

WORKERS' RIGHTS AS HUMAN RIGHTS

Intro by Albie Sachs

Episodes from the lives of Liz, Ray, Frank and Oscar
Constitutional rights do not come from the heads of lawyers, but from the struggles of ordinary [and extraordinary] men and women. Apartheid kept South Africa so backward that time-honoured concepts, such as equality for all and freedom of speech, are still new and slightly astonishing for us; so, too, is the idea of guaranteed ~~human~~ ^{small} rights for workers.

What follows is an old-fashioned story, told in an old-fashioned way, of special moments in the lives of four ordinary [and extraordinary] women and men; Liz Abrahams, Ray Alexander, Frank Marquard and Oscar Mpetha. They fought as trade unionists for the rights of working people in the Western Cape. In so doing, they made their contribution towards developing a rights culture amongst working people of the area and ~~helped~~ ^{helped} accustom the whole nation to the concept of basic human rights for workers.

Until recently, the notion of enforceable workers' rights, was officially regarded as quite 'un-South African', particularly if the workers were not white; the only right a black worker had was the right to pray for a kind employer. More recently, certain Bantustan and homeland leaders also threw their weight against workers' rights, alleging that they were 'un-African'; ^{the only way} the only right a worker had was to ask for protection from a strong chief or warlord, ~~of whom he or she was a vassal.~~ ^{enacted to}

Now we are considering writing workers' rights into an entrenched Bill of Rights. We want them ^{residing in the workers themselves,} to be inviolable rights embedded ~~right~~ in the heart of the new constitution. No employer, no government, no political party will be able to take them away.

We are not used to the ~~idea of a~~ ^{idea of} a Constitution, a real Constitution, that is, a document that guarantees certain rights that are regarded as so fundamental that no-one can ~~take them away,~~ ^{democratically elected} not even a future Parliament. We are on the verge of having such a constitution in South Africa. ^{then you override}

When the persons responsible for drafting the text of a new constitution search for the right words to enshrine these rights, they will be inventing ~~nothing,~~ ^{nothing} nor will they be importing strange ideas into our country. Rather, they will be finding the right terms to consolidate what generations of South African workers and workers' leaders will ^{the Bill of R. in the} ^{of the} ^{workers,} ^{is,} have already fought for.

The new South African constitution will ^{they} reflect the multiple experiences of the diverse communities that make up the South African nation. It will emerge from a multiplicity of such moments as are described in the pages that follow. Its richness and resilience will depend in large degree on the extent to which it embodies in legal form the experiences and longings for dignity of all South Africans. myriad

she Lawyers might have an important role ^{to play} in choosing the precise words that go to make up a constitution, but the real text is written in the lives and struggles of the people. If South Africa belongs to all who live in it, so must the constitution be the property of all South Africans. It is not a document that confers favours on anybody; rather, it recognises and defends what people have claimed and fought for over the decades. as we say

It is of the greatest importance to workers.

The basic guarantee of any constitution, more important even than any institutional mechanism, is that people believe in it. People will identify with a constitution if they have fought for it and taken part in its elaboration, if they see themselves reflected in it and feel that in defending the constitution they are protecting themselves.

If a constitution is the self-portrait of a nation, then each and everyone of us has the right and the responsibility to take part in ^{the constitution, if not new work} its painting. Like with any good portrait, we will have to take account both of our potential for weakness and of our capacity for nobility. Now is the moment when all of us, workers and non-workers alike, must declare what we want to see in the new constitution, establishing the outlines of the kind of country we want to live in, and the character of the rights we want to enjoy.

They might have been the descendants of slaves and of people whose lands had been conquered; they might have lived on the outskirts of town, far from the amenities and good things of life; they might have been poorly schooled, badly nourished and with few resources to protect their health; they might have been excluded from swimming baths, restaurants and parks; they might have been voteless and without the right to be in government.

Yet they were human beings, people, workers, South Africans. They had the right to be heard, the right to defend their interests, and the most fundamental right of all, the right to have rights.

When, as you will read, the workers at a jam factory in Paarl went on strike fifty years ago because Frank Capello had been dismissed, they were not only affirming their right to set up a trade union. They were declaring that they were people, that they counted, that the factory owners could not treat them as though they did not matter.

They were claiming their rights as human beings, as citizens and as workers.

Over the years
The union gave them experience in self-management, it gave them autonomy and dignity. Through the union, thousands of persons learnt to rise above racism and demolish the myths of sexism. It trained them in constitutionalism, the idea that there are basic rules and values governing conduct, appropriate means of choosing leadership and ensuring its accountability. It instructed its members in the importance of the vote, discussion, and tolerance in settling disputes. Long before we were thinking of a new constitution with entrenched rights for the nation, it was establishing the idea of a constitution guaranteeing rights for workers in their own organisation.

of democracy
~~It was one of the many schools of citizenship and democracy established for themselves by those disenfranchised by the system of white domination.~~ *which*
It was a ~~building block of the~~ *new non-racial, non-sexist South Africa that we all want to see.*

The basic data collection, interviewing and writing for the story that follows were done by Wolf Kodesh and Zubeida Jaffer; information on Frank Marquard comes from a manuscript prepared many years ago by Rex Close. The two researchers have written the tale in their own way. They do not pretend to hide the pride that they themselves, as persons long "in the struggle", feel for the achievements of the Food and Canning Workers Union.

