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THE EMERGING CONFLICT OVER "WORKERS' SELF-GOVERNMENT" IN POLAND

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Summary: In recent weeks the Polish government's proposals on workers' participation in enterprise decision-making have been encountering criticism, especially by members of Solidarity. It is evident that there are widespread doubts as to the motives underlying the government's proposals, despite repeated claims by government and party leaders that the proposed legislation currently being considered by the Sejm will create conditions for "effective workers' self-government." In early July Solidarity gave vent to these doubts by publishing an alternative draft law that would give workers considerably greater powers to control enterprise decision-making than is envisaged in the government draft. Government and party leaders have vigorously responded to this proposal, variously describing it as "demagoguery" and "antiparty." This paper examines these developments.

Since late last year when the Polish party leadership committed itself to reforming the country's economic planning and management system, a widespread debate has developed concerning specific reform proposals. In the early stages of this debate, there seems to have been little discussion on the principles that might determine the future scope of workers' participation in decision-making at the enterprise level. At this time the various participants in the debate appeared, rather surprisingly, to be in absolute accord; they all seemed to accept that any economic reform program would need to give workers an effective say in enterprise management. In recent weeks, however, this evident unanimity appears to have been shattered by a series of events demonstrating only too clearly that any consensus that might have existed on what is now euphemistically called "workers' self-government" consisted almost entirely of an agreement on vague generalities. It is now evident that during the course of the recent debates on economic reforms there has never been any consensus on specific forms of workers' participation in enterprise decision-making.

The immediate factor leading to public discord was the four-hour warning strike held by employees of the Polish Airlines, LOT, on 9 July 1981. The employees were demanding that the government acknowledge their right to appoint the airlines' director and that the government approve the employees' nominee to that position. (1) The government insisted that it had the sole prerogative to appoint the LOT director. On the day after the warning strike the government threw down the gauntlet by appointing an air force general to the position. The airline employees responded by confirming an earlier threat to begin an indefinite strike on July 24 unless their demands were met, but on July 22 they agreed to suspend the strike pending further negotiations with the government.

The conflict with the LOT employees is a particularly problematic one for the government. The government's readiness to compromise may have been tempered by the nature of the enterprise involved in this first strike over workers' self-government. Indeed the government could take (and evidently has taken) the view that LOT is a defense related industry and, as such, it cannot tolerate a worker appointed director of LOT. It is also possible that the authorities are concerned that it would be difficult to stem a flood of demands for worker appointed directors in enterprises throughout the country if the government compromised in this sensitive case.

So far, however, the government has not explicitly voiced these concerns. Instead it has persisted in arguing that LOT's existing statutes give the government the sole authority to appoint the director and that consequently LOT employees are in no position to impose their choice on the government. Moreover, the

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- (1) For a more detailed discussion of this dispute, see Polish Situation Report/13, Radio Free Europe Research, 17 July 1981, Item 4.

government has argued that, in any case, the government's view on this issue is dictated by "the higher interests of the state." (2) Although this may be taken as an allusion to the defense related functions of LOT, it is also evident that the government is not eager to accept the principle that employees should have the right to nominate the director of the enterprise in which they work. Indeed, the authorities have been reluctant to take an unambiguous position on this issue. Government and party leaders have repeatedly stated that the economic reforms to be implemented in the near future will contain institutional changes to provide for "effective workers' self-government." However, at the same time, official pronouncements on economic reform have been ambiguous on issues relating both to the appointment of enterprise directors and to the relationship between enterprise directors and the proposed organs of workers' self-government.

From the government's point of view, the main problem is evidently that in trying to fulfill its pledges on workers' self-government it runs the risk of creating institutions that would provide a platform through which Solidarity could exercise a de facto role in enterprise decision-making. It will be a difficult task, indeed, to create effective workers' self-government in Poland without giving such an opportunity to Solidarity. Out of a total industrial work force (i.e., in state and cooperative enterprises) of 12,000,000 people, Solidarity claims a membership of some 10,000,000. With over 80% of the industrial work force as members of Solidarity the government must appreciate that "workers' self-government" of enterprises may easily be transformed into "self-government" by Solidarity.

