

# **WORKERS' PARTICIPATION IN MANAGEMENT UNDER ETHIOPIAN LABOUR LAW**

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## **I. Concept of Workers' Participation**

Workers' participation has been a highly and forcefully debated topic for quite sometime, and like most such issues more discussion seems to add fuel to the already existing quandary by generating more controversy. We shall not aggravate this situation by adding new or recapping older ones but shall take a broad functional definition of the concept. In its broad sense workers' participation is taken to include various arrangements by which workers and their representatives have a say in the decision making process at the level of the undertaking or enterprise.<sup>1</sup>

This definition encompasses a variety of approaches and institutions ranging from collective bargaining all the way to self-management. In the same manner all forms of participation ranging from participation with the mere right to receive information all the way to participation in the form of co-decision without distinction as to whether the participation is limited to personnel management (administration) or extends to an all inclusive general policy making are within the ambit of this definition.

This broad definition will assist us in making a functional analysis of the institutions and to assess alternative approaches without indulging into definitional web and labyrinth.

Even though the above definition is quite helpful in diffusing the controversies relating to "participation," it does not however resolve definitional problems in connection with the other term i.e. "worker," an issue that has heavily taxed the precious time of our labour court.

The Labour Proclamation after defining the term worker as any physical person who undertakes for wages to render to an undertaking, under the latter's direction, for a definite or indefinite period, services of a physical or intellectual nature excludes, "the manager and deputy manager of an undertaking or any of its branches and all those officials accountable to such manager or deputy manager."<sup>2</sup> In determining the parameters of the exclusion the court has consistently considered not only the organizational chart of the undertaking and the title of the person and his position according to the chart but his actual functions i.e. whether he performs managerial tasks such as hiring and firing, participation in general policy making, organizational and distribution of work etc.<sup>3</sup> This narrow interpretation is quite correct not only because of the rule that exceptions must be interpreted restrictively but because it is also in consonance with the

purpose of the exclusion. The proclamation has excluded "management personnel" in order to strengthen unions by making them homogeneous bodies representing only the interest of workers. As the interest of management personnel are closely tied with that of the undertaking if they were deemed to be workers for the purpose of union membership they would bring diverse interests and thereby dilute the community of interests which is a pre-condition for unions to function effectively.

## II. Rationales for Participation

The policy reasons for excluding management personnel from union participation are quite sound, but are they so when one is considering the issue of participation in management? In other words how should management personnel be treated? Should we consider them as workers for the purposes of participation or should we continue to exclude them from the definition of workers?

To adequately answer this question a consideration of the policies underlying workers' participation is essential. The Labour Proclamation of 1975 in its preamble briefly states, « the participation of workers in management of the undertaking will increase production which in turn will contribute to the improvement of the living standard and dignity of the worker.»<sup>4</sup>

The first ground which the Labour Proclamation states as an objective of participation is raising the level of production. This is an economic objective which aims at increasing the efficiency of the undertaking by associating workers with the decisions taken. The association, it is hoped will improve the quality and quantity of output and the utilization of labour, raw materials and equipment as well as the introduction of new techniques. In concrete terms it has been pointed out that,

- ( i ) Workers have ideas which can be useful,
- ( ii ) Effective communications upward are essential to sound decision making at the top,
- ( iii ) Workers may work harder if they share in decisions that affect them,
- ( iv ) Workers may work more intelligently if, through participation in decision making, they are better informed about the reasons for and the intention of decision,
- ( v ) Workers participation may foster a more cooperative attitude amongst workers and management, thus raising efficiency by improving teamwork and reducing the loss of efficiency arising from industrial disputes,
- ( vi ) Workers participation may act as a spur to managerial efficiency."<sup>5</sup>

In summary labour democracy is regarded as a powerful factor for improving the productivity of undertakings, because it can stimulate a spirit of initiative and responsibility among the workers, enable the management to benefit from the practical experience of the rank and file, and improve cooperation between the

two levels, avoid misunderstanding, resistance, low moral, suspicion and labour unrest.

In addition to such general economic consideration we feel that the situation immediately after the Ethiopian Revolution of 1974 necessitated the recognition of works participation in management. The post-revolution sweeping nationalization of the major means of production had changed their ownership from private to public, but in some instances the former private owners were still managing the nationalized undertakings. In such a situation in order to forestall any possibilities of sabotage it was imperative to create a vigilant group by giving the right to the workers to participate in the management of undertakings. It thus comes not as a surprise that the directive issued by the Minister of Labour and Social Affairs in 1979 concerned itself only with state owned undertakings.

