

# **A Doctoral Thesis**

## **Centralised Bargaining Reform in the *New South* Africa and the Role of Employer Associability**

**A dissertation submitted for the degree of Ph.D. (Econ)  
Faculty of Economics  
London School of Economics**

**Eddy Donnelly**

**July 2006**

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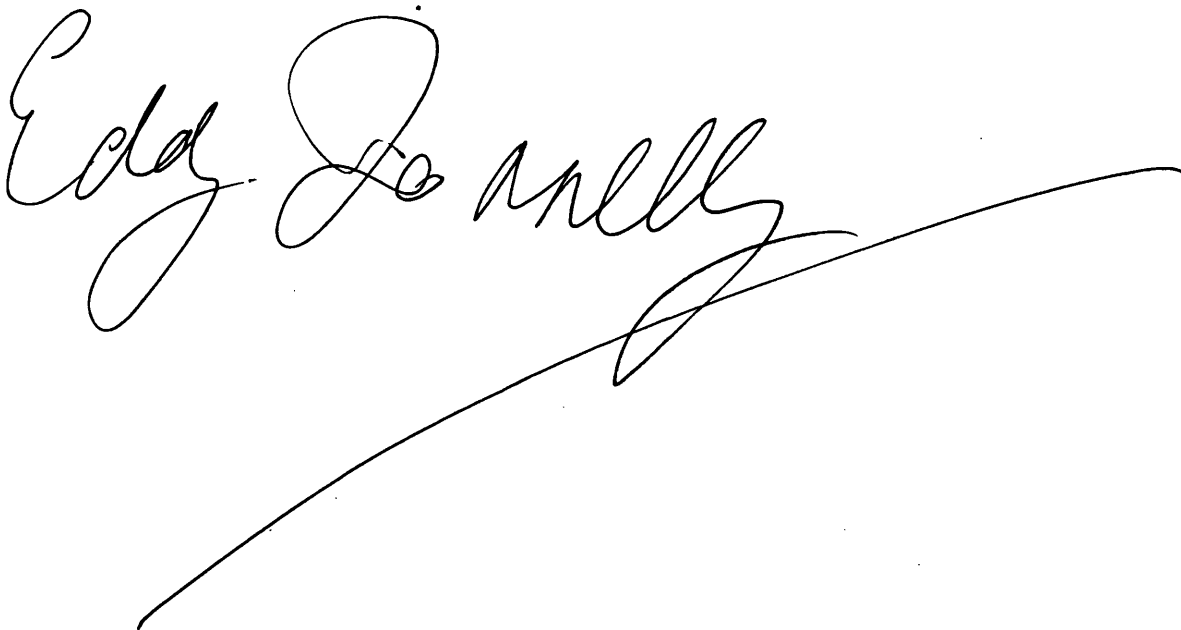


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# **‘Collective Bargaining Reform in the *New South Africa* and the Role of Employer Associability’**

## **ABSTRACT**

**‘Things fall apart, the centre cannot hold’ (WB Yeats)**

This thesis investigates regime change to South African employment relations following the ending of apartheid. The focus is on a revised centralised bargaining system that forms the centrepiece of a corporatist structure intended to help build democracy and transform the economy post liberation. The first part of this study describes the backdrop against which these bargaining reforms have taken place. Ideal-type modelling and ‘path dependent’ accounts of what has transpired post apartheid provide the means by which this new employment relations system is explained and multi-employer bargaining contextualised. Particular attention is paid to the part played by institutional actors in bringing these reforms about.

Focus then switches to the employer alone. Through drawing on mostly European ideas as to what ‘collective action’ means for employers the argument is made that employer associability (that is, their propensity to combine together and act collectively) proves integral to the durability of South Africa’s experimentation with corporatism and ‘organised’ employment relations. This prompts the question as to whether there is an ‘employer offensive’ against centralised bargaining under way in South Africa similar to that observed in parts of Europe. Field studies, in the form of two cross-sectional surveys and interviews with selected informants, were designed to test for its emergence within South Africa.

Thus, empirical work seeks to address three specific research agendas. First, how much consent is there for industry bargaining overall? Second, what underlying thinking

informs individual manufacturers' decisions to associate or not? Third, how might both these be changing and why? Findings suggest the presence of critical levels of associability sufficient to warrant buttressing by the state in order to prevent any further weakening in corporatism. Conclusions are drawn in ways that assess future prospects for industry bargaining in the *new* South Africa and identify possible trajectories and befitting public policy interventions.

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## **List of Abbreviations**

ACAS	Advisory, Conciliation and Arbitration Service (UK)
AHI	Afrikaner Handelsinstituut
ANC	African National Congress
BEE	Black Economic Empowerment
BMR	Bureau of Market Research
BSA	Business South Africa
BUSA	Business Unity South Africa
CAIA	Chemical and Allied Industries Association
CCMA	Commission for Conciliation, Mediation and Arbitration
COFESA	Confederation of Employers in South Africa
COM	Chamber of Mines
COSATU	Congress of South African Trade Unions
EU	European Union
GEAR	Growth, Employment and Redistribution Strategy
GNU	Government of National Unity
IFP	Inkatha Federation Party
ILO	International Labour Organisation
IMF	International Monetary Fund
LRA	Labour Relations Act (1995)
MBA	Master Builders Association (Cape Province)
MDM	Mass Democratic Movement
NABC	National Association of Bargaining Councils
NAFCOC	National African Federated Chambers of Commerce
NDF	National Defiance Campaign

NEDLAC	National Economic Development and Labour Council
NEF	National Economic Forum
NMC	National Manpower Commission
NP	The National Party
NUM	National Union of Mineworkers (South Africa)
NUMSA	National Union of Metalworkers of South Africa
PSCBC	Public Service Co-ordinated Bargaining Council
OECD	Organisation for Economic Co-operation and Development
OHS	October Household Survey
RDP	Reconstruction and Development Programme
SACOB	South African Chamber of Commerce
SACP	South African Communist Party
SAF	South African Foundation
SALB	South African Labour Bulletin
SALFS	South African Labour Flexibility Survey
SIFSA	Steel and Industry Federation of South Africa
SME	Small and Medium-Sized Businesses
SWOP	Sociology of Work Unit (Wits University)
TCMA	Transvaal Clothing Manufacturers Association
UDF	United Democratic Front
UNISA	University of South Africa
VET	Vocational Education and Training
WPF	Workplace Forum
WTO	World Trade Organisation



## **Chapter 1. Introduction: a topic overview**

### **1.1 Introduction**

South Africa is one of those countries where employment relations has figured prominently in the struggle to both liberate and transform the whole of society and so warrants our interest for this reason alone. This is because a re-institutionalisation of its employment relations around the fundamental idea of democratic or social corporatism was placed centre-field when it came to political liberation and nation-building.

Apartheid's legacy and labour's political and industrial strength ensured that this would be a likely outcome. Not surprisingly, a number of demands are now made of this new employment relations regime. The hope is that regime change can help transform the country by contributing to its political democratisation, economic adjustment and racial assimilation. This weight of expectation is enormous and its prospects for success uncertain. However, one reason for undertaking this doctoral thesis is to review not just how much progress has been made to date but how far this *new* employment relations has to go before it can be said to have contributed to a South African renaissance as a modern democratic state and as an emerging economy.

As illustrated through this country study, the resilience of neo-corporatist institutions and their fitness for purpose rests on the capacities of the parties to engage fully with what is on offer under an articulated bargaining system. This gives rise to a number of questions that in themselves ensure an ongoing interest from a comparative perspective in South Africa's experimentation with this enlightened form of social corporatism. For example, will this re-institutionalisation of its employment relations prove sufficiently robust, given a labour history characterised by racial segregation and workplace adversarialism but also given the requirements of a recently liberalised economy?

Integral to this broader concern is the extent to which these key corporatist actors are prepared to identify with these new and revised corporatist structures and processes. One particular worry has employers choosing to opt out of any central bargain in sufficient numbers as to place this whole corporatist project in jeopardy. The question arises as to how likely is this prospect to occur and, if so, how might public policy in South Africa safeguard these fledgling institutional arrangements in ways that buttress the co-determinist character of this *potentially* transformational system of employment relations? In asking such questions we start to define a research agenda appropriate to the scope of this doctoral thesis. Searching for answers can also provide structure to the narrative driving this whole critique of South Africa's centralised bargaining reforms.

## 1.2 Topic scope

Political settlement, not violent overthrow, brought an official end to apartheid rule in South Africa in 1994. Similarly apartheid labour relations was also displaced by means of a tripartite dialogue between organised labour, capital and, first, apartheid authority itself and, then, a newly formed Government of National Unity. This political bargaining culminated in a formal agreement in 1995 that laid the legal foundations for an extensive programme of reform. Its purpose was to bring about a transformation in employment relations to match that proposed for the wider economy and society (see, for example, Adler and Webster 2000; Baskin 2000; Erickson and Kurivilla 1998; Du Toit 1995; Macun and Webster 1998). As a consequence, new and revised bargaining and consultation institutions have been introduced at the macro, meso and micro level (see, for example, Du Toit *et al.* 1996 3-39) that, in harness, form a corporatist<sup>1</sup> structure

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<sup>1</sup> There is an abundant (mostly 'European') literature that outlines the various models of corporatism deemed possible and the significance differences that lie between them. For now, the terms 'corporatism' and 'corporatist' are to be used only in their generic sense unless stated otherwise. Certainly, 'neo-corporatist' (eg: Baccaro 2002a); 'democratic' (eg: Webster 1995, 'bargained' (Baskin 1993a and 1996) and 'social' (Dowues Dekker and Johnsen 1998) are all terms that have been applied to the type of corporatism that has evolved in post apartheid South Africa. There are subtle differences of meaning

within which social concertation processes and cooperative behaviours were expected to flourish (Baccaro 2003; Baskin 2000).

Making social corporatism an embedded feature of South Africa's transformed employment relations regime became a desirable policy outcome. However, its continued success is conditional upon a certain level of *co-operation* and *coordination* taking place between peak, sectoral and enterprise levels (vertically) and across firms within the same industry (horizontally). Fundamental to any such *articulation* is the widespread use of sectoral agreements that encompass the majority of workers employed within designated industries or sectors. This requires employer associations and trade unions, as mandated negotiators, to be demonstratively representative of this majority in order to retain legitimacy with, and speak authoritatively for, their respective constituencies (*after* Lehmbruch 1982; Traxler 1993 and 1995; Vatta 1999).

Within South Africa, a network of bargaining councils has been established as the means by which industry bargaining<sup>2</sup> is to take place. Centralised bargaining, in the form of industrial councils, had always featured prominently under apartheid labour relations. But, in effect, apartheid regulation ensured that industry bargaining was only to be conducted by predominantly white trade unions and employers and its coverage confined almost exclusively to white workers. Now, under enabling framework

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between each but at this stage such differences matter little. For now, the 'European' nomenclature of corporatism is to be applied but, later, there is a necessity to differentiate between neo-corporatist structures and social concertation processes.