To some extent this process is already occurring under the 1958 law that led to the establishment of "workers' self-government conferences." Although these conferences have, to all intents and purposes, been "Potemkin" institutions, it was the "workers' self-government conference" at LOT that originated the demand for airline employees to appoint their director. It is perhaps not an accident that the "workers' self-government conference" was the vehicle for these demands, even though the majority of LOT employees are evidently members of Solidarity.

The blurring of roles between workers as members of the labor union movement Solidarity and workers as participants in enterprise management is one that the government is evidently not relishing. Many officials have touched on this subject in their commentaries on the law on self-government in state enterprises that is currently being considered by the Sejm. All have emphasized that, unlike the 1958 law, the proposed law provides for the formal separation of institutions of "workers' self-government" from trade unions. This provision accords with Solidarity's position that the two functions should be separate. Nevertheless,

(2) Trybuna Ludu, 22 June 1981.

it is clear that while for their own reasons both Solidarity and the authorities may be prepared to persist with this formal distinction, in practice any effective participation of employees in enterprise decision-making will inevitably lead to the incorporation of Solidarity into the system. While the government has apparently recognized this fact, it would seem that its legislative proposals have been designed to minimize Solidarity's impact on enterprise decision-making.

The Government's Draft Law on "Workers' Self-Government"

The government's proposals on workers' self-government in state enterprises were published recently (3) and a draft law is currently being considered by the Sejm. This law will replace the 1958 law, and it is expected that it will be brought into force on October 1.

The government intends to establish a number of institutions of workers' self-government in state enterprises (4) following the enactment of the proposed law. Of these, the lowest level of workers' participation will be in general meetings of enterprise employees supported by referendums of the work force. It is proposed that general meetings should be held at least twice a year, with the direct participation of all workers in factories with less than 300 employees and representative participation in larger factories. They are to have "the right to express their own opinions with respect to all matters concerning their enterprises," but beyond that will have no formal rights to control enterprise decision-making. The only other right the proposed law will confer on general meetings is the right to demand reports from the second level of worker participation. This second level of worker participation will, according to the draft law, be the major institution of workers' self-government at the enterprise level; it will consist of a Work Force Council (WFC) whose members are to be elected by direct and secret ballot of the entire work force. The draft law specifies that the WFC will normally have 15 members, although the statutes of individual WFCs could change the size of membership. All employees with more than two years' employment in the enterprise are to be eligible to stand for election to the WFC, although the enterprise director, his deputies, plant managers, the chief accountant, the legal adviser, and any employee assigned to work outside the enterprise for more than six months are to be declared ineligible to stand.

The WFC is to have an executive body, the presidium, to oversee the implementation of WFC decisions. The presidium is to consist of the WFC chairman, one or two deputy chairmen, and the WFC secretary; the chairman and secretary are to be full-time officers and will be relieved of their normal professional duties

(3) Glos Pracy, 2 July 1981.

(4) The draft law also proposes parallel structures for multiplant enterprises and for multienterprise associations.

in the enterprise. An employee performing a "managerial" function in a political organization or in a labor union is to be ineligible for membership in the presidium. Thus party, branch union, and Solidarity functionaries are to be excluded from executive positions in the WFC. Members of the WFC (and of the presidium) are to serve for a two-year term of office, and are to be able to stay in office for a maximum of two successive terms (i.e., four years).

The draft law stipulates that the WFC must meet at least once every three months, with a quorum of half its membership. The decisions of the WFC are to be based on simple majority voting, although the draft law also stipulates that, in cases of conflict with the director, WFC resolutions can only be sustained with a quorum of two-thirds of its membership with an absolute majority of votes.