The second objective of the Labour Proclamation is the enhancing of the dignity of the worker. Even though economic well being is one factor as man does not live by bread alone, it has been argued that participation in decision making is a means to promote individual development or fulfillment, in accordance with a conception of Human rights and dignity. The Universal Declaration of human rights ( 1948 ) provides :

“ All human beings are born free and equal in dignity and rights . . . As a member of society each is entitled to realization . . . of the economic, social and cultural rights indispensable for his dignity and the free development of his personality. ” <sup>6</sup>

Moreover in addition to this universal declaration on grounds of fundamental notions of social justice, it has been argued that worker must have a say in the management of the undertaking merely by the fact that they work there. Briefly speaking, employees who invest their lives in an undertaking like shareholders who invest their capital have a right to influence decision.

In addition as “ Socialist society is not based only on cash incentives but also on the idea of serving the community and its willingness to recognize such service; so individual workers must be induced to feel in their own way they were helping to build a state directed towards progress. Consequently the introduction of industrial democracy is a prerequisite for the establishment of socialist society.” <sup>7</sup>

Furthermore participation of workers in the management of the work unit is the inseparable counterpart of the collective ownership and represents the social relationship which intergrates the economic relationship. In other words it is a means of distribution of economic power which was concentrated in the hands of the capitalist. ” <sup>8</sup>

A comparison of the above underlying philosophy for workers participation in management and the underlying philosophy for the creation of a special interest grouping such as unions are not totally identical. What is thus a valid exclusion for one purpose should not be automatically taken to be valid for the other.

In this regard it is worthy to note the manner in which " executive staff " <sup>9</sup> who are persons :

1. entitled on their own responsibility to engage and dismiss employees on behalf of the establishment or one of its department.
2. endowed with general authority ( power of procreation ) of full power of representation or power to sign ( Prokura )
3. essentially carry out duties on their own responsibility which are normally assigned to them because of their particular experience and knowledge in view of the importance of the said duties for the existence and development of the establishment are treated by the law on participation. This category which is similar to our management personnel is deemed not to be workers for purposes of works council, which is the form of participation at the lower level. However, the same category is deemed to be workers for the purpose of co-determination Act of 1976 which deals with the participation of Supervisory Boards ( Higher Level ) relating to the whole undertaking. <sup>10</sup>

As the effectiveness of any system of participation created, especially if it is to be composed only of workers, is affected by the personnel included or excluded, the definition of the term worker which will best assist in the realization of an effective system of workers' participation must be sought. Uniformity may be comfortable but it cannot definitely be more paramount than efficiency, and in light of the above, an appropriate definition must be devised.

The reasons underlying workers participation have been challenged and due to lack of reliable way of ascertaining effects, its impact on overall efficiency of the undertaking, job satisfaction, productivity and industrial peace have not been determined and have given rise to extreme Conclusions." On one hand criticisms of red tape, long delays, time consuming procedural arrangements and stalemates. Others, moreover, have suggested that workers' participation on company Board sin periods of crisis will lead to investment decisions aimed more at maintaining employment in inefficient industries rather than raising efficiency and productivity. On the other hand advocates of participation argue that workers involvement in decisions affecting their lives and careers satisfies legitimate human needs, recognizes the role and dignity of labour, capitalizes on their experience, tends to relax tensions and will commit workers more fully to the future of the enterprise. All this is claimed will lead automatically to more efficiency and harmony in the operation of the undertaking and the economy as a whole. <sup>11</sup>

Despite these diametrically opposite conclusions however, the fact that it has been accepted world wide demonstrates the widespread belief in the validity of the philosophy and the discussion currently is thus not whether to have workers participation but as to the extent and form of such participation.

