiento de los expedientes de extinción, suspensión o modificación de la relación jurídico-laboral (*Boletín Oficial del Estado*, 2 de febrero de 1973, núm. 29, pág. 1900).

Estados Unidos

Ley de trabajo en los ferrocarriles de 1926, en su tenor modificado en 1934 y en 1936 (*US Code*, título 45, capítulo 8).

Ley de relaciones de trabajo de 1935 (ley Wagner), en su tenor modificado por la ley de relaciones obrero-patronales de 1947 (ley Taft-Hartley) y por la ley sobre informes y declaraciones por parte de sindicatos y empleadores de 1959 (ley Landrum-Griffin) (*SL* 1947—USA 2; en francés y en inglés solamente). *Abreviatura*: NLRA (por «National Labor Relations Act»).

Etiopía

Proclamación núm. 210, de 1.º de noviembre de 1963, sobre las relaciones laborales (que reproduce con modificaciones de poca monta el decreto núm. 49, de 5 de septiembre de 1962: *SL* 1962—Et. 1A). *Abreviatura*: P 210/63.

Filipinas

Ley núm. 875, de 17 de junio de 1953, tendiente a promover la paz industrial y a otros fines (*SL* 1953—Fil. 1). *Abreviatura*: L 875/53.

Decreto presidencial núm. 442, de 1.º de mayo de 1974, por el que se promulga el Código del Trabajo (*Labour Code*) (Manila, Government Printing Office, 1974). *Abreviatura*: CT.

Finlandia

Ley núm. 320, de 30 de abril de 1970, sobre los contratos de trabajo (*SL* 1970—Fin. 2). *Abreviatura*: L 320/70.

Acuerdo general sobre protección contra el despido, de 22 de febrero de 1966.

Acuerdo sobre los delegados sindicales, de 2 de abril de 1969 (OIT: *Acuerdos básicos y declaraciones conjuntas...*, op. cit., págs. 54-59).

Francia

Ordenanza núm. 45-280, de 22 de febrero de 1945, que instituye los comités de empresa (*SL* 1966—Fr. 1).

- Ley núm. 56-416, de 27 de abril de 1956, por la que se garantizan la libertad sindical y la protección al derecho sindical (*SL* 1956—Fr. 1).
- Ley núm. 66-427, de 18 de junio de 1966, por la que se modifican ciertas disposiciones de la ordenanza núm. 45-280, de 22 de febrero de 1945, que instituye los comités de empresa (*SL* 1966—Fr. 1).
- Ley núm. 68-1179, de 27 de diciembre de 1968, relativa al ejercicio del derecho sindical en las empresas (*SL* 1968—Fr. 1A).
- Decreto núm. 68-1183, de 30 de diciembre de 1968, relativo al número de delegados de la sección sindical de empresa (*SL* 1968—Fr. 1B). *Abreviatura*: D 68-1183/68.
- Ley núm. 72-617, de 5 de julio de 1972, relativa a las sanciones aplicables en caso de infracciones al derecho del trabajo (*Journal officiel*, 9 de julio de 1972, pág. 7172).
- Ley núm. 73-4, de 2 de enero de 1973, relativa al Código del Trabajo (*Journal officiel*, 3 de enero de 1973, pág. 52). *Abreviatura*: CT.
- Ley núm. 73-623, de 10 de julio de 1973, que modifica la ley núm. 73-4, de 2 de enero de 1973, relativa al Código del Trabajo (*Journal officiel*, 11 de julio de 1973, pág. 7484).
- Ley núm. 73-680, de 13 de julio de 1973, relativa a la rescisión del contrato de trabajo de duración indeterminada (*Journal officiel*, 18 de julio de 1973, pág. 7763).
- Decreto núm. 73-1047, de 15 de noviembre de 1973, que incorpora en el Código del Trabajo las disposiciones legislativas relativas a las sanciones aplicables en caso de infracciones al derecho del trabajo (*Journal officiel*, 21 de noviembre de 1973, página 12391).
- Decreto núm. 73-1122, de 17 de diciembre de 1973, que establece una cuarta serie de disposiciones destinadas a incorporarse en el nuevo Código de Procedimiento Civil (*Journal officiel*, 22 de diciembre de 1973, pág. 13660).
- Decreto núm. 74-783, de 12 de septiembre de 1974, que modifica las disposiciones reglamentarias del título 1 del libro V del Código del Trabajo relativas al procedimiento en materia de *conseils de prud'hommes* (*Journal officiel*, 15 de septiembre de 1974, página 9551).