The draft law clearly differentiates between those areas in which the WFC can make "final decisions" and those areas in which it can merely express an "opinion." The WFC is to have the right to make "final decisions" in three different areas defined in the act. These are (Article 22):

1. Adoption of and changes in long-term and annual plans; adoption of annual reports; confirmation of annual accounts; investments; adoption of, and changes in, enterprise statutes; conclusion of agreements concerning the creation of joint enterprises or entering into association; enterprise construction; creation and liquidation of sport, cultural, and social centers and facilities, and of technical rationalization clubs; methods of utilization of those centers, facilities, and clubs; and principles governing the organization of referendums in enterprises with respect to problems lying within the sphere of the activities of work force self-government.
2. Giving assent to the appointment and dismissal of enterprise directors and their deputies; or appointing and dismissing enterprise directors and their deputies if such a right is provided for in either the rules governing the creation of the enterprise concerned or in an agreement on establishing a joint enterprise.
3. Expression of agreement on any change in the direction of enterprise activities and on the division of income saved and remaining at the disposal of the enterprise concerned among individual funds, as proposed by the director; agreement on the way in which these funds are to be utilized; and agreement on the disposal of machinery and equipment no longer required by the enterprise and on making donations.

The draft law stipulates that the WFC is to have the right to express its "opinion" on any matter concerning the enterprise

and its management. On the other hand, the WFC is to have the right to be consulted and to express opinions in a number of areas. For example, the draft law contains the following clause (Article 20, Section 2):

2. Appropriate bodies will be obliged to ask the work force council's opinion on the following matters: changes in dispositions concerning the creation of the enterprise concerned; its merger, division, liquidation, or organizational structure; conclusion of long-term agreements and contracts with other economic organizations and state administration agencies; cooperation among organizational units within the enterprise; protection of consumers' interests; the enterprise director's proposals concerning the granting of individual and collective prizes and other awards; proposals concerning conferment of state decorations and honors; the organization and functioning of social facilities; the distribution of resources for social purposes; and the director's decision with respect to the allocation of housing.

The draft law has, therefore, been formulated in such a way as to place strict limitations on the decision-making jurisdiction of enterprise employees. These limitations are in no way modified by clauses allowing the WFC to "express an opinion" on any matter concerning the enterprise, since such opinions cannot be enforced.

Perhaps the most controversial sections of the draft are related to the appointment of the director, who will ultimately be responsible for the management of the enterprise. As indicated above, the WFC will normally only have the right to give its approval to managerial appointments. According to the draft, the authorities who found the enterprise (i.e., central ministries or regional and local administrative authorities) are to have the right to nominate the enterprise director. Only in the case where the statutes founding the enterprise explicitly allow it can the WFC nominate the director. Since the founding authorities draw up these statutes, they should have the right to decide who will appoint the director. It remains to be seen how these regulations would work in practice, but it is evident that there is widespread suspicion in the country that the central authorities might use such regulations to secure central control of enterprise activities.

The draft bill does contain some provisions that define in more detail the proposed relationship between the WFC and the enterprise director. For example, it is proposed that the WFC should only be able to stop the implementation of a decision made by the director if (i) the decision is contrary to a "final decision" of the WFC; or (ii) if the director did not consult the WFC when he was obliged to do so. On the other hand, the draft law proposes that the director should be able to stop the implementation of a "final decision" of the WFC if (i) the decision is illegal or

(ii) if he considers that the decision might "result in a serious violation of the community's interests." If a decision is not implemented for any of these reasons, the draft requires that the issues be re-examined by both parties. If the issue is then not resolved then the dispute will be submitted to a process of arbitration, which would ultimately be settled by a state appointed arbitration authority. Such provisions would only seem to re-enforce the authority of the director vis-à-vis the WFC.