### III. Forms and Dimensions of Participation

In this regard an examination of the forms of workers participation currently in force in the different parts of the world reveals there are basically five main types:

- (a) Self-management or related systems such as producers' cooperatives;
- (b) Parity or minority representation of workers on Boards of Directors, Supervisory Boards or other management bodies, both in private and public sector;
- (c) Works Council or committees and similar specialized institutions for representing the workers;
- (d) Collective bargaining as it is conducted in market economy countries; and
- (e) The operation of trade unions through the influence they exert on management by virtue of their own powers, in some centrally planned economy countries, in particular those of Eastern Europe.<sup>12</sup>

We shall not examine all the above, but shall limit ourselves to the consideration of those institutions that are currently being utilized in Ethiopia, i.e. collective bargaining and workers' Committees.

#### A. Collective Bargaining

Among the various forms of workers' participation, collective bargaining stands out as the most widespread, the most vigorous and the most generally acceptable in both industrialized and developing countries.<sup>13</sup> It has also been the traditional form of participation in Ethiopia. The Labour Relations Proclamation of 1963 gave workers the right to unionize, the legal right to compel their employer to engage in collective bargaining and set out the fundamental rules of the game.<sup>14</sup> However it had left many matters to the labour market organizations themselves. So much so that it did not even attempt to define the subject matter of collective bargaining. After the Ethiopian Revolution of 1974, the Labour Proclamation of 1975 strengthened the institution of collective bargaining specified its procedures and effects.<sup>15</sup>

Eventhough the subject matter of collective bargaining was not demarcated by the Labour Relations Proclamation of 1963, it was by practice limited to bread and butter issues, such as wages and working hours. Even after the expansion of the scope of collective bargaining there is a tendency of limiting it to the traditional subject matters. This fact was duly noted by the Council of Ministers when it stated:

"Up to now workers and undertakings, like in the past have bargained and made decisions on benefits and services such as wage increment. On the other hand what the society expects in terms of quantity and quality of production and proper utilization of the social property were rarely discussed. From now onwards collective bargaining and agreements must also be looked from this perspective." <sup>16</sup>

As a form of participation this form continues to be important due to the fact that collective bargaining is not limited to the determination of wages and working conditions, but includes more and more matters which in the past were considered as being prerogatives of management.<sup>17</sup> Eventhough workers participate in the preparation of proposals (demands) to be bargained with management<sup>18</sup> and their representatives are engaged, through participation in committees in the implementation of the terms of the collective agreement this form has several drawbacks amongst which the notable ones are:-

- (a) Negotiations are conducted through representatives in a periodic or sporadic fashion so that effective worker's participation is not always feasible.
- (b) Another drawback may derive from the conflictual nature of collective bargaining and the repercussion that this may have on industrial peace and productivity. Due to its conflictual nature it can be not only time consuming but at times can lead to the bogging down of decision.
- (c) A third limitation relates to its post facto nature, which means that it may sometimes come into the labour relations picture too late, when matters of interest have already been discussed and decided by management.<sup>19</sup>

### **B Worker's Committees**

It is probably in light of these limitations that the Labour Proclamation of 1975 has not stopped at making workers participation merely a bargainable item but had proceeded to authorize the Minister of Labour and Social Affairs to "determine the participation of workers in the management of undertakings,"<sup>20</sup> pursuant to which authority he issued a Directive in 1979.

According to this Directive a worker's committee composed of the manager of the undertaking and of representatives elected by the workers are to be established in all state owned undertakings.<sup>21</sup> The size of such committee shall be from five to nine members, including the chairman, depending on the size of the labour force.<sup>22</sup>

The Directive applies to all state owned undertakings. However, this indiscriminate establishment of workers committees in all state owned enterprises may succeed in creating a vigilante group to protect public property but not necessarily an effective form of workers participation. In order to have an effective workers committee the nature of the undertaking must be such that it is conducive for the operation of such committees. When one examines the nature of the undertaking for the purpose of whether or not to form a workers' committee the following must be considered: degree of autonomy, structure and size, dispersion of personnel, the degree of complexity of its technology.

An undertaking which is under the close supervision of a Ministry or other higher Administrative organ, which is relatively small and where there is a close personal relationship between the person making the decision and those on

whom it may be implemented; or even where it is large but its personnel are dispersed all over, and utilizes a complex technology system (automation) which may not leave much room for human decision is not one which is conducive for the creation and operation of a worker's committee. The reasons for this are obvious. The fact that it is under close supervision implies that the undertaking itself will not have much autonomy to make decisions on important policy matters and hence cannot delegate to a worker's committee powers that it does not itself possess. Similarly size is an important factor, for the smaller the size the less need for formal machinery of participation. Even if such rights are granted to small firms these rights are hardly utilized as has been demonstrated by long experience in the Federal Republic of Germany. Despite the fact that the law authorizes plants with more than five workers to establish works council a vast majority of plants with less than 50 have not formed such councils.<sup>23</sup> Finally if most of the operations are automated since there will be less opportunity for making human decisions establishing workers committee may have symbolic value but will not have much role to play.