They have also not held back from mentioning the fact that ~~Ray~~ *Ray* membership of the Communist Party was important for the work that Ray Alexander did; just as it was wrong for communists in their time to write their opponents out of history, so it would be unconscionable now for anyone to write persons out of the record because they were communists.

The work of Ray, Liz, Fr & Oscar continues. New names, new offices, new styles, new ideas.

The FAWU now takes over from - elected leadership - our own leadership - not from the FAWU. It has to defend its life. Lives of whom R L Fr & Oscar written into the

The same applies to the w-class. Yet still ~~there~~ it may change ~~to~~ ~~may~~ create a support ~~diff~~ ~~part~~ ~~a~~ ~~leader~~. It has to defend its life. Lives of whom R L Fr & Oscar written into the

Samora Machel used to say that the people never die. We may adapt this by noting that movements may come and movements may go, but the struggle for human rights runs on forever.

~~Samora Machel~~

Just as apartheid depersonalised workers, so now is it necessary for workers in the new South Africa to re-personalise themselves. Workers are not just creatures whose sole destiny it is to labour for others and then to be discarded when no longer needed. Before work, during work and after work, they have rights and dignity, not just to wages and holidays, but to a safe and dignified work environment, to training and to advancement. The blockage of career possibilities because of race and gender has been particularly severe in South Africa. People who have been unjustly held back for generations have the right to special support to obtain the qualifications and experience to enable them to get ahead.

It is not the function of the constitution to spell out all the rights of workers in great detail. That can be left to a Workers Charter or a Labour Code, or both.

What the constitution must do is to ensure that workers themselves have guaranteed rights to defend their rights. This means the right to set up independent unions, the right to engage in collective bargaining and the right to strike. The crucial element is that workers must have guaranteed freedom to organise as autonomous bodies free of control by the employers, the state or any political party, so as to defend and advance their rights.

Attention has to be paid to what sort of courts should hear disputes in labour matters. Experience has shown that Industrial Tribunals have been far more skilled and effective than the ordinary courts in handling these matters, and it would seem that the jurisdiction of these Tribunals should be retained and built upon.

The function of the envisaged new Constitutional Court would then be only to deal with matters that involved broad constitutional principles. The judges of the Industrial Tribunals, chosen because of their special experience, sensitivity and acceptability to unions and employers, are more likely to produce a just result in cases of disputes arising from the day to day struggles on the shop floor.

~~and in that sense all human~~
~~be workers' re.~~

Workers will be interested in each and every aspect of the constitution, since the constitution will touch on every part of their lives. For the first time they will be able to enjoy the right to vote as an ordinary citizen in a normal society. ~~They will see workers and workers leaders in Parliament and in the government.~~ ^{will be elected to} The organised trade union movement will work with employers and government to determine economic policy. Workers will be consulted and listened-to when new legislation affecting their lives is being considered. ~~They will be people, citizens, South Africans.~~ ^{South African} They will have a voice over their future and the future of their country. ^{children}

of Govt.

^{workers} They will look to the constitution to protect their basic rights and freedoms, to guarantee that in future their leaders are not banned and never again have to meet in the underground in order to defend workers' rights. ^{organise} They will seek protection against ever again being forced to live in segregated squalor because of racist laws. They will expect the constitution to create a framework of principles that will facilitate their achieving the reality of equal access to health, education, housing, ^{work at home} land and employment. They will seek a constitution oriented towards guaranteeing progressive improvement ^{of the lives of their lives} with the rapid furnishing of ^{facilities} such as an electric light in every home and access to drinkable water for every family.

They will expect their children to have rights as children, and not to have to leave school to go to work at the age of fourteen. They will want to see a clause that protects them against discrimination because of birth, background, disability, marital status or gender. Workers who happen to be gay will consider it their right to lead their lives at work and outside like everyone else. ^{be harassed or discriminated against}

^{leaves out} Working women in particular have heavy disabilities. Many are domestic and farm workers, ^{with the} ^{hardest} ^{conditions,} poorest pay and least organisation. Women are denied equal pay, held back from advancement, ^{expected to bear the full} responsibility for child-raising, ^{subjected to harassment} at work. They feel themselves unsafe on the streets, and are often subjected to abuse in the home. ^{in over-representing new} ^{at work}

The constitution will not in itself transform their lives, but it can consolidate the gains they have made in struggling for their rights, and lay the basis for further advance. Women trade unionists have a particularly important role in helping achieve rights not only for themselves but for all women in the country; it is no accident that Ray

Alexander and Liz Abrahams and other leaders of the Food and Canning Workers Union were amongst the foremost proponents of a Charter of Women's Rights in the 1950's.

Central to the Borst will be the fact that for the first time the workers will have the vote, and be voting on a com-voters' roll in a united FA.