

Trade Union Busting

There is a growing perception that trade unions are under attack, and invariably this is impacting on their capacity to organize and conduct business in line with their own rules and the law of the land. Trade unions are legitimate organizations which are formed to represent and protect the interests of their members in the work place. Whereas their legitimacy may not be the issue, the success of their operation may be challenged by forms of union busting. This can take the form of several legal and illegal activities, ranging from the introduction of subtle or draconian laws introduced by the state, and measures introduced by the state and employers.

Union busting is basically a strategy that is directed at disrupting or preventing the formation of trade unions. The intention of union busting is to both inject fear and to confuse the minds of workers against joining a trade union. This tactic is to discourage workers from joining a trade union on the understanding that the body serves no useful purpose in advancing the cause of the workers. Basically, those who engage in this tactic, tend to indulge in unfair work practices.

The process of recognition of the trade union as the bargaining agent for employees can sometimes be a challenging one. This remains so despite the fact that in some countries, there is the provision for statutory recognition. The process of recognition can be stalled by those employers who use inappropriate tactics to delay the process. Those employers who are bent on frustrating the process, welcome the occasion where there is more than one trade union applying for recognition status in order to conduct collective bargaining on behalf of their individual members.

The thinking behind trade union recognition is that it allows for the establishment of a communication platform for engagement of the employer and the trade union as the workers' representative. The door can be closed to consultation, dialogue and collaboration where the employer considers that there is no obligation to treat with the trade union. This is a victory that can only obtain where there is no statutory requirement which mandates trade union recognition. With this being the case, the state can be accused of falling short of its responsibility in safeguarding and protecting the rights of workers. It is disturbing that in any jurisdiction where the trade union is recognized and embraced, the practice of non-engagement remains a glaring feature of the industrial relations practice. It may not be correct to insinuate that this is intentional or is being condoned, but in the absence of any action to correct it, it can raise some legitimate questions on how this inaction is contributing to the practice of union busting.

The attack on the union may be significantly felt where it is unable to effectively manage and conduct its business. The trade union is known as a voluntary organization and so draws on the

services of its members. This ranges from the leadership of the organization to the shop steward at the level of the workplace.

The attack on trade union seems to be targeted at breaking the participation of the membership in the life of the organization. For example, there are times when a request has to be made of the employer for time off to enable an individual to carry out trade union duties and participate in activities. Some employers undertake to deny trade union representatives, whether an elected official, shop steward, selected or nominated member, approval to take time off from work to carry out union duties. This runs contrary to the practice where such time off requests cannot be unreasonably refused. As a matter of fact, the law in some jurisdictions prohibit any employer from refusing the request. Further, the employer is not to suffer any loss of pay during the time off granted during working hours, nor is the individual to be victimized or dismissed for carry out trade union duty.

Some other notable unfair tactics which employers may employ in an effort to reduce the support of employees for trade unions include dissuading them from joining a trade union and preventing employees from taking part in activities of the union. It is not uncommon for some employers to attempt to deny an employee who is a member of a trade union, from being accompanied by a trade union official to a grievance or disciplinary hearing. Another extreme form of behavior practiced by employers includes that of not consulting with the trade union when making a decision to layoff or make workers redundant, and/or to effect a merger or transfer of the ownership of an enterprise.

Union busting which dates back to the 1940's, is basically nothing new. It however can best be described as an unscrupulous act which is perpetrated by employers. It would seem it is a practice which will linger on, but this does not mean that it cannot be controlled. The control can be affected where there is the political will to introduce the requisite labour legislation. A good starting point can only be that of the mandatory recognition of trade unions.