In light of the above considerations we suggest that workers committees be established only in large undertakings. The minimum number for the establishment of Basic Trade Unions can perhaps be taken as the cut off point for what constitutes a large as opposed to small undertakings.

Once an undertaking meets these requirements, irrespective of whether it is owned by the state or privately, should be covered by it. There is a greater need for workers' participation in privately owned undertakings which are solely motivated by profit making than state owned one which are bound to give due consideration to social factors in addition to the making of profit.

When we examine the jurisdiction or areas of participation of workers' committees the directive is so vague that it is extremely difficult to determine the exact parameters of the jurisdiction of workers committees. Art. 7 of the directive provides that such committees have the power to make recommendations on the following matters:

1. (a) Short and long term work plans in relation to the development and expansion of the undertaking;
- (b) To suggest amendments in relation to the undertakings internal procedure;
- (c) Workers' activities, efficiency and productivity;
- (d) Planning of workers training program and the assigning of experts;
- (e) Implementation of labour conditions.
2. Make proposals concerning the governments development plan as they relate to that enterprise.
3. Supervise the implementation of economic development plans initiated by the committee or government after they have received the government's approval.

In connection with the areas of participation there are several alternatives ranging from participation in purely personnel matters extending to participation in all aspects of management including the making of general policy. Thus in order to appreciate the scope of participation (jurisdiction) of workers' committees regard should be had to the areas in which it applies.

In order to discuss the problem in more concrete terms let us consider the different management decisions with a view of finding which of these are within the jurisdiction of workers committees.

Four main classes of decisions are to be distinguished:-

(a) Those relating to *technical matters* (production, organization, equipment, methods) and the *performance* of work.

(b) Those relating to *employment and Personnel* questions: i.e. to the worker on the job and sometimes outside it also (selection, recruitment, allocation and distribution of work, job classification and evaluation, remuneration, fringe benefits, promotion, career policy, conditions of work, timelessness and holidays, safety and health, welfare services and institutions - Sometimes highly extensive' for they include the works of medical sense or dispensary, canteens, low price supplies, housing, nurseries, rest homes children holiday camps, sports and many kinds of social and cultural activities - as well as training and retraining where appropriate, discipline, individual and collective layoff.

(c) Decisions relating to the *economic and financial policy* of the undertaking (projections, programmes, investments and price policy distribution of profits) and

(d) *General policy Decisions*- relating to the very existence of the undertaking and to its structure (appointment) of top managers, total or partial shutdowns, mergers of establishments. " 24

As stated earlier due to the vague terminology it is problematic to identify which of the above types of management decisions are included within its jurisdiction. However since the role of the committees is merely an advisory one interpreting their jurisdiction broadly will not have no prejudicial effect. The exact determination, however, becomes crucial if and when their role to become more than advisory.

When one considers the role(s) of such participatory organ one must bear in mind that management can be influenced in different ways:- information, advice and consultation, co-decision and self-management.

"Disclosure of information means that the enterprise provides information and exchange of ideas takes place in order to formulate advice for the enterprise. The advice does not require unanimity or majority rule consultation is designed to enable the employer to appreciate different points of view. Advice is of course never binding on the employer. co-decision is that form of decision making whereby labour does take decisions jointly with the employer. Finally there is selfmanagement, namely the competence of employees to take decisions regarding the enterprise themselves." 25



As mentioned earlier workers committees established by the directive have merely an advisory management under which workers are given information and may express an opinion but have no influence on whether this opinion is taken into account or not is not likely to create much enthusiasm.<sup>26</sup> On the contrary, the establishment of workers committee creates an atmosphere of suspicion between them and unions, polluting the general atmosphere by creating rivalry between them and thereby conducive for divide and rule tactic on the part of the employer. This is true even in countries where the jurisdiction of Works Council and Trade unions is specifically and elaborately spelled out.<sup>27</sup>

#### IV. Conclusion and Recommendation

Eventhough workers' participation has been for quite sometime a widely and forcefully debated issue in Labour Relations, in Ethiopia the interest and concern with the subject matter is a post Revolution phenomenon. One of the major achievements of the Ethiopian Revolution of 1974 has been the democratization and hightening of the level of popular participation in socio-political affairs. The creation of mass organizations such as Peasant Association, Urban Dwellers Associations, Women and Yourth Associations has immensely contributed to the realization of self-administration and high level of popular participation.