<sup>2</sup> For the purposes of this work, the terms 'sectoral' and 'industry' are to be used interchangeably, unless stated otherwise. In practice, several possibilities present themselves. National bargaining councils may be registered under the Labour Relations Act (s 29) by reference to a whole sector or industry. Indeed, as in the case of the Chemical Industries, the council can even be organised into a number of discrete chambers covering particular industries within a larger sector. In contrast, as with the building industry, a number of councils may operate on a regional basis. Within the South African literature, 'centralised bargaining' has traditionally been used to describe meso-level bargaining arrangements. This author, too, will call on this convention as and when appropriate.

legislation (Labour Relations Act 1995) any registered trade union and employer association can negotiate with each other as delegated bargaining agents on behalf of union members and employers, irrespective of their racial categorisation (s.27). All-importantly, however, these same legislative reforms ensure that South Africa's centralised bargaining system remains essentially *voluntarist* in character for both registered parties and those they represent – workers and employers.

As to the latter, individual firms can either choose to be 'party' to the process through their membership of a registered employer organisation or, alternatively, remain as unassociated 'non-party' employers. Whilst 'party' employers tend to partake fully in bargaining council proceedings by virtue of their associational membership, 'non-party' counterparts automatically exclude themselves from this process through their continued *disassociation*. Nevertheless, the possibility of shadow bargaining effects or of extending agreements to the workers of 'non-party' employers ensures that this type of bargaining impacts on all employers in the same sector to some extent. In sum, 'party' employers are actively engaged in industry bargaining, 'non-party' ones passively so. This dichotomy raises certain questions that this thesis sets out to address: what might explain these contrasting outcomes? Why should it matter to custodians of the policy? What has been their impact on the bargaining council system particularly and this new employment relations regime generally?

### **1.3 Core propositions**

A fundamental premise underpinning this thesis throughout is that centralised bargaining outcomes have become pivotal for those wanting *articulation* to lie at the heart of South Africa's system of social corporatism. This type of bargaining supposedly works whereby higher-level agreements frame and govern the content of

lower-level negotiations and discussions, the outcomes from which also likely feed and inform the agenda of peak-level dialogue. As envisaged for South Africa, multi-employer agreements provide the means by which such articulation might supposedly be achieved (for example, Klerck 1998: 103). Not only can they set norms both within and across industries but also contextualise and inform the conduct of any negotiations taking place at the enterprise level, not just through these bilateral agreements but also through filtering what originates from peak tripartite dialogue. Likewise, they can also play the same intermediary role in influencing social, economic and political exchanges at the higher-level by taking aboard agendas and outcomes originating from lower-levels. These assumed characteristics render industry bargaining *central* to any proposed system of articulation. (*after* Crouch 1993: 54-55 and 286-29).

For such encompassing agreements to become commonplace, delegated bargaining agents operating within council chambers are required to possess a level of resource, competence and commitment (herein ‘capacity’) equal to the task of making and reaching agreements that extend across any designated sector or industry. It can be assumed that *capacity* problems are less daunting for trade union than employer representatives sitting in bargaining councils. This is because trade union members appear more readily drawn to the attractions of industry bargaining compared to employer counterparts. Evidence for this comes from the respective positions adopted at the time that the whole matter was first up for discussion as part of a broader political negotiation over the whole drafting of the new legal dispensation for South Africa in 1995. On the union side, all three major federations (of six) were united in their determination to see centralised bargaining form an integral feature of any post apartheid political settlement and become institutionally strengthened, even to the extent of arguing for compulsory imposition initially. By contrast, centralised bargaining proved to be a much more contentious policy for South Africa’s more divided business

community ((Du Toit *et al.* 1996: 20-32). As early as the late 1980s there appeared to have been sections of business ready to reject centralised arrangements on grounds of perceived rigidities and in favour of more discretionary enterprise or plant bargaining. Meanwhile, the SME sector sought blanket exemption from whole or part industry agreements. Any statutory duty to bargain at this or any level was to be resisted implacably (after Du Toit *et al.* 1996: 22-23). Some common reasons for this disparity of view on the re- institutionalisation of centralised bargaining are not hard to find.

First, in defending sectional interests, union negotiators are keen to deploy ‘the Device of the Common Rule’ with which they try to enforce uniform pay and conditions standards as a protection to all employees working in that industry (Webb and Webb 1913, Part 111: Chapter 111). Once decreed, this Common Rule is expected to extend to all workers automatically, irrespective of union membership. South African unions are no exception in this regard. Indeed, standardisation of pay and conditions is especially appealing to an independent labour movement reared on the experience of an apartheid labour relations regime that deliberately segregated the way work, wage and training outcomes were to be determined within the formal sector along explicitly racial lines (see chapter three). In addition, the prospect of an informal employment sector forever undercutting any localised union wage premium makes industry wage setting even more alluring for hard-pressed union negotiators. For South African unions and their federations, articulated bargaining is perceived as improving the chances of industry pay norms taking hold and a racially skewed wage spread becoming narrowed as a consequence. This is because the more centralised and bipartite negotiations become the greater the bargaining coverage overall – always a natural ambition for any labour movement. For this rationale alone, we might reasonably expect trade unions to make multi-employer (as opposed to single-employer) negotiations their bargaining level of

choice given its potential for determining industry-wide wage pay and conditions by virtue of an extended bargaining coverage (*after* Traxler 2003 a: 18-19).

The same might not be so easily said of South African employers who previously had seen virtue in centralised bargaining (in the form of industrial councils). Here, bounded logic always has employers rationally choosing individual over collective exchange relations given their superior access to resource power (*after* Traxler 1995: 33). Indeed, conventional wisdom only has an employer bargaining collectively with workers when obliged to do so either under state regulation or trade union imposition (or both) and, then, preferably, only at the level of the single enterprise.

Indeed, history shows bargaining centralisation to be popular with employers only when seeking to enhance their bargaining power by taking wages (and thereby output prices) out of competition, neutralising the impact of trade unions on the workplace and/ or frustrating their deployment of ‘whipsawing tactics’ against isolated employers ( Sisson 1987: 189-191). It is these cartelizing properties that have secured the approval of business for organised bargaining in the past and help explain why the old industrial council system that operated under apartheid continued to meet with the approval of South African business (see, for example, Bendix 1996; Klerck 1998; Macun and Webster 1998). It is equally plausible that an employer concern for orderliness and stability in the workplace (and beyond) following the turbulence of the apartheid years and the upheavals of political liberation makes multi-employer bargaining as appealing to business (and the state) as previously. But are we right to assume an individual employer’s approval for organised bargaining to be so unconditional given South Africa’s re-entry into the new economic order of globalisation and when accompanied by the importation of neo-liberal orthodoxy?

As South Africa's previously sheltered economy becomes more exposed to internationalised trade and finance we might expect the business community to become increasingly concerned with issues around competitiveness, business restructuring, labour flexibility and technology use. If so, then we might also reasonably expect a growing disenchantment from some employers with centralised bargaining arrangements that are thought to impede their ability to contend with new demands. In short, changed imperatives make the perceived 'virtues' of decentralised bargaining look more appealing to beleaguered employers facing uncertain futures than the assumed 'vices' of centralised bargaining. Arguably, at the very time that bargaining centralisation has begun to gain favour within the labour movement, employers have felt increasingly drawn to the attractions of decentralised bargaining (Klerck 1998: 102). Certainly, there is already case study evidence to suggest that employers in particular sectors (for example, clothing, footwear and construction) are finding ways to by-pass industry bargaining processes (for example, Webster and Omar 2003; Wood 2000). Such conjecture over changes to employers' outlook in South Africa is also based on evidence from other (mostly European) countries where centralised bargaining has been put under strain following employer disengagement (see, for example, Crouch and Streek 1997; Crouch and Traxler 1995; Hyman and Ferner 1998). This raises the prospect of South African business becoming more antipathetic towards industry bargaining the further away from the time when the new dispensation was first introduced in the euphoria of liberation. This conjecture raises a key question for us. How many employers might hold to this view and are they sufficiently critical in number to jeopardise the chances of single-table employer bargaining becoming an embedded institutional presence within South Africa's *new* employment relations system.



Given these *potential* changes to an employer's mindset, tolerance of industry bargaining cannot be so readily assumed, as in the apartheid past. In contrast, we might reasonably expect to see employers adopting a more sceptical stance when evaluating the merits of centralised as opposed to decentralised bargaining. Any such calculus will impact ultimately on their decision to act *collectively* over employment related matters. As a consequence, newer contingencies following political liberation and economic liberalisation make the likelihood of a more diverse set of responses from within the business community more probable. Such fragmentation can *potentially* undermine the organising capacity of employer associations and, thereby, the institutional capacity of bargaining councils to the overall detriment of articulated bargaining, economic coordination and organised employment relations – attributes highly prized by those advocating South Africa's continued experimentation with social corporatism. In this sense, employers now become potentially the 'weakest link' in South Africa's neo-corporatist chain.

#### **1.4 The central argument**

It would seem that the same arguments that make industry bargaining institutionally so appealing to South African trade unions might be the very ones that could deter employers henceforth. A union conviction that past iniquities are best overcome by means of appropriate employment relations institutions and processes favours the centralisation of collective bargaining and the promotion of highly organised systems of interest representation. In contrast, a perceived need to address productivity problems and enhance flexibility predisposes sections of the business community towards decentralised bargaining and diversity in the way interests are to be mediated within any employment relations regime. This tension poses a huge dilemma for those charged with formulating policy over South Africa's new corporatist employment relations and

one for which there is an existing policy compromise that, anecdotally, some employers appear uncomfortable with.

When an articulated bargaining system is essentially voluntarist but rests on industry bargaining becoming the norm, crucially it is the behaviour of employers, more than trade unions, that command our attention. This is especially true when it comes to the aggregate decisions of employers whether to combine together and so become party to industry bargaining in the first place. In consequence, their *propensity* to associate or disassociate, and thereby bargain either collaboratively or competitively, has a fundamental bearing on what happens to South Africa's *new* employment relations regime as it moves from an embryonic to a more mature phase of its development. Reflecting on employers and their attitudes to both association and bargaining centralisation becomes a proper focus of debate concerning future prospects for South Africa's corporatist project. Examining both associability (that is, the propensity to associate) and disassociability (that is, the propensity to disassociate) within a South African context allows us to assess the chances of employer associations becoming organisationally strong and of industry remaining the primary *locus* of bipartite negotiations. It follows that a strong institutional capacity is dependant on there being high levels of employer engagement with centralised bargaining through membership of employer associations<sup>3</sup> that then proceed to act as delegated bargaining agents for these associated employers. In the event, such participation is far from certain given that associated membership is voluntary and, as such, a matter of individual employer choice. The aggregated decision-making of South African employers now begins to matter greatly to those advocating the use of industry bargaining in facilitating

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<sup>3</sup> The terms 'association' and 'organisation' are to be used interchangeably when referring to those bodies primarily established for the purposes of representing employer interests in negotiation and dialogue with trade unions, state agencies and government.

economic coordination and a system of articulated bargaining that is multi-tiered but interlocking.