In summary, the draft law being considered by the government would appear to be guided by the principle that the powers of agencies of workers' participation in state enterprises should be strictly limited to those explicitly given to them by the law. The obverse of this is that the powers of the state and of enterprise directors should dominate except where the law requires consultation with the agencies of workers' participation. This principle would appear to be in direct conflict with the recent proposals issued by Solidarity. These proposals are based on the alternative view that, in general, the powers of agencies of workers' participation should dominate, with other economic administration agencies playing a subordinate role.

Solidarity's Viewpoint

Solidarity's position on forms of enterprise management has evidently been going through a process of refinement since it issued its "draft program" earlier this year. (5)

The draft program contained the first comprehensive statement by Solidarity on its expectations concerning the role of the enterprise in the "reformed" economic system. At this stage, Solidarity was evidently intending to outline a general framework describing its attitude both to prospective methods of enterprise management and to the scope of the authority of enterprise managers vis-à-vis other echelons of economic administration. To this apparent end, the draft program did not list specific demands on forms of enterprise management, and even went so far as to state that "detailed solutions [on enterprise self-management] may depend, among other things, on the size and specific features of an enterprise." Nevertheless, the draft program clearly expressed Solidarity's interest in those detailed solutions. It also served as a notice both to the government and to the party of Solidarity's determination to secure acceptable forms of workers' participation in enterprise management. This was expressed in the draft program in the form of a basic premise asserting that all socialized enterprises should be both "independent" and "self-governing."

According to the draft program, enterprise independence can only be secured by removing the obligation of enterprises to fulfill plan targets. Thus the proposed economic reform should provide

(5) See a translation with introduction by J.B. de Weydenthal, "The Outline of Solidarity's Program," RAD Background Report/210, (Poland), 23 July 1981.

for the development of an active market economy and should ensure that all production decisions are made at the enterprise level. The program asserted that enterprise managers would then base their decisions on profitability criteria, and that under these conditions some enterprises might be forced to close down. The document accepted that some form of centralized rationing of scarce raw materials and other inputs might be necessary, but that the range of commodities so rationed should be limited and all rationing eventually eliminated. The draft program explicitly suggested that enterprises should be "able to freely dispose of profits, including allocating them for investments." It also acknowledged that enterprises should have the right to determine appropriate levels of employment within the enterprise.

The draft program then went on to assert that the "independence of socialized enterprises makes it possible, and even necessary, to establish authentic workers' self-government" (emphasis in original). No details were provided as to the actual structure of the self-governing bodies, but the draft program stated that "the jurisdiction of self-governing bodies and of labor union organizations in the enterprise must be clearly separated." This was justified with the statement that the primary role of the self-governing body is to "represent, and bear responsibility for, the production and economic interests of the enterprise" while the union's primary task is "to defend the interests of employees on the payroll." According to the draft program, these two separate functions can be reconciled by charging the self-governing body with responsibility for consulting union organizations on all questions concerning the work force and on questions concerning the distribution of enterprise profits.

The draft program also asserted that self-governing bodies in the enterprise should be given a number of powers that would enable them to "effectively control the operations of the enterprise." It also noted that self-governing bodies should have the right to "manage enterprise property," and this right should include policy formation responsibility over the production mix of the enterprise, sales, methods of production, and enterprise investments. The draft program also noted that self-governing bodies should have "a decisive say" in the division of enterprise profits and that "the participation of workers' self-governing bodies is particularly necessary in the appointment and dismissal of directors (appointment, advising, or offering the job competitively)."

broad policy statement evidently provided the basis for further initiatives on "workers' self-government" conducted under the auspices of Solidarity's National Coordinating Committee (NCC). By late April or early May delegates from 15 major industrial enterprises had formed an ad hoc group to consider problems related to economic reform and workers' participation in enterprise management. This spontaneous group had already met on three separate occasions by May 28. On this date, the NCC recognized this group as a "consultative center" attached to the NCC. At that time, the "consultative center" consisted of a "working unit" and a

"coordination unit." The "working unit" has been charged with examining problems relating specifically to workers' self-government, while the "coordinating unit" was to coordinate various proposals presented by delegates to the center.