The Labour Proclamation of 1975's recognition of the right of workers to participate in management must be viewed as part and parcel of this over-all democratization process and its extension into the environment of work. The Ethiopia Trade Union (ETU) pursuant to the Trade Union Organization Proclamation of 1982 is obliged to participate in the study and preparation of labour laws, regulations and directives, and ensure their implementation by workers upon their issuance. It is furthermore obliged to participate in the preparation of the political, economic, social and cultural plans of the country.<sup>28</sup> As these laws and policies are the cornerstones for decision making in undertakings one cannot totally ignore this general aspect of participation. Nevertheless as this paper is devoted to the consideration of the means and institutions by which workers directly participate in the management of undertakings we have focused our attention mostly on collective bargaining and workers committees.

The Labour Proclamation in implementing this recognition utilized a combined approach: collective bargaining and legislation. It makes participation a bargainable item by law but leaves the details to be worked out by the parties. Furthermore it gives authority to the Minister of Labour and Social Affairs to issue regulations determining the nature of such participation.<sup>29</sup> As noted earlier a directive applicable to state owned undertakings has been issued pursuant to this authority: while in privately owned undertakings the matter is still left to the bargaining of the parties.

The possibility of leaving the introduction of workers' participation schemes to the initiative and agreement of the parties presupposes the existence of organizations of employers and workers of equal strength and a long tradition of

collective dealings. It is clear that these conditions are not fulfilled in many developing countries. In most countries of the Third World the government cannot sit back and adopt a purely passive role in industrial Relations but must in a spirit of innovation and imagination, take the initiative in promoting sound industrial relations through legislative and promotional action.<sup>30</sup> Moreover, Ethiopia's planned economy would require active governmental action as regards these matters. Thus the issuance of a directive determining workers' participation by the Minister is a step in the right direction. However, due to its limited nature the directive can serve only as a stop-gap measure. Moreover with increased level of consciousness of workers and dissemination of socialism there is a need for revising and reassessing the subject matter and for devising ways and means by which such participation can be more effective and dynamic.

We do not suggest workers participation on Company Boards as is done in some West European countries, in light of our objective reality. In addition when one examines this system in the Federal Republic of Germany, the very country which originated the concept of workers co-determination one notes that „attitudes regarding its contribution are somewhat reserved owing to the relative failure of trade unions in getting their demands fulfilled in the new Co-determination Act which accords clear recognition to the preponderance of capital - and above all owing to their increasing inability - even within the framework of the formal and circumscribed co-determination practiced in the mining industry - to control the effects on the worker of structural crises such as that in the steel industry substantially better than unions in countries where comparable co-management right, are not enjoyed.“<sup>31</sup> Similar views of dissatisfaction were expressed in interview held with a union representative. Moreover the representative added that there is a tendency to narrow the scope of the functions of Boards after the promulgation of the 1976 Co-determination Act which gave the right to representative of workers to sit in such Boards, in effect pulling off the carpet from under the feet of the Boards thereby lessening the impact of co-determination.<sup>32</sup>

However, since participation in merely advisory capacity will not generate the necessary enthusiasm on the part of workers we would recommend the following changes to the directives in order to create a more effective participation machinery.

Our recommendations relate to two basic areas: The coverage of the law and the nature and functions of the machinery for participation.