Thus, the greater the proportion of employers prepared to associate, the more powerful an institutional force industry bargaining becomes as a result. In short, the density of associational membership within a sector becomes a crucial determinant of the future prospects for centralised bargaining within a transforming employment relations regime like that in South Africa. What counts is that a critical level of associability is reached sufficient for coordinated bargaining to occur. Disregarding this principle of *'critical associability'* may result in adverse consequences for policy advocates wishing to see a coordinated bargaining system take hold in South Africa. The worry is that significant employer defections from association (ie: 'disassociation') equates to a disengagement from sectoral bargaining activity such that bargaining councils become weakened and their capacity for wage coordination undermined. The central proposition is that this spiral into chronic decline can only be to the overall detriment of embryonic social corporatist processes. Such reasoning suggests that a critical masse of employers is required to associate before sectoral bargaining can fulfil its remit and become institutionally consolidated (Traxler 2003b: 206-207). Thus, *'critical associability'* is not just a sufficient condition but a necessary one for the bargaining council system to perform a desirable coordinating function within the economy. For this to happen, employers have to be willing to engage with these institutions and their related processes in the first place. But questions arise as to the prevailing circumstances that might encourage or deter association and to the factors at play for employers when deciding on their best course of action. The broader theoretical justification for exploring employer intentions in this respect is set out below.

## 1.5 Some underpinning concepts

The particular rationale for this research is grounded in a number of theoretical foundations. Taken together, they place industry bargaining and the propensity of employers to engage with it at the epicentre of a system, previously characterised as being racially authoritarian (De Villiers and Anstey 2000), and now to be characterised as neo-corporatist, democratic and inclusive (Webster and Adler 2000). All three of these conceptual building blocks are to be derived from a useful euro-centric literature that examines aspects of employer behaviour within the context of markets and economies that are organised. The contention is that, in terms of its relevance and explanatory power, this literature still holds a particular resonance for an emerging economy like South Africa's.

The *first* conceptual framework embraces a number of debates and controversies regarding the rationale underscoring an employer's propensity to associate or not. This body of work draws on collective-action theory and, to a lesser extent, class and organisational theories. More especially, this framework builds on the 'logic of collective action', first propounded by Olsen (1965 and 1982). Discussion centre on reasons why collective association can be simultaneously attractive and problematic for employers and similar yet different when compared to collective action decisions for workers (for example, Offe and Wiesensthal 1980; Olsen 1965; Streek 1992a).

Meanwhile, others in the field have explored the power relationship between employer associations and their members, the tensions that this can give rise to and the resources each can call upon (for example, Traxler 1993, 1995, 1998 and 2003 a and b; Van Waarden 1995). This body of work appears to pay dividends particularly when used to investigate the capacity of associations to both organise and represent employers collectively. Meanwhile, other commentators have reflected upon the phenomenon of

global capitalism and what this signifies in terms of a changed relationship between the employer and the state and for organised as opposed to unorganised economies (Crouch and Streek 1997; Crouch and Traxler 1995; Streek 1992a and b). All these strands have something useful to offer in terms of illuminating the rational-choice deliberations behind employer decisions to act collectively. As will become apparent, an established literature on employer rationality has greatly informed the development of this thesis, its central argument and the design of fieldwork that tries to uncover the intentions of South Africa's manufacturing employers towards their *associability* and *collective action*.

A *second* body of work explores the efficacy of those organised economies that value market and bargaining coordination compared to those that do not and the conditions necessary for their emergence (see, for example, Soskice 1990a and b; Sissons and Margison 2002; Traxler 2003b). Arguably, a close reading of this literature suggests the following. Centralised bargaining appears integral to South Africa's idiosyncratic on social corporatism because it acts as the linchpin in a revised system of interest mediation in which 'articulation' and 'economic coordination' have become highly prized public goods (*after* Crouch 1993 and 1999; Crouch and Traxler 1995; Soskice 1990a). However, it is readily conceded that there was little explicit intention on the part of those drafting the original framework legislation for there to be an explicit form of 'institutional interlock' (*after* Dore in Crouch and Streek 1997: 26-27). Nevertheless, the desire for coordination to evolve between peak, industry and enterprise levels can be inferred from the purpose and objects clause of the originating legislation. Here, the declared ambition is 'to advance economic development, social justice, labour peace and the democratisation of the workplace' in part through the promotion of 'orderly collective bargaining' and that at both sectoral and enterprise level (Labour Relations Act 1995: s.1). Accordingly, bargaining councils have been vested with powers that

enable them to refer matters upwards for consideration at peak level and to delegate matters downwards for consultation in the workplace.

A *final* focus of interest relates to a discourse that has only recently evolved and is one that concerns itself with the threat posed to corporatist structures such as centralised bargaining from a changed economic order brought on by economic liberalisation world-wide. The contention is that individual companies are beginning to show preference for an autonomy and independence of action, separate from that of their associations (for example, Crouch and Traxler 1995; Traxler *et al.* 2001; Traxler 2003a). Why employers might be increasingly ambivalent towards associability is to be explained by their growing impatience with a type of interest mediation and level of compromise that is perceived detrimental to their pursuit of (competitive) flexibility. This disenchantment with sectoral bargaining in particular and organised employment relations generally becomes stronger the more they feel themselves pressured into operating in increasingly hostile and demanding product market environments (eg: Crouch and Traxler 1995; Lash and Urry 1987; Thelen 2002). All of this is to suggest that it is the individual employer who has now become a key actor in any contemporary employment relationship even when trade unions themselves have been instrumental in establishing corporatist arrangements initially (notably Swenson 1989 and 1991).

The assertion is that employers, generally, have begun to mount an ‘offensive’ against centralised bargaining arrangements on the grounds that the latter legitimise unaffordable rigidities in working practices whilst simultaneously obstructing labour flexibility (for example Lange *et al.* 1995; Pontusson and Swenson 1996; Thelen 2002). The question now arises as to whether this same phenomenon applies to the *new* South Africa given the presence of a strong labour movement that has helped transform the institutional landscape and that continues to exercise considerable political and

industrial muscle, post liberation (Adler and Webster 2000). Indeed, ten years into this new labour relations regime and some commentators have duly noted attempts by employers at bypassing bargaining councils through the promotion of enterprise bargaining and individualised contingent pay regimes (Webster and Omar 2003: 210). Together, these three themes help to define a research agenda that examines manufacturing employer responses to revised bargaining arrangements in the *new* South Africa and their part in consolidating corporatist structures, most particularly a revised centralised bargaining system.

## **1.6 Why South Africa?**

Consequently, the central dilemma facing South African employers over their associability and its significance for South Africa's experimentation with social corporatism sits at the heart of this thesis. The focus is on the extent to which debates about *associability*, and the notion of '*critical associability*' in particular, have merit within the context of post apartheid South Africa. Indeed, the very choice of South Africa as the focus of this country study is justified on two grounds.

*First*, this analysis of associability takes place against a backdrop of a country bent on fundamentally transforming its whole employment relations system (Erickson and Kurivilla 1998). Hence, this particular study is nested in a particular setting that has an *emerging* economy that is partly highly developed and partially under-developed but one that is also becoming increasingly liberalised. This has a particular significance for manufacturing employers - the very focus of this empirical work. Equally, post-liberation demands are being made of employers to discard blatant racial discrimination and despotic management practices associated with an 'apartheid workplace regime' (von Holdt 2000). Instead, a combination of worker expectations, changed political

cultures and legal requirements oblige employers to implement affirmative action and ‘voice’ initiatives along with training and development opportunities that symbolise the reparations to be made to non- white workers.

*Second*, as a further legacy of apartheid, these same employers now find themselves confronted by a strong labour movement that can be as well organised in the workplace as it is influential within policy circles. Added to this, a new employment relations regime has been introduced by a liberationist government in political alliance with the biggest union federation (COSATU) that has considerably strengthened employment protection rights for workers and organising and bargaining rights for trade unions. In short, an urgent *equity, efficiency and competency* agenda frames any South African employer’s decision to engage with new or revised employment relations institutions. These contextual reasons alone justify choosing South African manufacturing employers as the focus for this particular study of associability, for discovering their general disposition towards centralised bargaining and for reaching some overall assessment as to its durability, given the changes to their world order. In particular, the study provides us with an opportunity to discover what *contingencies* particular to South Africa matters to them when deciding whether to associate and engage fully with the centralised bargaining system.

## **1.7 Structure and organisation of the thesis**

This whole study is based on the micro-level of the employment relations system and attempts to analyse the acceptability or otherwise of industry bargaining to a sample of South African manufacturing employers having to confront uncertainty and change. It has been undertaken by reference to a number of research themes that, in turn, are informed by various debates reflecting both a South African and European outlook.

*First*, some discussion is given over to various policy options available to countries like



South Africa when contemplating fundamental regime change to their employment relations. An explanation is also provided as to why South Africa chose to take the policy direction it did. *Second*, it is also useful for us to understand why reconstruction of South African employment relations took the form it did and how it has evolved subsequently. Central to this discussion is the extent to which South African institutional arrangements can be characterised as being essentially corporatist and the challenges to be overcome in making it embedded. *Third*, this critique of bargaining reform raises further discussion as to the preparedness of the institutional actors (but especially employers) to engage meaningfully with a transformed employment relations system that is designed to elicit cooperation from the parties. *Finally*, answers to particular research questions are sought concerning the following: employer intentions towards industry bargaining in South Africa and its prospects for the future; those factors that influence employer thinking on associability and collective action; and the policy repercussions arising from any such findings by reference to coordinated bargaining and organised employment relations.

Not surprisingly given the above focus, the thesis itself is organised into four discrete but linked sections. The first explores what ‘regime change’ has come to mean for post apartheid South Africa. The second makes the case for considering the employer to be ‘the weakest link’ in South Africa’s neo-corporatist chain of institutional reform whilst the third tries to discover what matters to South African employers concerning reform of industry bargaining. This leaves the final part for evaluating the significance of this country-specific study both in terms of a potential employer impact on South Africa’s reformed system of employment relations and any policy implications this holds for those wanting to see the maturation of a revamped bargaining institution.

In **Part one** of this thesis, *chapter two* locates the policy pathway chosen to transform South Africa's new employment relations system by reference to a broader theoretical framework. Its purpose is to identify the gamut of idealised policy types on offer to those states like South Africa bent on dismantling previously authoritarian labour relations regimes and replacing them with ones more conducive to democratic nation-building. This conceptual typology allows us to identify the particular strategic pathway chosen by South African policy-makers. The framework also provides us with an analytical means by which to critique how far this new employment relations has evolved post liberation and the general direction in which it is supposedly heading. The actual course of this transformation and its implications for the central thesis are then tracked in more detail over the next couple of chapters. To this end, *chapter three* identifies the defining features of apartheid employment relations, subsequent resistance to it and a partial reform of it. Such an historical treatment invites comparisons to be made in *chapter four* with current arrangements by reference to key design principles that inform the replacement employment relations regime as well as to various attributes that help define reworked institutional structures. This same chapter explores the true character of this regime change, its limitations and the challenges to be overcome prior to its consolidation.