By July 8 the "consultative center's" activities had evidently attracted a great deal of attention and a meeting held on that date in Gdansk attracted over 3,000 delegates from enterprises all over the country. (6) The expanding organization has been formally described as the "Network of Enterprise Organizations of Solidarity." The spontaneity and rapidity of growth of "Network" makes it difficult to identify either the full scope of its activities or the number of enterprises sending delegates to its meetings. Zycie Warszawy has, however, given some indication of its significance by noting that "... each day representatives from new enterprises declare their accession to the 'Network.'" (7) The same article also noted that some delegates to the July 8 meeting were representing several enterprises at once, thus implying that the "Network" might now group together workers from more than 3,000 enterprises.

So far, the most significant initiative of the "Network" has been the publication of a draft proposal for a law on self-government in "social" enterprises. This proposal was apparently approved by the delegates meeting in Gdansk on July 8 and was published in official newspapers the following day. (8) The introduction to this proposal merely described it as the "Network's" opinion on what should be Solidarity's position on economic reforms and employees' self-government. This oblique formulation supports recent suggestions that the proposal is to be regarded more as a discussion paper containing the principles underlying Solidarity's attitude to the subject rather than as a nonnegotiable demand. (9)

Nevertheless, this new draft proposal on self-government is remarkable for a number of reasons -- not the least being that it contrasts markedly with the government's proposals already being considered by the Sejm. One formal distinction between the two proposals is that the government has proposed two separate laws (one on state enterprises, the other on self-government) while Solidarity proposes to deal with both aspects together. Perhaps the most controversial point in this proposal is its definition of a "social" enterprise. According to the proposal, a "social" enterprise should become the main organizational unit in the national economy; it should conduct independent economic activity on the basis of self-financing with an independent legal status;

(6) Zycie Warszawy (Zycie i Nowoczesnosc), 9 July 1981.

(7) Ibid.

(8) Ibid.

(9) See, for example, Frankfurter Allgemeine Zeitung, 16 July 1981.

and, perhaps most controversially, its work force should be assigned the role of managing that part of the nation's assets owned by the firm under the direction of agencies of enterprise self-government.

The proposal defines a number of agencies of self-government. Like the government's draft law, the proposal provides for general meetings of the entire work force of an enterprise, referendums, an Employees' Council and a Presidium of the Employees' Council. The major contrast with the government's draft law is to be found both in the organization and authority of the agencies. The Solidarity proposal would evidently give individual enterprises significantly greater liberty to determine for themselves the size and composition of the Employees' Council and to decide the procedures governing elections to this body. Solidarity's proposals would give enterprise employees the ultimate right to direct the activities of the enterprise.

For example, the Employees' Council would be given sole authority to decide on the following areas: decisions on the fundamental activities of the enterprise and its development policy; establishing enterprise plans; the determination of the organizational structure of the enterprise; decisions on distribution of enterprise profits; the appointment and removal of the enterprise director; the approval of the director's recommendations for deputy director and chief accountant; decisions on changes in the profile of enterprise production and services; the approval of the enterprise's annual accounts and of the director's annual report; decisions on economic and cooperation agreements with other enterprises; reaching cooperation agreements with higher agencies of economic administration; establishing principles of recruitment policy; establishing an enterprise labor code; exercising control over the general activity of the enterprise; electing the Chairman of the Employees' Council and its Presidium; decisions on buying and selling the fixed assets of the enterprise; decision on the provision of recreational, health and cultural facilities for employees; decisions on the import and export policy of the enterprise; final approval of all proposals about awards and state medals; and the exercise of control over enterprise information media.