Ghana

- Ley núm. 299, de 23 de junio de 1965, por la que se revisa y refunde la legislación sobre sindicatos, negociaciones colectivas, conciliación y otras cuestiones que afectan a las relaciones entre empleadores y trabajadores (*SL* 1965—Ghana 2). *Abreviatura*: L 299/65.
- Decreto sobre trabajo, adoptado por el Consejo Nacional de Liberación, núm. 157, de 10 de abril de 1967 (*SL* 1967—Ghana 1).

Guatemala

- Decreto núm. 1441, de 5 de mayo de 1961, por el que se promulga el texto modificado del Código del Trabajo (*SL* 1961—Gua. 1). *Abreviatura*: CT.

Guinea

- Ley núm. 1AN/60, de 30 de junio de 1960, que promulga el Código del Trabajo (*SL* 1960—Gui. 1). *Abreviatura*: CT.

Protección contra la discriminación antisindical

Honduras

Decreto núm. 189, de 1.º de junio de 1959, que promulga el Código del Trabajo (*SL* 1959—Hon. 1). *Abreviatura*: CT.

Hungría

Ley núm. II, de 1967, por la que se promulga el Código de Trabajo (*SL* 1967—Hun. 2A). *Abreviatura*: CT.

Decreto núm. 34 del Gobierno Revolucionario Húngaro de Obreros y Campesinos, de 8 de octubre de 1967, sobre aplicación de la ley núm. II de 1967 que promulga el Código de Trabajo (*SL* 1967—Hun. 2B). *Abreviatura*: D 34/67.

Decreto núm. 9 del Ministro de Trabajo, de 8 de octubre de 1967, por el que se regula la solución de los conflictos de trabajo (*SL* 1967—Hun. 2G). *Abreviatura*: D 9/67.

Decreto gubernamental núm. 17, de 5 de mayo de 1968, relativo a la protección de la salud pública (*Magyar Közlöny*, núm. 37, 5 de mayo de 1968, págs. 429 y siguientes). *Abreviatura*: D 17/68.

India

Ley núm. 14, de 17 de marzo de 1947, sobre los conflictos de trabajo (*SL* 1947—Ind. 1; en francés y en inglés solamente). *Abreviatura*: L 14/47.

Ley núm. 35, de 19 de noviembre de 1965, por la que se modifica nuevamente la ley de 1947 sobre los conflictos de trabajo (*SL* 1965—Ind. 1).

Ley núm. 45, de 8 de diciembre de 1971, por la que se modifica nuevamente la ley de 1947 sobre los conflictos de trabajo (*The Gazette of India*, número extraordinario, parte II, sección 1, 9 de diciembre de 1971, pág. 589). *Abreviatura*: L 45/71.

Indonesia

Ley núm. 22, de 8 de abril de 1957, sobre la solución de los conflictos de trabajo (*SL* 1957—Indo. 1).

Irak

Ley núm. 151, de 16 de julio de 1970, por la que se aprueba el Código de Trabajo (*SL* 1970—Irak 1). *Abreviatura*: CT.

Italia

Ley núm. 628, de 22 de julio de 1961, por la que se modifica el ordenamiento del Ministerio de Trabajo y Previsión Social (*Gazzetta Ufficiale*, 27 de julio de 1961). *Abreviatura*: L 628/61.

Ley núm. 604, de 15 de julio de 1966, por la que se establecen normas sobre licenciamientos individuales (*SL* 1966—It. 1). *Abreviatura*: L 604/66.

Ley núm. 300, de 20 de mayo de 1970, por la que se dictan disposiciones relativas a la protección de la libertad y de la dignidad de los trabajadores, de la libertad y de las actividades sindicales en los lugares de trabajo y a la colocación (*SL* 1970—It. 2). *Abreviatura*: L 300/70.