Such a critique of South Africa's *new* employment relations provides us with the necessary analytical background for what is to be explored in **part two** of the thesis. This entails fuller discussions as to the vulnerability of these revised employment relations arrangements -most notably industry bargaining -that emanates from an enhanced economic status for the employer, given South Africa's recent exposure to trade liberalisation and intensified competition. Thus, *chapter five* explores the significance of arguments that make employers central to the proper functioning of

corporatist institutions intended to make employment relations organised and bargaining co-ordinated.

Meanwhile, *chapter six* introduces another ‘euro-centric’ debate to explore the meaning and nature of employer associability itself by reference to two particular dimensions. The first relates to the fundamental logics at work when employers deliberate whether to associate in the first place and how these might prove distinctive. The second examines the propensity of employers to forego their autonomy of action and not conform to the discipline of associational membership, especially in light of more recent developments within advanced capitalism. Of particular interest are the *rational-choice* criteria used by employers to determine whether associability makes sense given changes to their priorities and interests compared to the past. *Chapter seven* acknowledges the need to contextualise this broader discussion of associability in ways that takes account of what has transpired in South Africa and what issues and debates are peculiar to it. This first requires us to examine the nature and role of the bargaining council system itself before identifying the debates that have sprung up around its development that are germane to the country’s business community and a model that encapsulates the strategic choices facing employers. Together, these chapters provide the conceptual underpinning behind an empirical investigation into what might be driving South African (manufacturing) employers to associate or otherwise. The arguments and perspectives rehearsed in these chapters regarding employer attitudes towards collective action greatly inform the subsequent design of the fieldwork as set out in the ensuing chapter.

As a consequence, **part three** of the thesis gives an account of the empirical work undertaken, the findings themselves and their significance in terms of the arguments developed previously. Thus, *chapter eight* provides us with a description of the research

approach taken, the design of the field work along with some discussion of the strengths and limitations of the surveys. Discussion of methodological issues in this chapter allows for the presentation of findings in *chapters nine and ten* along with an analysis of their overall significance for us. Results from two cross-sectional surveys are first compared in ways that examine the views of both samples towards various aspects of associability, the extent to which these might have changed from one period to the next and why this might prove to be so. To this end, both *descriptive* and *exploratory* statistical techniques are deployed in *chapters nine and ten* as a means of revealing the attitudes of employer respondents towards employer associations in general and their involvement with bargaining councils in particular. Such methods are intended to provide statistical insight into respondents' propensity to associate and how this might be changing given their experience of changes to political, economic and employment relations environments over the course of both surveys. Particular focus is also given to the constructs at play in the minds of employers when deliberating upon various issues surrounding employer associability. Further analysis and interpretation of these findings is then undertaken in *chapter ten* with a view to exercising some judgement as to the overall state of employer associability within a South African manufacturing context. To assist in this endeavour, the qualitative observations of key *informants* are also drawn upon to add further credence to the analysis and to augment evaluation of the data.

Assessing the overall value of these findings prepares the ground for the **fourth** (and concluding) **part** of the completed thesis. This requires the final chapter (*eleven*) to summarise for us what this study has to say about employer associability in South Africa generally and its centrality for organised systems of employment relations and where political and economic transformation is ongoing. As importantly, this review

also entails identifying certain policy ramifications for newly democratised countries like South Africa that are wedded to institution building along neo-corporatist lines. To this end, certain policy implications are drawn by reference to what is thought useful in terms of policy guidance, reinforcement and development.

## **Chapter 2. Policy discretion for transforming states? The case of the *New South Africa***

### **2.1 Introduction**

This paper reviews the kinds of public policy thinking available to transforming countries like South Africa that are minded to bring about fundamental regime change to existing employment relations arrangements, most likely in pursuit of broader nation-building goals. Analysis is conducted by reference to a policy classification that has been devised in the spirit of ‘middle-range’ theorising, being neither empirically grounded nor highly abstracted (Hyman 1994: 169). In truth, and not uncommonly, this type of modelling amounts to no more than ‘multifactor hypothesising’ and, as such, is vulnerable to criticism on grounds of exhibiting weak explanatory power (Kelly 1998: 22-23). Nevertheless, such conceptualisation is still worth undertaking despite acknowledged shortcomings. This is because exploring the nature of policy formation in this fashion helps to set the foundation for a more considered treatment of public policy reform in countries like South Africa seeking to transform the way its labour relations is overseen.

In South Africa’s case, a re-institutionalisation of its employment relations ten years ago became an integral part of a ‘negotiated revolution’ that officially terminated apartheid rule (Adam and Moodley 1993: 59-70). The terms of this political settlement, including that for employment relations, continue to provide the policy blueprint for all subsequent attempts at nation-building and consolidating democracy that we still see in play today. However, the purpose of this paper is not just to identify the strategic policy direction that South Africa has chosen to take. Rather, it is to map the whole array of policy options generally available to those countries like South Africa that are keen to

jettison a prevailing policy paradigm and to favour a re-institutionalisation of its whole labour relations system.

Typological modelling is undertaken as the means by which we might first conceive of a framework that identifies for us a number of policy directions on offer to reformers like those in South Africa at the historical moment of political liberation and regime change. Here, strategic choice refers to a coherent 'rationality and calculus' that underpins 'the patterning of decisions' surrounding any public policy development of employment relations (Poole 1986: 13). Such a stylised framework provides us with a typology from which to compare and contrast various idealised policy directions apropos of those recently democratised states that then struggle to transform both their political and economic domains. Theorising in this way helps us to identify policy dilemmas to be resolved, choices to be made and decisions to be taken that, in harness, reveal the types of policy orientation available to transforming states seeking to overhaul their national employment relations systems (Donnelly and Dunn 2001:24). In short, policy routes taken reveal a country's strong attachment to a certain type of labour management approach that is held to be conducive to economic prosperity and social cohesion.

For the purposes of this exercise, I confine this analysis to simply typifying the whole range of policy discretion available to 'transforming' states whilst readily acknowledging their likely preferences to be contingent, constrained and path dependent as with most other employment relations phenomena. The central tenet of the paper is that policy routes taken reveal a country's general predisposition towards a particular type of employment relations arrangement that is assumed capable of resolving problems associated with economic adjustment, distributive justice and industrial peace. Indeed, each orientation is best located within an overall framework that can then be

used to pinpoint key structures, processes and outcomes that, in turn, come to characterise specific types of employment relations regime. However, it is also worth noting that these same 'structuring effects' are the likely product of attempts by the state to institutionalise and regularise relations in line with some preconceived ideal, albeit one framed within a complex array of perceived social, economic and political realities (*after* Poole 1986: 11-37). Accordingly, the paper is organised along the following lines. There next follows a brief account as to the origins and purpose of this typological approach before identifying the reform agenda commonly facing many policy-makers seeking to effect changes to their national employment relations systems. This agenda-setting takes the form of a number of public policy questions that require answers from those charged with bringing about radical alterations to their respective employment relations regimes. A more detailed account of the framework itself is next brought into the analysis as the means by which particular pathways might be illuminated and the policy preferences of reformers highlighted. Such groundwork can then be used to locate the specific policy direction South Africa chose to take in the mid 1990s en route from a universally despised apartheid labour relations system. The paper closes with a discussion of what causes changes in direction in the first place and, again, how well South Africa serves to illustrate such 'policy shift'.

## **2.2 'Ideal-type' frameworks**

Generalised notions of state strategy regarding employment relations helps us construct a synoptic framework that maps the strategic directions possible, the policy prescriptions available and the generic outcomes desirable for those countries wishing to effect regime change to their national employment relations systems. Locating where a country's particular policy blueprint for transformed employment relations fits within this framework equips us with a better sense of what is expected to be lost and gained,



where reform is supposedly heading and what institutions become critical from a performance perspective. For instance, appreciating which policy route the *new* South Africa has chosen to take and what other pathways it is prepared to forego can only enrich current debates as to the *efficacy* of these institutional reforms and their *embeddedness*.

To help us in this task, a theoretical framework has been devised that draws on earlier work by Crouch (1977) as a means of identifying various strategic pathways that present themselves to policy-makers for their consideration when contemplating fundamental revision to an existing employment relations regime. Each pathway represents an 'ideal-type', whereby 'hypothetically conceived interests' and a 'hypothetically conceived rationality' of choice and action are brought into play, albeit within a context of structural constraints and ideological underpinnings (*after* Crouch 1977: 12-13). Transparently, the relative power balance between actors will more than likely influence policy choice to some degree. But, as Crouch reminds us (1977:13), these typological constructs require 'arbitrary and false distinctions' to be made and so only work best when viewed as 'extreme cases'. Reflecting on the way that 'political realities' intrude on policy-making can only diminish our appreciation of the typological framework at this stage. Their relevance for us, however, cannot be ignored and is brought into the analysis much later when we reflect on what South Africa chose to do and why.

Meanwhile, this approach also allows us to identify a 'framework of dilemmas' that is assumed to trouble the thinking of policy-makers when choosing between 'stylised alternatives' (Crouch 1977:41). It also indicates to us as to how a chosen pathway might be expected to resolve such dilemmas. Seemingly, the framework even allows reformers to exercise choices that can take their labour regimes in radically different, if not

opposing, directions. Whatever direction happens to be taken, the logic of the model suggests some combination of ideological and pragmatic reasoning pushing reformers towards favouring one particular bundle of policy prescriptions ahead of others. Perhaps these policy preferences are best thought of as considered responses to newly perceived priorities. These overriding considerations relate back to the kinds of ideologically-driven interests, values, constraints and predicaments that might be expected to dominate policy thinking on employment relations in advance of any rationally-bounded choice-making on the part of reformers. Only by first categorising these policy reflections can we begin to conceptualise what form these discrete orientations might take by reference to their defining characteristics, structural properties and assumed outcomes. In short, these policy constructs are often the product of certain *preoccupations* that reformers are assumed to grapple with when contemplating extensive reform of an employment relations system. The question now arises as to what these policy concerns might be.

### **2.3 Policy considerations**

Ideas first developed by Crouch (1977) as to how we might think of typifying ‘class conflict and compromise’ in industrial relations are now enlisted as the starting point for characterising various policy dilemmas facing reformers. Additionally, findings from cross-national studies undertaken by Traxler *et al.* (2001) are also used to inform this characterisation. This work surveys the changing patterns of employment relations for twenty selected OECD countries from Europe, North America and the Pacific Rim between 1970 and 1998. Drawing on institutionalism, class theory and rational choice theory, Traxler *et al.* (2001: 10- 22) have developed a framework by which to gauge whether there is a convergence away from systems that are ‘*organised*’ to those ‘*unorganised*’ in response to the liberalisation of markets. With the former, *collective*

*relationships* remain to the fore whilst the latter promotes *individualism* as being at the heart of contemporary employment relations. This binary characterisation of employment relations is particularly helpful to us for one notable reason. Understanding this duality and its defining characteristics affords us a better sense of what is likely preoccupying the thoughts of policy reformers when considering a re-design of their own national employment relations systems.