#### A. Coverage of the Law

The Labour Proclamation of 1975 makes workers' participation a bargainable item in all undertakings as the term is defined in the Proclamation.<sup>33</sup> Even though ownership is not an ingredient of this definition the directive issued in 1979 applies only to state owned undertakings, and the issue of participating of workers in privately owned undertakings is still left to collective bargaining between the

employer and workers. But as experience has shown collective bargaining is generally limited to bread and butter issues such as wages, working hours, etc and does not include matters such as participation. However even if included the manner and extent of participation being totally left to the discretion of the parties tends to be haphazard and can come in conflict with governmental policy. A case in point is the Collective Agreement concluded between the Ethiopian Pulp and Paper Factory and its workers. Pursuant to act 30(2) of the collective agreement the workers committee which was established in the undertaking was given the right to *jointly decide* with the management. However when decisions were made but were later rejected by the management the committee took its case to the Ministry of Labour and Social Affairs which decided that "workers committees are advisory and not decision making bodies and the manager has the right to either accept or reject the proposals of the committee members." It further stated that the manager is accountable to a higher government organ that is responsible to question him for his failure to accept the proposal. Thus in order to have a planned and regulated approach to the problem and in light of the fact that there is a greater need to have workers' participation in privately owned undertakings than state owned ones, as state owned undertakings are bound to give due weight not only to profit making but to other social matters as well, we suggest that the scope be extended to state as well as privately owned undertakings. It is worthy to note that rather than ownership the nature of the undertaking, i.e. its autonomy, size etc. and the type of service rendered by it are more important factors in determining the scope of such a law.

#### B. Nature of Participation Machinery

After identifying the conditions that must be fulfilled in order to have workers participation in management, the next issue that we must deal with is the nature of the machinery for such participation. We do not intend to deal with this in an intensive manner but would like to consider two important aspects: identity and composition of such machinery.

As seen earlier, there are several alternatives and possibilities by which the concept of workers participation in management can be translated into action. But even after the decision of creating a workers committee is made questions as to its identity and composition must be dealt with.

"With the creation of new institutions to participate in management the role of unions to protect the right of members and its relationship with these institutions has been a subject of debate. Trade unions were born as protest organizations, conceived primarily to represent workers, negotiate on their behalf, and engage if necessary in industrial action. These functions have gradually conditioned trade union mentality that it is not easy to accommodate to certain non-bargaining forms of participation."<sup>34</sup> In addition the feeling among some trade unionists that workers representatives should not be engaged in management of privately owned undertakings for they do not want to be "junior partners in success and senior partners in failure" and that workers organizations should be con-

cerned not with running specific undertakings but with seeking structural changes and macroeconomic democracy<sup>35</sup> may tend to create an unhealthy relationship with new structures such as workers committee. Due to the fact that unions as a form of protest organizations are engaged in collective bargaining which is a conflict relationship and relates to matters which the interest of the employer and workers are supposed to diverge while the role of workers committees is limited to participation and consultation in matter of common interest workers' committee are not substructures of trade unions but distinct institutions with their own legal personality. However in order to minimize any potential conflict between these two institutions whose overall goal is to protect the welfare of the worker it is suggested that unions be given the right to nominate and/or elect a certain number of the workers' representatives sitting on such committees. This will enable a continuous flow of communication between them and contribute towards the enhancing of attitudes of cooperation.

Having created an institution with a legal personality of its own we shall now proceed to consider its composition. The directive envisages workers' committees to be composed of representative of workers with only the chairman representing the management. The composition, or for that matter any other, composition is adequate as long as the powers of the committee are limited to making recommendations. However when its role changes from being advisory to co-decision, composition of the committee becomes crucial; and presumably decisions will be made by majority votes.

The size of the committees which is envisaged by the directive, five to nine members,<sup>36</sup> is quite appropriate as committees composed of more than nine members tend to be cumbersome and a certain way of bogging down the making of decisions. However since we intend to recommend that workers committees in certain spheres be given the right of co-decision we suggest that  $\frac{1}{3}$  of their membership be composed of representatives of management,  $\frac{1}{3}$  of representatives of workers and  $\frac{1}{3}$  of their membership be composed of persons representing public interests. The last group could be elected from local branches of workers' party or from the various mass organizations in the area where the undertaking is located.

### C. Jurisdiction

The form of participation which is envisaged by the Directive, as seen earlier, is a workers' committee under the chairmanship of the manager of the undertaking. Eventhough the spheres and matters to which the committee addresses itself are not narrow, the role of the committee is merely advisory. Since workers had no experience in these matters prior to the Revolution it was definitely wise to limit the role of such committees to an advisory one. However, as their consciousness is enhanced and they gain ample experience on such matters, a possibility where their role in decision making can be enhanced must be found. Failure to do so may create an apathy which will act as a hinderance towards the progress and dynamism of such institutions.