Ley núm. 533, de 11 de agosto de 1973, sobre el procedimiento relativo a los conflictos individuales de trabajo y a los conflictos en materia de previsión y de asistencia obligatorias (*SL* 1973—I. 1). *Abreviatura*: L 533/73.

Acuerdo interconfederal sobre los despidos involuntarios, 1965 (OIT: *Acuerdos básicos y declaraciones conjuntas...*, *op. cit.*, pág. 92).

Acuerdo interconfederal sobre la institución y funcionamiento de las comisiones internas, 1966 (*ibid.*, pág. 103).

Japón

Ley núm. 174, de 1.º de junio de 1949, sobre sindicatos (*SL* 1949—Jap. 3). *Abreviatura*: L 174/49.

Malasia

Ley núm. 35, de 20 de julio de 1967, que reglamenta las relaciones entre los empleadores, los trabajadores y sus sindicatos, así como también la prevención y solución de desacuerdos o conflictos que surjan en dichas relaciones, y tendiente en general a solucionar los conflictos de trabajo y las cuestiones de ellos derivadas (*SL* 1967—Mal. 1), cuyo artículo 46(A) fue incorporado posteriormente por la reglamentación básica de las relaciones de trabajo de 1969 (*Government Gazette*, 9 de octubre de 1969, páginas 1133-1139). *Abreviatura*: L 35/67.

Malí

Ley núm. 62-67 AN-RM, de 19 de agosto de 1962, por la que se establece el Código de Trabajo (*SL* 1962—Malí 1). *Abreviatura*: CT.

México

Ley Federal del Trabajo, de 2 de diciembre de 1969 (*SL* 1969—Méx. 1). *Abreviatura*: LFT.

Nigeria

Decreto núm. 31, de 23 de julio de 1973, sobre sindicatos (*SL* 1973—Nig. 1). *Abreviatura*: D 31/73.

Nueva Zelanda

Ley núm. 72, de 1.º de octubre de 1954, por la que se codifica y modifica la legislación sobre solución de los conflictos laborales mediante conciliación y arbitraje (*SL* 1954—NZ 1). *Abreviatura*: L 72/54.

Ley núm. 19, de 14 de septiembre de 1973, para mejorar las relaciones de trabajo y consolidar y modificar la ley de 1954 sobre solución de los conflictos laborales mediante conciliación y arbitraje, la ley sobre investigación de los conflictos laborales de 1973 y la ley de 1949 sobre relaciones de trabajo (Wellington, A. R. Shearer, Government Printer, 1973). *Abreviatura*: L 19/73.

Protección contra la discriminación antisindical

Pakistán

Ordenanza núm. 23, de 25 de octubre de 1969, sobre relaciones de trabajo (texto refundido) (*SL* 1973—Pak. 1). *Abreviatura*: Or 23/69.

Reglamento relativo al procedimiento y funciones de la Comisión Nacional de Relaciones Industriales, de 18 de abril de 1973 (*Labour Law Cases*, vol. XVI, núm. 10, octubre de 1973).

Panamá

Decreto de Gabinete núm. 252, de 30 de diciembre de 1971, por el cual se aprueba el Código de Trabajo (*SL* 1971—Pan. 1). *Abreviatura*: CT.

Perú

Resolución suprema núm. 23-DT, de 18 de febrero de 1957, sobre la estabilidad de los dirigentes sindicales. *Abreviatura*: RS 23-DT/57.

Resolución suprema núm. 27, de 20 de abril de 1957, sobre normas relativas a la elección de representantes sindicales. *Abreviatura*: RS 27/57.

Decreto supremo núm. 009, de 3 de mayo de 1961, sobre las organizaciones sindicales. *Abreviatura*: DS 009/61.

Decreto supremo núm. 021, de 21 de diciembre de 1962, que sustituye algunos artículos del decreto supremo núm. 009/61. *Abreviatura*: DS 021/61.

Decreto-ley núm. 18471, de 10 de noviembre de 1970, por el que se determinan las causales de despedida de los trabajadores sometidos al régimen de actividad privada (*SL* 1970—Per. 3). *Abreviatura*: DL 18471/70.