There is also the concept of *co-ordination* that can usefully be brought into an analysis of state policy and employment relations- one that is derived from recent European studies, notably undertaken by the likes of Soskice (for example, 1990b: 176-197; 2000: 101-112). This work links the existence of largely *coordinated* market economies to the presence of certain key employment relations institutions that run alongside others promoting financial, VET and technology co-operation amongst employers.

Furthermore, it suggests certain ‘variations in capitalism’ such that the production regimes of most advanced economies can be allocated to one of two species. First, there are uncoordinated or liberal market economies, as exemplified by Anglo-Saxon countries, in which ‘non-market’ co-ordination between companies is a rarity, organised labour is marginalised, if not excluded and the state disinclined to foster inter-company co-operation. This is to be contrasted against ‘business-coordinated market economies’ that sustain regularised ‘non-market’ co-ordination between companies leaving the state to set an incentivising framework that promotes coordinated multi-tiered bargaining and keeps strong unions on side through their ‘incorporation’ into institutional processes (Soskice 2000: 103-107). Again, contemplating on the place of such ‘interlocking complementarities’ better informs us as to what matters to those responsible for transforming their country’s employment relations (*after* Soskice 2000: 109).

Given the above, the more important policy reflections to be borne in mind appear to be as follows. *First*, and foremost, the architects of reform need to determine the extent to which 'voice' (most notably union voice) is to be granted to workers in a formal sense and made prominent within a transformed labour relations system. More specifically, this relates to whether institutional arrangements are to be introduced that encourage 'interest mediation' taking place between labour and business, and if so, in what form and at what level(s). Basically, how are the sectional interests of workers and employers to be articulated and accommodated within the system in ways that does not lead to a worsening in 'class relations' (eg: Lehmbruch 1982: 1-27; Schmitter 1982: 259-279).

*Second*, and closely linked to the all-important issue of voice representation for policy-makers, is the thorny matter of interest representation itself. Trade unions and employer organisations have evolved as the conventional means by which class interests have come to be represented for most countries world-wide. But how well they represent their natural constituencies is partially dependent upon the numbers they attract into membership in the first place. The more in membership, the more authoritatively organised labour and business can portray themselves to each other and to the state. Also, the more representative of their constituencies they become, the more potential there is for labour and business to act as important civic institutions in their own right. What then is considered to be an appropriate policy response for a newly democratised state like South Africa when it comes to the *organisation* of interest representation across society? Is it thought appropriate, even desirable, for the state to give official support to capacity-building for organised labour, business or both? Likewise, is the state to discourage or encourage workers and employers into membership or maintain a position of studied neutrality on this and related matters?

More particularly, is freedom of association only to be minimally acknowledged through the Constitution or actively promoted through a legal dispensation that encourages both unionisation and associability? The quandary over the state's endorsement of interest representation and its institutionalism ties in with another dilemma facing policy reformers. To what extent are unions and employers to be dissuaded from acting independently of state interests? Is there to be a requirement for sectional interests to be subsumed under, and representative bodies co-opted into, a state authority charged with the pursuit of an all-pervasive developmental and nation-building agenda of its own? Alternatively, is the public good still best served by officially sanctioning a freedom of action for organised actors that compliments other likeminded attempts at deepening democracy?

*Third*, and linked to this issue of interest representation, is the degree to which the state should be seen interfering in the employment relationship in ways that imposes on protagonists certain 'rules of engagement'. Essentially, the level of **state interference** determines the extent to which this relationship is to be one that is highly prescriptive in tone or essentially *voluntarist* between employers, workers and their respective representatives. The basic quandary is whether a laissez-faire approach to employment relations is always to be preferred ahead of *regulation*. Whether through a legal dispensation or direct political interference, policy-makers have to decide the degree to which they want labour management systems restricted or enabled. Again, to what extent is it thought appropriate, even desirable, for the state to intervene, either directly or indirectly, in employment relations institutions and processes? And what form should such involvement take? What is the fundamental purpose behind any changes to the legal dispensation? Is it to facilitate or circumscribe the behaviours of bipartite actors (or both)?

*Fourth*, and an associated conundrum for policy makers, is the type and degree of **orderliness** that it is thought desirable to have within the employment relations system.

This refers to the way industrial conflict is thought best managed from a policy perspective. Here, the central dilemma is whether to allow the *discipline* of the market to act as the best guarantor of social cohesion and industrial peace or whether it is natural, even inevitable, for the state to involve itself with *dispute-handling* when parties become deadlocked. Another key debate to be had is whether greater reliance is to be placed on individualised market relations rather than institutionalised collective relations as the means by which the ‘rules of the game’ are to be played out. In short, is there to be a preference for individualised contractual relations over collective agreement? To what extent should market forces be allowed to prevail over state provision in the way that employers and workers conduct their affairs and settle their differences?

*Fifth*, and related to the above, what is the official status to be afforded to **collective bargaining**, especially when held to be core institution within a newly proposed labour management system. This raises further questions as to whether collective bargaining is to be officially encouraged, whether agreements reached are to be made *encompassing* and where the primary *locus of bargaining* is expected to lie in a multi-tiered bargaining system. Answers to such questions also reveals the extent to which bargaining is intended to be *centralised* (multi-employer) or *decentralised* (single-employer) or, alternatively, *coordinated* as opposed to *uncoordinated* in terms of agendas to be pursued and agreements to be reached. Tied in with this idea of ‘articulation’ (Crouch 1993: 54-5 and 258-60) is that of ‘associability’. This refers to the propensity for unions and employers to associate within a larger collective for the purposes of extending their bargaining reach, albeit at some possible cost to their freedom of action. Should the

authorities even go so far as to encourage, maybe even force, unions into joining large federations and employers into associations that are then delegated to bargain on their behalf? Is it thought desirable for official support to be given to industry bargaining processes that possibly help coordinate employers and workers across key sectors or even whole economies? Just how much assistance should the state give to organised labour and business in resolving their collective-action problems (*after* Olsen 1965; Offe and Wiesensthal 1980)? This question is crucial for countries like South Africa that want to see a type of centralised bargaining in place that can address simultaneously issues of 'redistributive justice' and 'economic adjustment' (Standing *et al.* 1996). But also one where an employer acceptance of *industry bargaining* is no longer guaranteed, as under apartheid (for example, Donnelly 2001; Klerck 1998; Macun and Webster 1997; Webster and Omar 2003).

*Sixth*, and following on from this issue of collective bargaining, is the question as to what the appropriate relationship between labour, business and the state should be when it comes to **public policy** formulation. Should the state work hard at keeping the bipartite parties at arm's length or should it officially incorporate them into the very policy-making process itself? If so, should such a policy of inclusiveness remain informal and ad hoc or be founded on more structured and regularised tripartite processes that produce social pacts and general political exchanges? For certain European countries, formalised arrangements have come to mean 'social dialogue' taking place between 'social partners', leading to various 'labour accords' or 'social compacts'. These concordats typically require organised labour to offer industrial peace, support for government and wage restraint in return for worker-friendly policies that provide training, unemployment insurance, welfare provision and some say in macroeconomic management (Harcourt and Wood 2003: 87). Are such formal processes equally desirable for emerging economies like South Africa with their own

transforming agendas or are ad hoc, low profile and less regularised contacts more to their taste? Alternatively, and at the extreme, the preference might be for the social actors to be wholly excluded from all policy deliberations, denied opportunities to register dissent and then coerced into accepting the state's notion of the public good. This is to be contrasted against an alternative policy paradigm that values attempts at 'associative' (Hirst 1994: 26-40) or 'deliberative' (Baccaro 2002b: 334-5) democracy through Social Partnership.

Finally, grappling with all these policy dilemmas simultaneously forces policy reformers to confront some fundamental issues when trying to establish a 'new order'. One such 'big' dilemma facing emerging economies is whether markets are healthier when '**coordinated**' than 'uncoordinated' (*after* Soskice 1990a and b; 2000) and, correspondingly, whether revamped labour systems are of more help when 'organised' or 'unorganised' (*after* Traxler *et al.* 2001; Traxler 2003a and b). The former is often caricatured by reference to the presence of tripartite dialogue, centralised bargaining and strongly organised groups of employers and unions whilst the latter by market-driven individualised contractual relations, fragmented bargaining and weakly organised representative bodies.

The link between institutional reform and its impact on an emerging economy has significance for us in two respects. First, prejudices concerning the degree of economic coordination that is thought desirable (and the mechanisms for achieving it) can heavily inform the selection of a strategic pathway. This is most apparent when the desire is for a strong state to 'command and control' the coordinated development of an economy through the machinations of elite (often explicitly authoritarian) institutions, as has been the case in parts of Africa, Asia and Latin America. In this instance, the reform strategy that best helps or least hinders either collaborative or competitive economic



restructuring becomes an overriding consideration for those choosing between alternatives. Second, there is a strong likelihood that a view on whether a particular orientation complements a broader macro-economic strategy markedly influences the eventual policy outcome. Indeed, for many contemporary governments, employment relations policy is clearly meant to serve grander ambitions that they may well harbour such as improving overall international competitiveness. Indeed, in South Africa's case, the transformational possibilities of public policy reform are not meant to be confined solely to the employment relations domain but to contribute both to the wider democratisation of society and wholesale reform of the economy (Webster and Adler 2000; 1999).

## **2.5 Policy discretion for transforming states**

Having rehearsed what commonly preoccupies the thinking of those charged with initiating policy reform, we next turn our attention to the kinds of strategic discretion (however constrained) that are open to policy reformers in countries seeking to overhaul existing employment relations arrangements. The choice between alternative policy directions constitutes an idealised typology that is set out in **figure 1** below in the form of a synoptic table with each pathway outlined by reference to its distinctive properties and outcomes. Thus, a number of generalised policy orientations are first identified with a view to highlighting certain attributes by which they might come to be recognised. These refer to such defining features as the amount of state intervention, the extent of labour market regulation, the status of interest representation and of (centralised) collective bargaining, the levels of protection afforded to employees and the maintenance of labour standards within the overall national employment relations system.