In order to do so a clear demarcation of the spheres or matters in which the committees will have consultation rights and co-decision rights must be made in light of our own reality and relevant experience of other countries. Eventhough an in-depth and detailed study is needed before one can venture to make concrete recommendations in this regard we hope that it will not be considered preposterous on our part if, on the basis of the scanty Ethiopian material we were able together, we make some general suggestion concerning the matter.

In a case between the Mortgage Bank Union and the Mortgage Bank the extent of workers participation was raised. The union argued that workers should be represented in the policy committee of the Bank-a committee which is solely composed of department heads and chaired by the general manager. The Bank after pointing out the fact that workers are represented in the Personnel Administration Committee which deals with hiring, transfer, firing and other disciplinary actions argued that workers representation on the policy committee will result in red tape with subsequent damage to the Bank.

The Court after considering the arguments forwarded by both parties decided that the following article "workers when they want to present a policy matter for consideration should forward it to the manager who shall include it in the agenda of the meeting and two non-voting representatives of the workers shall be present in such meeting" be incorporated in the collective agreement.<sup>37</sup>

The ruling of the court implies that workers participation is limited to personnel matters and not matters of policy. It is worthy to note however that the courts conception of personnel matters is wide as the decision in the Ethiopian Household Furniture Corporation Union Vs Corporation demonstrates.<sup>38</sup>

Eventhough the courts distinction between personnel and policy, since not elaborated, may be interpreted in several ways similar distinctions and restrictions are made in several jurisdictions. For example, if one looks at the jurisdiction and powers of the works council in Federal Republic of Germany, " it has the rights of information in manpower planning and in economic and financial matters of the firm. It has consultation rights in the sphere of working processes and operations and manpower planning. Finally it has co-determination rights in drawing up employment criteria and guidelines for selection of employees for recruitment, in hiring, firing and transfers and the implementation of vocational training facilities. Moreover, the co-determination rights include the fixing of daily working hours, the vacation schedule, time place and form of payment of remuneration, and use of technical devices to control the performance of employees, the form and administration of in-plant social services, the fixing of job and bonus rates.<sup>39</sup>

Finally when one examines the trend in this regard one notes in connection with areas of participation that there is a change from the traditional areas of workers' participation (particularly work council) whose domain were social welfare, personnel questions and matters of common interest to employers and workers to include a/ safety and health, b/ training c/ questions of redundancies and collective dismissal. As regards safety and health, it is now widely held that

decision should not be taken by management unilaterally or by experts alone, in one way or another the people involved in the operation, those who bear the risks and share the benefits, have to be involved. Similarly when it comes to training since the upgrading of the workers' skills is a matter of direct relevance to the profitability of the enterprise and difficult to implement without the support of the workers it has come to be fully accepted as a matter for consultation between employees and workers.<sup>40</sup>

If our suggestion that the role of workers' Committees where appropriate, be graded to the level of co-decision is accepted a more specific jurisdictional listing is a must.

In brief, in light of the preceding discussion a more comprehensive law on workers' participation to augment and fully implement the principle incorporated in the Labour Proclamation of 1975 is quite timely.

## FOOTNOTES

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1. Johannes Schregle, "Comparative Industrial Relations, Pitfalls and Potentials", 113 *Int. Lab Rev.* 1. 23(76). The distinction between undertaking and enterprise is crucial in understanding the two forms of participation in several West European countries. The undertaking is the entity with a legal personality and it may be composed of either one enterprise (plant) or several. Participation at the level of the undertaking involves the appointment of workers representatives in the Board of such undertaking; while participation at the enterprise level involves the creation of works council composed only of workers or of workers and management jointly.
2. Labour Proclamation, 1975 Art. 2(27);
3. Nile Hotel, Workers' Union vs Nile Hotel C. Case N.122/70; Ethiopian Electric Light and Power Authority Workers' Union vs Ethiopian Electric and Light and Power Authority C. Case N.697/69; Ethiopian Nutrition Institute & Amede Ghebeya Workers' Unions vs the undertaking C. Case No. 47/70; Michael Uru vs. Kojeko and Elim Olindo Enterprise C.C.No. 73/70,
4. Labour Proclamation 1975, preamble.
5. International Labour Office, *Workers Participation in Decision within undertaking*, (1983), p. 18.
6. Universal Declaration of Human Rights 1948, Art. 6.
7. ILO, cited in note, 5, p. 10.
8. *Ibid.*, 10.