Decreto-ley núm. 18688, de 1.º de diciembre de 1970, relativo a las sanciones que se impondrán a quienes violen las disposiciones laborales (*El Peruano*, 2 de diciembre de 1970). *Abreviatura*: DL 18688/70.

Decreto supremo núm. 007/71-TR, de 30 de noviembre de 1971, relativo al procedimiento del Fuero Privativo de Trabajo (*ibid.*, 1.º de diciembre de 1971). *Abreviatura*: DS 007/71-TR.

Decreto-ley núm. 19334, de 28 de marzo de 1972, relativo a la estabilidad laboral de los trabajadores de los organismos del Estado que no son empresas públicas (*ibid.*, 29 de marzo de 1972). *Abreviatura*: DL 19334/72.

Decreto supremo núm. 006-72-TR, de 30 de mayo de 1972, relativo a las denuncias por transgresiones de disposiciones legales o convencionales y a la reposición en labores (*ibid.*, 1.º de junio de 1972). *Abreviatura*: DS 006/72-TR.

Reino Unido

Ley (de 31 de julio) de 1974 sobre sindicatos y relaciones de trabajo. *Abreviatura*: L 31.7.74.

Rumania

Código del Trabajo de la República Socialista de Rumania (ley núm. 10, de 23 de noviembre de 1972) (*SL* 1972—Rum. 1). *Abreviatura*: CT.

Senegal

Ley núm. 61-34, de 15 de junio de 1961, por la que se instituye el Código del Trabajo (SL 1962—Sen. 2B). *Abreviatura*: CT.

Ley núm. 71-08, de 21 de enero de 1971, por la que se derogan y sustituyen los artículos 210, 211, 214, 222, 225, 228 y 242 del Código de Trabajo y se añade un artículo 230ter al título VIII del Código de Trabajo (SL 1971—Sen. 1).

Sierra Leona

Ordenanza núm. 30, de 7 de diciembre de 1934, tendiente a reglamentar las relaciones entre empleadores y asalariados y a proteger la salud de éstos (SL 1934—SL 1; en francés y en inglés solamente).

Ley núm. 18, de 15 de diciembre de 1971, por la que se regulan los salarios y las relaciones de trabajo (SL 1971—SL 1).

Siria

Decreto-ley núm. 49, de 3 de julio de 1962, sobre el despido individual (SL 1962—Siria 1).

Decreto-ley núm. 127, de 9 de junio de 1970, por el que se modifica el núm. 49, de 3 de julio de 1962, sobre el despido individual (SL 1970—Siria 1).

Suecia

Ley núm. 254, de 22 de junio de 1928, relativa al tribunal del trabajo (SL 1928—Sue. 3; en francés y en inglés solamente). *Abreviatura*: L 254/28.

Ley núm. 506, de 11 de septiembre de 1936, sobre el derecho de asociación y de negociación (SL 1936—Sue. 8; en francés y en inglés solamente). *Abreviatura*: L 506/36.

Ley núm. 332, de 17 de mayo de 1940, que modifica los artículos 3 y 29 de la ley núm. 506, de 11 de septiembre de 1936, sobre el derecho de asociación y de negociación (SL 1940—Sue. 3; en francés y en inglés solamente).

Ley núm. 90, de 21 de marzo de 1947, que modifica la ley núm. 254, de 22 de junio de 1928, sobre el tribunal del trabajo (SL 1947—Sue. 5; en francés y en inglés solamente).

Acuerdo de 20 de febrero de 1970 sobre la situación de los principales delegados sindicales dentro de la empresa (OIT: *Acuerdos básicos y declaraciones conjuntas...*, *op. cit.*, páginas 228 y s.).

Suiza

Ley federal de 25 de junio de 1971 por la que se revisan los títulos X y X bis del Código de Obligaciones (referentes al contrato de trabajo; SL 1971—Sui. 1).

Tanzania (Tanganyika)

Ordenanza núm. 47, de 10 de noviembre de 1955, sobre el empleo (SL 1955—Tan. 1). *Abreviatura*: Or 47/55.