Next, it is assumed that each cluster of structural properties will produce a distinct pattern of outcomes, whether intended or not. Primarily, this relates to the degree to which relationships are thought best individualised or collectivist, and, if the latter, organised or not by reference to whether unions affiliate and employers associate in ways that make such delegated bargaining both articulated and coordinated. It is this assortment of characteristics and assumed outcomes that are held to capture the essence of each policy model and, thereby, the spectrum of broad stratagems up for consideration by designated policy reformers. Intentionally, this ordering of possible policy frameworks moves from one that is characterised as being highly individualised, unorganised, uncoordinated and market-orientated through to one that is highly collectivised, organised and co-ordinated but state-driven (**see figure 2**). The implication is that there are trade-offs to be taken into account by reformers in declaring such a policy preference. This stylised portrayal amounts to a re-working and updating of Crouch's original depiction of 'ideal-typical formulations' that lie on a continuum of 'market individualism' and 'statist corporatism' at the extremes with the intermediate possibilities of 'liberal collectivism' and 'voluntary corporatism' in between (Crouch 1977: 27-41). We will follow in like fashion.

Figure 1

**Reforming Labour Relations: Ideal-Type Policy Directions for ‘Transforming’ States**

<i>Policy Orientation (model)</i>	<i>Structural properties/defining characteristics</i>	<i>desirable/likely outcomes</i>
1. <b>‘atomism’</b> (unorganised) [individual market relations]	business-friendly policies/market-orientated law minimal labour standards & protection rights weak organising rights/limited freedom to associate (individualised) contractual relations only market institutions only/laissez-faire state	minimal state intervention in labour markets ‘light touch’ labour market regulation high individualism/ low collectivism labour commodification / market discipline low associability/weak union voice little or no collective bargaining uncoordinated economy /no articulation
2. <b>‘pluralism’</b> (weakly organised) [collective relations]	basic organising & recognition rights (voluntarism) adequate protection rights / core labour standards (decentralised) single-employer bargaining crisis interventionism/ ‘spheres of influence’ few non-market institutions (eg: dispute resolution)	disorganised collective relations joint regulation (workplace agreements) bargaining fragmentation (enterprise-level) work-based representation & organisation some union-free employers / sectors low ‘associability’/ union affiliation some pattern bargaining effect slight macro-co-ordination / articulation
3. <b>‘mutualism’</b> (organised) [institutional relations]	enlightened corporatism /social (‘peak’) dialogue extensive protection rights/ norm-setting labour standards strong organising & representational rights co-determination (sectoral bargaining & workplace consultation) state as active ‘social partner’ and framework facilitator	organised collective relations/ political voice bargained consensus/policy bargaining enabling legislation/extended agreements high associability/strong union affiliation cooperative and coordinated bargaining some macro-co-ordination / articulation
4. <b>‘elitism’</b> (highly organised) [oligarchic relations]	state corporatism/one-party rule co-optation and incorporation of elite leaderships monopolistic interest representation iron law of oligarchy/enforced unity ‘hollow shell’ non-market institutions/processes	centralised and bureaucratised relations state coercion/elite (‘peak’) accords restricted protections / state discipline forced associability & affiliation ‘phoney’ centralised bargaining/ weak voice high macro-co-ordination/ weak articulation

### ***‘atomism’***

With this policy orientation, the preference is for employment relations to remain largely *unorganised*, not least because individualised market relations are expected to oversee the employment relations scene. The anticipation is that the workings of the labour market will determine the terms and conditions of employment rather than any mediating bargaining institution. Consequently, personal employment contracts are likely to be to the fore with collective agreements the exception (*after* Crouch 1977: 27). Classically, unfettered market forces are also expected to act as primary restraints on the behaviour and actions of the parties to the relationship. Likewise, conformity to the rigours of the market amounts to a ‘self-discipline’ on workers and employers alike such that *orderliness* in the workplace is maintained.

Although direct intervention in market relations is a rarity, this is not to suggest that the state is either neutral or passive. In fact, legislation is used to uphold the ‘property rights’ of business in ways that undermine the ‘countervailing power’ of workers (Crouch 1977: 28; Fox 1974). Here, the state’s perceived task is to provide an infrastructure that is empathetic to businesses struggling to compete within a context of globalised competition. Thus, labour market policies are geared to supporting market mechanisms intended to promote ‘world-class competitiveness’ and ‘labour flexibility’, albeit to the overall detriment of workers’ ‘security’ (*after* Standing 1997a).

This also presupposes a state that, in all probability, upholds minimal protection rights for workers and their representative bodies in accordance with, say, the ILO’s ‘core conventions’ but does little to enhance the authority of independent unions or employer organisations with their respective constituencies. Thus, institutions supportive of collective relations and interest articulation hold little or no interest for these policy-makers. Nor does the allure of economic coordination across markets hold much sway

either. Likewise, there appears to be little appetite for ‘an agreed structure through which interests can express their concerns through autonomous organisations’ (Crouch 1999: ch12). Indeed, conventional employment relations institutions, such as collective bargaining, are thought only to impede the smooth functioning of markets (Ludlam *et al.* 2003: 609).

If anything, official policy is likely geared towards discouraging ‘voluntary combination’ in line with an avowed aversion towards *collective relations* generally (Crouch 1997:29). Seemingly, many developing economies are drawn to this pathway at the behest of a fundamental neo-liberal orthodoxy such as that espoused by international agencies like the World Bank, WTO and IMF. Such orthodoxy is becoming increasingly allied to policies of economic adjustment and fiscal rectitude that favour the dynamic of entrepreneurialism and intrapreneurialism as the means by which both wages and jobs are expected to grow. Such policy conviction leads to preferences for markets to be deregulated, state enterprises privatised and public services exposed to the rigours of the market. Hostile conditions, indeed, for those wanting their labour relations *organised*.

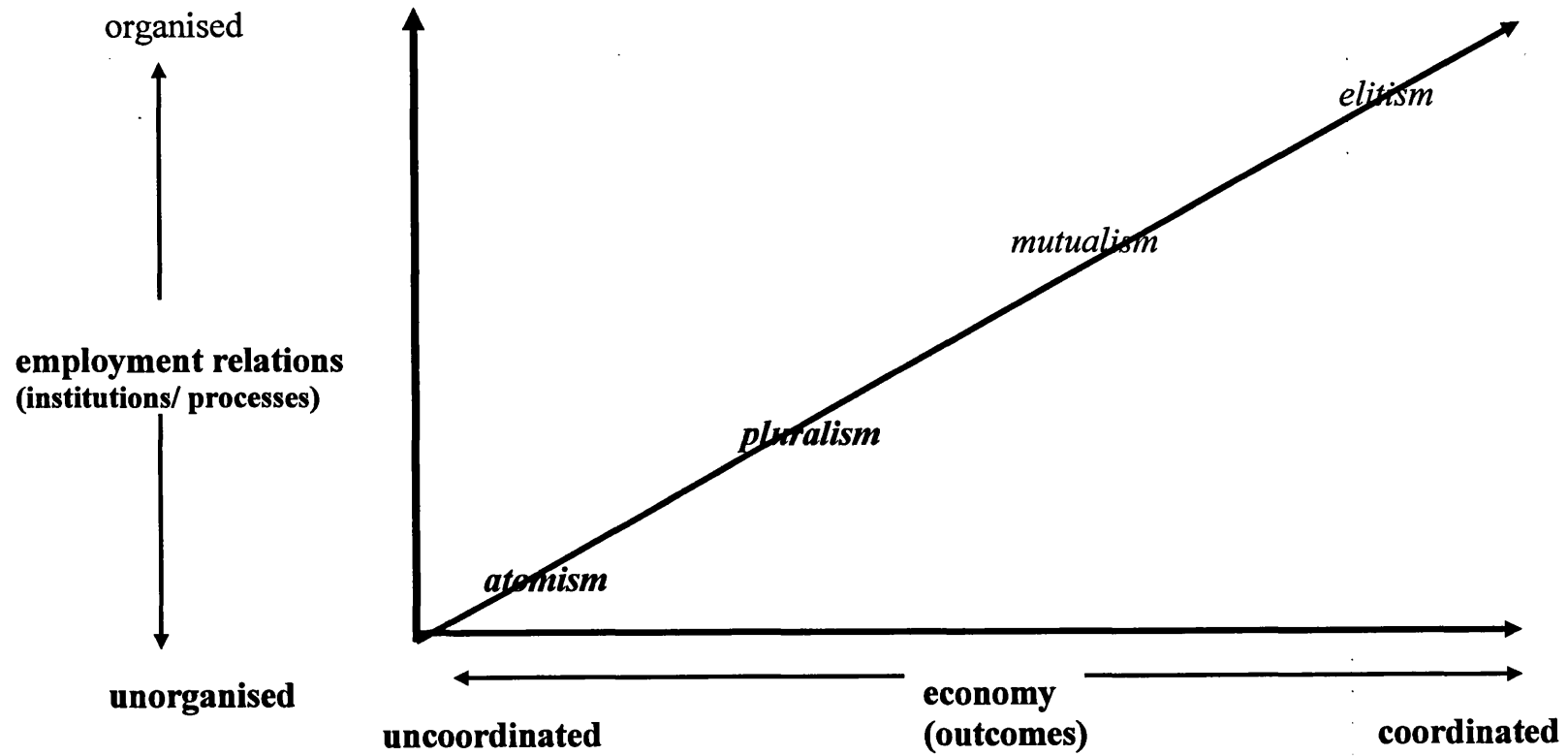
### ***‘elitism’***

In stark contrast to ‘atomism’ lies ‘elitism’ at the other polar extreme. The policy instinct here is for the state, not the market, to rule over the employment relations domain. This dominance is to be achieved through a controlling power and influence that is channelled through a network of elite relationships forged between the ruling authority and a co-opted but highly organised labour movement and / or associational business community. In certain countries, elitism takes the form of strong political alliances forged between a ruling party and either trade union or business leaders or both. Such elitism is largely characteristic of totalitarian or authoritarian societies that

place great store in the maintenance of order and stability, often in line with an ambitious programme of economic development or reconstruction. As a consequence, an omnipotent state is wont to intervene directly and frequently in both political and economic spheres under the guise of a public interest duty. The state's espoused role is to intervene in ways that replaces interest conflict with a unity of purpose towards some superordinate goal of national progress.

Figure 2

Reforming Labour Relations: policy 'trade-offs' for 'transforming' states



Thus, 'elitism' demands that business and labour leaders forego any sectional interests they may pursue in favour of serving the nation as mediated by the ruling party in power. Thus, only the state can legitimately define what is deemed to be in the public good and only those 'private interests' that are best incorporated into those of the state will continue to have legitimacy (Crouch 1977: 35). In this way an oligarchic leadership takes shape that begins making decisions 'for the good of all' but also acts as an 'agent of control' in ensuring that decisions reached are duly observed and enforced (Dabscheck 1983: 500). Accordingly, an 'enforced unity' is pressed on ordinary members of unions and employer associations by means of state imposition and of some limited political exchange between the higher echelons that is made over the heads of those below (Crouch 1977: 39).