Under the proposal, the enterprise director is defined as an agent of employee self-government who would be the chief operational officer acting on behalf of, and implementing the decisions of, the Employees' Council. Within this function he would have the authority to execute policies defined by the Employees' Council. More specifically, he would make decisions not defined as prerogatives of the other agencies of self-management including: organizing the work of the enterprise, representing the enterprise in its contacts with other institutions, and conducting the legal activities of the enterprise. The director would be appointed by the Enterprise Council on a publicly advertised, competitive basis. His tenure in office would be determined on a contractual basis; he could be removed from office either by the Employees' Council or by a referendum by the entire work force.

From the description provided above it is evident that, as far as Solidarity is concerned, the basic principle of workers' participation in enterprise management should be that enterprise management should be subordinate to the agencies of workers' self-government. Since the publication of Solidarity's proposal this principle has been contested vigorously both by government and party leaders.

In his presentation of the Central Committee's report to the ninth party congress, Stanislaw Kania commented directly on the Solidarity proposal and it is worthwhile to quote what he said at some length:

"The government draft bills on enterprise and workers' self-government have been opposed by ideas that, in fact, depart from social property and are directed toward group ownership. The operation is being developed to arbitrarily establish self-management by Solidarity of the so-called social enterprise. There is also an attempt to eliminate other partners and to actually take over economic power. This is the issue and not workers' interests.

We condemn this operation. We resolutely confirm the main line expressed in the draft bills on self-management and enterprises submitted by the government to the Sejm.

In practice the acceptance of group ownership would indicate the compartmentalization of the national economy as far as ownership is concerned; it would split management, and society as a whole would be removed from its influence over the direction of management; it would overpower the socialist state and its entire socioeconomic policy and would create opportunities for the uncontrolled growth of social inequality among workers.

We reject these ideas and trends. We have presented concrete legislative proposals that aim to reconstruct effectively workers' self-government in an enterprise and only this platform can be discussed. . . ." (10)

Other speakers at the congress, including Prime Minister Wojciech Jaruzelski, also attacked the Solidarity proposals along these lines.

It would appear, however, that these politicians have been rather disingenuous in their criticism of Solidarity's proposals. They have concentrated on criticizing the notion of a "social enterprise" contained in Solidarity's draft, ignoring entirely the draft's basic proposition that the enterprise's work force should be ultimately in control of enterprise decision making. The notion of a "social enterprise" is, of course, a significant departure from traditional concepts of the enterprise in CMEA

countries, particularly to the degree that it postulates that the workers and not the state should run the enterprise. Nevertheless, the notion behind Solidarity's concept of an enterprise would amount to "group" ownership has long been legitimized throughout the bloc with government and party recognition, and support for, cooperative agricultural and industrial enterprises. But more important, the Solidarity draft does not claim the right of "group" ownership of the enterprise assets. Instead it asserts the right of "group" control of enterprise assets with the proviso that if, and when, the enterprise is disbanded these assets revert to the state. It is difficult to see how this proposal is so different from the government and party's declared intention to introduce "effective workers' self-government," since it can only be supposed that "effective workers' self-government" implies workers' control. To the extent control of the enterprise implies some form of de facto "ownership," the authorities could justify their endeavors to concentrate on the ownership issue. It would appear, however, that the politicians have created a "straw man" out of the "social enterprise" concept. This is not to exclude, of course, that the ownership issue could again be raised in future debates over workers' self-management.

The "Network" is apparently undeterred by such criticism and is planning to hold further meetings to discuss proposals on workers' self-government. First Secretary of Poznan Voivodship Edward Skrzyczak addressed the congress on this point, charging that Solidarity's proposals were an "antiworkers' device" and "of an antisocialist character to which we, as a party cannot agree." He went on to note that on July 23 the "Network" would hold a meeting at the Cegielski Machinery Plant in Poznan "to launch an all-Poland struggle for self-government." (11)

These activities by Solidarity would seem to indicate that despite the rhetoric the party and government have so far failed to convince 80% of the work force (i.e., the members of Solidarity) that the proposed law will create effective institutions of workers' participation in enterprise management.

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(11) Ibid., 19 July 1981, 2025 GMT.