Ordenanza núm. 10, de 11 de mayo de 1960, por la que se modifica la ordenanza sobre el empleo (SL 1960—Tan. 1). *Abreviatura*: Or 10/60.

Protección contra la discriminación antisindical

Trinidad y Tabago

Ley núm. 23, de 16 de junio de 1972, por la que se deroga y sustituye la ley de estabilización de las relaciones de trabajo de 1965 y se provee a otros fines en relación con la estabilización, mejora y fomento de las relaciones profesionales (*SL* 1972—Trin. 1). *Abreviatura*: L 23/72.

Túnez

Ley núm. 66-27, de 30 de abril de 1966, por la que se promulga el Código del Trabajo (*SL* 1966—Túnez 1). *Abreviatura*: CT.

Turquía

Ley núm. 5521, de 30 de enero de 1950, relativa a tribunales de trabajo (*SL* 1950—Tur. 2). *Abreviatura*: L 5521/50.

Ley núm. 274, de 15 de julio de 1963, relativa a los sindicatos (*SL* 1963—Tur. 1). *Abreviatura*: L 274/63.

Ley núm. 1317, de 29 de julio de 1970, por la que se modifican y completan ciertos artículos de la ley núm. 274, de 15 de julio de 1963, relativa a los sindicatos (*SL* 1970—Tur. 1). *Abreviatura*: L 1317/70.

Ley núm. 931, de 28 de julio de 1967, sobre el trabajo (*SL* 1967—Tur. 1), anulada por la Corte Constitucional con fecha 12 de noviembre de 1970 y reemplazada, con efecto a partir de esta última fecha, por la ley citada a continuación, que la reproduce con modificaciones de menor importancia y no referentes al tema del presente estudio.

Ley núm. 1475, de 25 de agosto de 1971, sobre el trabajo (*Resmi Gazete*, 1.º de septiembre de 1971, pág. 3). *Abreviatura*: L 1475/71.

URSS

Ley núm. 2-VIII, de 15 de julio de 1970, del Soviet Supremo de la URSS por la que se aprueban los principios fundamentales de la legislación laboral de la URSS y de las repúblicas federadas (*SL* 1970—URSS 1). *Abreviatura*: L 2-VIII/70.

Decreto del Presídium del Soviet Supremo de la URSS, de 27 de septiembre de 1971, por el que se aprueba el reglamento relativo a las atribuciones del comité sindical local o de fábrica (*SL* 1971—URSS 2). *Abreviatura*: D 27.9.71.

Ley de 9 de diciembre de 1971 por la que se aprueba el Código de Trabajo de la RSFSR (*SL* 1971—URSS 1). *Abreviatura*: CT.

Venezuela

Decreto de 21 de octubre de 1947, de la Asamblea Nacional Constituyente, que establece la Ley del Trabajo (*SL* 1947—Ven. 2). *Abreviatura*: LT.

Ley orgánica de tribunales y procedimiento del trabajo, de 18 de noviembre de 1959 (*Gaceta Oficial*, 19 de noviembre de 1959).

Reglamento de la Ley del Trabajo, aprobado por decreto núm. 1563, de 31 de diciembre de 1973. *Abreviatura*: RLT.

Yugoslavia

Ley de 13 de abril de 1973 sobre relaciones entre trabajadores en régimen de asociación (*SL 1973—Yug. 1*). *Abreviatura*: L 13.4.73.

Zaire

Ordenanza-ley núm. 67/310, de 9 de agosto de 1967, por la que se promulga el Código de Trabajo (*SL 1967—Congo (Kin.) 1*). *Abreviatura*: CT.

Ley núm. 73/008, de 5 de enero de 1973, por la que se modifican y completan la ordenanza-ley núm. 68-248, de 10 de julio de 1968, que aprobó el Código de la organización y de la competencia judiciales, el decreto de 7 de marzo de 1960, que aprobó el Código de procedimiento civil, y la ordenanza-ley núm. 67/310, de 9 de agosto de 1967, que aprobó el Código del Trabajo (*SL 1973—Zai. 3*).