In return for their collaboration, unions and employer bodies are licensed by the state and granted a certain 'representational monopoly' (Schmitter 1974: 97). However, this is at some cost to their autonomy of action in terms of nominated leaderships and the articulation of interests. Since alternative (unauthorised) interest organisations are to be precluded, those enjoying such representational privileges become completely reliant on the state for their continued existence and authority (Schmitter 1974: 102-105). For these reasons, it is commonly felt that they operate as virtual 'empty vessels with few real functions' (Crouch 1999). What bargaining that does take place only mirrors decisions passed down from on high where, at best, only private negotiations amongst the politically powerful are ever tolerated (Giles 1989: 141). Not surprisingly, the employment relations system is not just highly organised and the economy strongly coordinated but both are managed in an explicitly centralised and bureaucratised fashion such that any meaningful articulation from below is suppressed (*after* Crouch 1977: 36). One outcome from such oligarchic relations is that unions and employer associations become prone to Michelsian tendencies in that elite leaders become distanced from



members, stop voicing their interests and start exercising a state-directed control over them. Eventually, the common values of the oligarchy and a shared interest in preserving an existing order take hold such that the higher echelons only work to suppress conflict and instil a compliant workplace discipline (*after* Przeworski 1991 in Adler and Webster 1995: 85-87). Invariably, this 'iron law of oligarchy' means that the interests of elite leaderships are defended ahead of those placed below them. To this end, legislative codes are more likely used to restrict worker rights (such as the right to strike) and to strengthen management control.

### ***'pluralism'***

Tacking away from 'atomism' and towards 'pluralism' suggests to us that reformers now wish to bring collective relations into the policy frame as the institutional means by which 'class' conflicts of interest might best be mediated and contained. Attributes such as collective bargaining, dispute arbitration and basic employment standards are now introduced into the system as forms of 'institutional compromise' between employers and their workers (*after* Giles and Murray 1997: 85). Although 'pluralism' shares characteristics in common with 'atomism', not wishing to frustrate labour from becoming 'autonomously collectivised' is a significant fork in the road when it comes to policy-making and offers the potential for organised workers to counter the market power of employers (Crouch 1977: 30).

In taking this direction, the state can be expected to adopt an explicitly non-coercive role, only choosing to help the parties reconcile their differences through the provision of a supportive mediating infrastructure. If anything, the state probably prefers to keep workers and employers at arms' length, interceding only reluctantly when deadlocked bipartite relationships reach crisis-point that the wider public good is placed in jeopardy. This means that unions and employer associations are no longer to be seen as 'creatures

of the state', enjoying as they do an independence of organisation and freedom of action unknown under elite regimes (Crouch 1977: 31-32). Yet their capacity to shape public policy remains limited, given the absence of any formal and regularised access to policy-making circles. But this is far from signifying a total lack of political influence on the part of business and labour. What tends to happen is that each party lobbies competitively and uses their informal networks within the state apparatus in order to effect policy outcomes more favourable to themselves.

Another defining characteristic of this policy orientation is a penchant for seeing representative bodies as voluntary organisations, with a legal status to match. This disposition supports a policy perspective that is neither ideologically opposed nor drawn to collective relations but, rather, accepting of its more pragmatic virtues. This means that neither unions nor employers are expected to receive especially favourable treatment from the state when it comes to augmenting their organising and representational powers. Appearing even-handed is considered to be the touchstone of this policy orientation and striking the right balance between interests, the primary pursuit. Accordingly, both policy and regulation are directed at maintaining a system of checks and balances and providing a buffer against abuses of market power perpetrated by either side. This means that there is no 'monopoly of representation' to be endorsed by the state but rather, 'an organisational market of free choice' founded on voluntarist principles (Schmitter 1974: 96). The presumption is that workers can only really make headway through their voluntary mobilisation within the workplace. Likewise, only where employers concede recognition can unions try to improve the lot of their members by dint of enterprise bargaining such that it now becomes the principle mode of employment regulation but only for those workplaces where they manage to gain a foothold (Traxler 2003a: 6-7). This helps explain why the relationship between

employer and worker representatives is commonly characterised as being structurally 'adversarial' and 'antagonistic' by nature (for example, Edwards 1986:5).

But a freedom neither for employers to associate nor to recognise unions means that there will always be workplaces, undertakings and whole industries that are virtually union-free and bargaining-exempt. Such diversity likely leads to variable labour standards, conditional upon employment terms being determined through either individual or collective settlement. The consequences of this are often twofold. First, each zone can act as a counter to the other and so spark competition between the two. Second, bargaining styles will most likely be distributive in ways that only adds to the adversarial nature of the relationship between the sparring partners who likely default to locking horns over 'pay and flexibility' bargaining. Given the prominent part to be played by single-employer bargaining under 'pluralism' there will be little call for employers to associate or unions to federate such that peak bodies can be expected to play a minor role in inducing co-ordinated bargaining.

What co-ordination there is, more likely stems from pattern bargaining. This occurs when either an individual bargaining units takes the lead in setting agreements that others follow or there is a muted 'cartelization effect' that surfaces (Traxler 2003b: 198-199). This trait, together with ad hoc and sporadic dialogue at the national level, likely produces a weak and fortuitous, rather than a strong and deliberate, co-ordinated market effect. Although those advocating a pluralist route find virtue in employment relations being collective in character, this stops well short of wanting centralised bargaining coverage for a whole industry or sector. Likewise, the fact that bargaining can be fragmented, its outcomes disaggregated and employment relations decentralised is thought not to be particularly problematic for reformers but, if anything, advantageous from a flexibility and productivity perspective.

### ***‘mutualism’***

Those wanting their employment relations to be more consensual than contested see matters somewhat differently. They would likely wish to steer a different course away from pluralism and towards tripartism. For them, the mutual benefits that accrue from making collective relations even more *organised* and legally *extended* than exists under pluralism are presumed to outweigh the potential costs arising from any assumed labour market rigidities. This is because mutual gains are thought to arise from this approach in ways that further not just the ‘private’ interests of employers and workers but also those of the wider public. These mutual gains take the form of certain ‘collective goods’ that all parties learn to value such as wage restraint, smoother technological transition, economic coordination and social stability (Soskice 1990b: 193-208). Indeed, the very institutional form that such ‘mutualism’ takes, and not just its outcomes, may also come to be highly prized in terms of the ‘comfort’ and ‘certainty’ it affords them (Crouch 1995: 313-321). Accordingly, collaborative relations are perceived to be mutually reinforcing for all parties over time.

Its popularity with certain policy strategists derives from the presence of two particular constructs: ‘social ‘corporatism’ as a particular system of representation and interest articulation (Schmitter 1979: 13) and ‘social concertation’ as a shared policy-making and mediating process that helps reconcile conflicting ‘class interests’ (Lehmbruch 1979: 150). Each, though conceived differently, is complimentary to the other. This first aspect refers to a hierarchical but independent and democratic structure of interest representation that aims to produce co-operation and cohesion across groups of organised employers and workers (‘horizontal co-ordination’) as well as compliance from one superior level to the next (‘vertical co-ordination’) (Baccaro 2003: 683-684). Early theory maintains that a monopolistic and centralised structure of representation

for workers and employers renders concerted policy-making, and its implementation, more effective (eg: Schmitter 1974: 97). Contemporary empirical evidence, however, shows that even where organised labour and business operate more loosely and less authoritatively than originally thought necessary, corporatist behaviour is still possible provided both sides seek to act *cohesively* (Baccaro 2002a; Molina and Rhodes 2002). In contrast, social concertation emphasises the part played by an 'associational cohesion' founded on sensitive rule-making, trust and a clear division of responsibility (eg: Vatta 1999: 246 and 260). Rather than hierarchical imposition, it is 'deliberative mechanisms' based on 'democracy' and discussion' that ensures interest co-ordination operates and policy concertation materialises (Baccaro 2003: 685-686). This idea of a more fragmented but yet co-ordinated institutional voice amounts to a form of 'associational democracy' (Baccaro 2002b) whereby social partners show mutual regard to each other conditional upon securing for themselves a mandated authority from within their respective constituencies (Vatta 1999: 259).

'Social concertation' also entails a kind of policy-making that encourages political exchanges between, state, capital and labour representatives that supposedly pays dividends all round. The suggestion is that organised labour and business do not merely influence public policy but also help shape it through the political pacts they broker with their governments. Conventionally, such policy bargaining entails business and state representatives reaching settlements with labour counter-parts over wage moderation in return for policy concessions elsewhere (eg: Hassel 2003: 707-708). More recently, this *quid pro quo* has been extended to cover welfare, employment and other labour market reforms as a way of spreading the burden of economic adjustment and competitiveness exacerbated by the internationalisation of markets (Hassel 2003: 719-722). It is this aspect of tripartism that proves particularly alluring to fledgling democracies like South Africa struggling to develop their emerging economies in a

context of market liberalisation and social upheaval. It is these concrete policy trade-offs that help explain why corporatism is to be caricatured as either 'bargained' or 'social' nowadays (Crouch 1993: 38-47 and Schmitter 1974, respectively) - not least as a way of maintaining distance from state corporatism and 'elitism' (ie: authoritarianism).

But there is also a certain mutual dependency that takes hold between the representative structure and pacting process that proponents of this neo-corporatist approach are also attracted towards. Social dialogue and policy mediation between the social partners only works well when unions and employers consent to being organised into bargaining structures that lead to a co-ordination of agreements across enterprises and industries. The more they are prepared to associate between themselves the more likely bargaining becomes coordinated and employment relations *organised* under a social pacting framework (*after* Traxler 2003b: 207). Thus, multi-employer bargaining appears to go hand in hand with social pacting construction (Traxler 1998) and economic co-ordination (Soskice 1990a). These interdependencies now set the agenda for those advocating a neo-corporatist route to policy reform. Enhancing the organising, associating and coordinating *capacities* of both labour and business becomes a key dynamic behind a neo-corporatist path to employment relations reform.

Thus, a state that is supportive of neo-corporatist structures remains an essential precursor for those wanting their employment relations organised and multi-employer bargaining commonplace (Traxler 2003b: 200; 2003c: 144-5 and 152-3; 1998a: 219-23). Not only are strong and free trade unions that provoke employers into associational membership and independent associations that bind employers to centralised agreements highly desirable but also measures that protect such agreements from free-riding and defections from 'the common rule' by non-affiliates. Paramount

for the state are codified extension rules that render collective agreements 'binding on all unaffiliated employers and employees within the domain of the contracting associations' (Traxler 1998a: 213). Legal endorsement of industry agreements also improves the chances of the whole bargaining system becoming more 'articulated'. This is because they are often devised to frame and inform agreements reached at the enterprise level, having first taken their cue from what has already been mediated and compacted at national peak level (*after* Crouch 1993: 54-55). As a consequence, it is only legal extension that makes multi-employer bargaining processes complimentary to single-employer and individual contractual negotiations rather than 'competing modes of employment regulation' that then undermine valued articulation (Traxler 2003a: 20-21).