The above justifications in particular the socio-political and the transplanting of concepts of democracy into the economic setting have been challenged in that the analogy between government and business is improper. It had been stated, "the analogy between government and business management does not stand up to examination. A government has the power to make laws, the right to raise taxes, a police force and other ways of imposing obedience on its citizens. A commercial undertaking - thanks heavens - does not have these powers; however for it to operate effectively its managers must be independent of those to whom they have to give orders. What would be the authority of the head of business whose decisions were approved by one category of personnel and disapproved of by another? In effect it is impossible to manage an industrial undertaking effectively by applying democratic principles. Need for management to maintain the maximum unity, authority and freedom of maneuver to respond to changes in the economic situation. Authority can be delegated but not shared. This is especially true in a competitive setting where adaptability to change is an important criterion of change. Moreover, some trade unions consider this as integration and view it as being against the preservation of trade union movement and many other argue that assembly line and similar types of jobs do not require initiative, imagination or creativity but merely require adequate performance.

Finally practical observation that most workers do not have the knowledge required to assume managerial responsibility is forwarded as an objection to workers' participation.

9. Works constitution Act of the Federal Republic of Germany, 1972 Art. 5(3).
10. Co-determination Act of the Federal Republic of Germany, 1976 Art. 3(2).
11. E. Cordova, "Workers' Participation in Decisions within Enterprises. Recent Trends and Problems," *Intl. Lab. Review*, Vol. 121. No. 2 (March, April 1982), p. 138.
12. ILO, cited in note 5, p. 197.
13. E. Cordova cited in note 12, p. 128.
14. Labour Relations Proclamation of 1963 Art. 20-25.
15. Labour Proclamation, 1975, Art. 63-76.
16. Council of Ministers, Directive Relating to Collective Agreements (Maskaram 28, 1972 E.C.) Dir. No. 39/72.
17. A glance at Art. 66 attests this fact conclusively.
18. Labour Proclamation 1975, Art. 68(2).
19. E. Cordova, cited in note 12, p. 128.
20. Labour Proclamation, 1975 Art. 109(9).
21. Art. 2(9) of the Directive excludes workers of privately owned undertakings.

## (iii)

22. Art. 3 Directive establishing workers' committees, 1979.
23. Interviews with representatives of Trade Unions and Employers-
24. ILO, cited in note 5, p. 24.
25. R. Blaupain, "The influence of labour on Management Decision Making," Bulletin of Comparative Labour Relations, No. 8(1977), p.10.
26. Johannes Schregle, "Workers Participation in Decision within undertakings" *Intl. Lab. Rev.* Vol. 113 No. 1 (Jan-Feb, 1976) p.8.
27. Interview with a lawyer from the DGB - the largest Trade Union in the Federal Republic of Germany.
28. Labour Proclamation, 1975, Art. 79(1).
29. Labour Proclamation, 1975, Art. 109(9).
30. J. Schregle cited in note 1, p. 5.
31. Wolfgang Lecher and Ulrike Sieling Wendeling, "New Developments in the discussion of co-determination in Europe" *Labour and Society* Vol. 4 No. 1, January 1979, p. 96.
32. Interview with representative of DGB.
33. Undertaking shall mean a natural or a juridical person, or a unit or sub-unit designated as an undertaking by the Minister in accordance with Art. 109(20) of this proclamation employing a worker. It does not include state administration (Art. 2(25) of the Labour Proclamation of 1975 as amended.
34. E. Cordova, cited in note 12, p. 134.
35. Ibid. p. 134-135.
36. Directive Art. 3.
37. Civ. Case J325/69
38. Civ. Case No. 46/73. In that case the court held that the promotions committee composed of representatives of management and workers was competent to fill managerial vacancies if they arise, despite the Corporations argument that vacancies for supervision, department heads, should be filled by an Administration committee composed only of members of management.
39. Hildergard Wascke, *The Impact of Trade Unions in the Federal Republic of Germany*, Bundesvereinigung for Deutschen Arbeitgeberverbände, Köln.
40. Cordova, cited in note 12, 131-132.