Equally important for those promulgating *social governance* is the principle that workers be kept informed and consulted over those business decisions that impact directly on their work and continued employment. Thus, it becomes necessary for managers to obtain worker consent for change, having first consulted their representatives. This suggests a 'co-determination' of what is decided in the workplace founded on formal consultative processes that are 'rights-based'. For those drawn to 'mutualism' on this basis, this work-based focus can only enhance the potential for further articulation whereby those at the grassroots begin to inform the deliberations of those placed above them (*after* Crouch 1993: 54-55 and 258-60). What becomes important for those advocating 'mutualism' are neo-corporatist structures and concertation process that are mutually reinforcing in ways that strengthen social dialogue, (multi-employer) co-ordinated bargaining and general interest mediation between social partners. The state's role is to provide the institutional means for this to happen and a legal infrastructure that *enables*, but not compels, organised labour and business to engage fully with what is on offer. This equally extends to having policies

that encourage workers to unionise and employers to associate and for both to comply with the authority of their representatives within such an overtly organised framework.

## **2.6 'Mutualism' and South Africa**

South Africa's preference has been for an institutional environment to evolve similar to that outlined above following apartheid's official demise. This has been achieved through the implementation of a new legal dispensation that is crucially the product of a political accord between a militant and trenchant labour movement, an incoming liberationist government and a powerfully placed business community. As a consequence, this compact was considered at the time (1994-5) to be pivotal to the success of the broader political settlement that preceded it. The policy intent has been clear from the outset. Despite disagreements over the detail, government, labour and business appear wedded to the view that any re-institutionalisation of the labour relations system should be one that is basically 'organised' but, equally, intolerant of (racial) authoritarianism, given the legacy inherited from apartheid labour relations. As evidenced by a newly agreed dispensation, this policy denouement has led to the founding of neo-corporatist structures that are intended to facilitate the development of social partnership at all levels.

Accordingly, this new institutionalism provides 'voice' opportunities for tripartite dialogue, industry bargaining and workplace consultation to occur and for the parties to independently resource and organise themselves accordingly (Habib 1997: 65-68). Officially encouraging the bilateral actors to engage with social concertation processes is meant to strengthen the democratic character of this new order compared to the authoritarian corporatism of old (Schreiner 1994: 10-18). More uncertain is the suggestion that bargaining co-ordination was foremost in the thinking of those charged with reaching settlement regarding the institutional form for South Africa's 'new'



employment relations although the prospect of it evolving organically as intended still remains a possibility (Adler 2000: 26-32; Du Toit 1995: 804-5). Nevertheless, the outcome for South Africa is clear in terms of the strategic pathways available for transforming states. There has been a paradigmatic shift in policy thinking from one historically founded on a racial elitism for whites (but, nevertheless, one that evolved into pluralism for organised black workers in the 1980s) to one now orientated towards a more socially inclusive 'mutualism' in the 1990s (Habib 1997: 58-62). But this still begs the question as to how institutionally robust have these new neo-corporatist features become and what are the chances of them remaining resilient in the face of an economy only recently opened to competition following the ending of apartheid's protectionist policies (ILO 1999).

### ***policy shift and South Africa***

Mapping these pathways prompts a further question as to what causes shifts from one to the other in countries like South Africa. Policy thinking over employment relations changes markedly when the logic underpinning the predominant policy orientation is no longer thought sustainable. Altered policy thinking occurs as the result of the accumulated and collective experiences of those acting in thrall to a prevailing policy paradigm. Changes to context, ideology or perceived political and economic realities can eventually lead to a conviction by custodians of public policy thinking that changed priorities demand new responses with shifts in policy to match. Any subsequent re-definition of the challenges and dilemmas to be surmounted can also lead to 'new realities' that not only require changes to mindsets but even to existing employment relations institutions. By this stage, policy thinking becomes so altered that old policy prescriptions lose ground in favour of new ones such that any new policy bundle heralds a radical departure from one strategic pathway and the magnetic pull towards another. Thus, what is thought pragmatic, even sensible, in policy terms begins to change as the

logic and associated values underpinning an old orthodoxy give way to a different starting rationale that culminates in the emergence of a replacement policy paradigm. What happened to South African employment relations illustrates this point quite nicely for us.

The reasoning behind apartheid labour relations is in stark contrast to the one that provides the impetus for today's policy reform. Whereas previously it was appropriate for employment relations to be racially segregated and for policy measures to reflect this, prevailing political orthodoxy upholds the exact opposite – from one of racial dualism and institutional separation to one of social inclusion and integration. The bitter history of apartheid labour relations has led to the incarnation of a new mindset that colours all subsequent policy-thinking around employment relations in terms of the form to be taken institutionally and of the transformational goals to be pursued politically. As will become apparent, political reform and liberation in the early 1990s imposed new realities on policy-shakers and makers alike, all with vested interests in seeing apartheid employment relations forever dismantled. A view had formed by this time that a Grand Apartheid rationale for workers to be racially differentiated in terms of their employment, reward and development was not only economically and socially dysfunctional but also morally abhorrent. Moreover, by successfully opposing apartheid authority, labour had come to be viewed as such a powerful player within the political realm that it could no longer be sidelined when it came to a settling of differences between the various protagonists post liberation. Consequently, South Africa's policy movement towards collaborative behaviour and 'mutualism' is best seen as a classic 'crisis response' by a fledgling democratic state to an anticipated organised opposition that could potentially derail any progress towards a final political and economic settlement. Thus, a more enlightened form of corporatism than envisaged under apartheid was perceived to be an acceptable political response to counteracting possible

threats and incorporating potential opponents into a consolidating nation-building project (Habib 1997: 68-72). Unifying employment relations practices, institutionalising independent worker representation and addressing past workplace iniquities became important drivers for those bent on bringing regime change to a system that could then be conscripted to the grander cause of wholesale political and economic transformation (Webster and Adler 2000: 1-19).

Given the above, South Africa serves to illustrate how making policy choices tends to be a constrained and contingent exercise in practice. When it came to amending apartheid employment relations, the architects of reform were unambiguous in their resolve to put considerable distance between a repressive apartheid past and a more enlightened future. In official policy circles, the gravitational pull has always been away from elite relations to something more democratic, articulated and organised with multi-tiered institutions to match. But this changed outlook has stopped short of any official endorsement for anything too fragmented and pluralistic in institutional terms. The allure of market-influenced relations may now be much stronger than that of state-dominance but not such that (labour) markets are to be completely uncoordinated nor bargaining outcomes nor bilateral actors unorganised. Of political necessity, militancy has had to be placated, employer fears assuaged and social pacting made amenable to both. Institutional reform has had to reflect this perceived imperative. As a consequence, the incorporation of organised business and labour into nation-building projects was thought to be indispensable to any purging of an apartheid legacy. Foremost, the policy preference has been for employment relations to be more organised than not but with the bipartite actors retaining their freedom of action. For now, 'democratic' or 'bargained' corporatism is held to be foremost in public policy circles (Baskin 1993a and b). Building institutions that supposedly foster cooperative

relations between workers and employers and reinforce their interdependence on each other becomes the natural accompaniment to such settled policy thinking.

But the question arises as to what the future might hold for South African employment relations, should the promise of the new fail to materialise? Policy choice can be precarious and prove difficult to sustain, especially when the conditions under which South African neo-corporatism is meant to prosper are far from ideal to start with (*After* Goldberg 1994: 10-14). Were corporatist experimentation with social pacting, sectoral bargaining and workplace governance to be found wanting in terms of improved productivity, job, wage and skills growth then the likelihood is that South African reformers will be forced to re-think their options. Yet in reality, the alternatives appear to be equally precarious and limited. Given its political pre-eminence within a fully enfranchised parliamentary democracy and the ruling party's (ANC) formal alliance with the leading labour federation in the country (COSATU), the state could feel the magnetic pull of elitism once more, should current neo-corporatist experimentation begin to falter. While forcibly conscripting both labour and business into delivering some grand economic growth plan always remains an attractive possibility for a near one-party state like South Africa, it is unlikely in this instance –at least for the foreseeable future. This is largely because we have a liberationist state anxious to avoid rekindling a groundswell of grassroots militancy first formed as a reaction to the 'apartheid workplace regime' (von Holdt 2002) and being fully cognisant of independently minded actors reluctant to forego any hard-won autonomy of action. The prospect of economic and political instability repeating itself should prove sufficient to deter even such a well-placed ruling party as that in South Africa from defaulting to this elitist pathway, given the apartheid state's record in imposing authoritarian rule. The experience of elite oligarchic labour relations is still too fresh in the memory for its reinstatement to be contemplated seriously.

Similarly, gravitating towards ‘atomism’ and unorganised employment relations may prove to be equally hazardous and demanding for a fledgling democratic government, as yet reluctant to act with force, as would likely be required. In order to succeed, this young democratic state would be obliged to confront head-on a powerful labour movement bent on protecting a recently enhanced political status. Advocating policies designed to deregulate labour markets and decentralise bargaining could force government into a test of strength with labour that it would be far from certain of winning and thereby would wish to avoid at all costs. Moreover, the ruling party (ANC) would also need to demonstrate a certain political robustness, not yet apparent given its strong affinity to, and formal alliance with, organised labour arising from its shared struggle against apartheid.

## **2.7 Conclusions**

Having first identified what occupies the policy thinking of those charged with transforming national employment relations systems, a framework was devised for identifying four possible pathways to reform that are claimed to be observable in the field. Each represents an *idealised type* in terms of a desirable set of structural properties and outcomes, the choice of which supposedly reveals the policy preferences of state reformers and, thereby, their ideological *orientation* towards employment relations in general. Moreover, these policy orientations are often resonant of contrasting ‘capitalisms’. At one end of the spectrum is posited market-dominant relations and, at the other, lies state-driven relations with a couple of intermediate arrangements lying somewhere between the two (*after* Hall and Soskice 2001 in Ludlam *et al.* 2003: 611). With the former, the primacy of individualised and contractual relations operating within highly deregulated labour markets is the chosen path. With the latter, the preference is for the employment relationship to be collectively organised and repressively managed through the auspices of an elite leadership

operating under licence from an oligarchic state. Changing a country's particular policy trajectory likely entails movement towards one extreme or the other. The question then arises as towards (and from) which extreme employment relations type does a country's specific policy bundle gravitate when implementing institutional reform of its employment relations system. Is it to be towards one that is essentially market-driven or towards some state-imposed alternative?

Despite their extreme policy differences, both orientations act as powerful magnetic force-fields, especially on those contemplating employment relations reform in countries that are experiencing simultaneous political and economic transitions (*after* Adler and Webster 1995). Navigating a State's overall public policy direction by reference to these polar extremes also becomes important to us when trying to fathom future policy trajectories for such countries. But, equally, we also need to acknowledge how policy discretion is constrained when it comes to states choosing the overall policy direction they wish their employment relations system to take. South Africa serves as a good example. Here, a policy trajectory has been chosen that is highly 'path dependent' for a set of historical reasons that is specific to South Africa (Pierson 2000). Such paths are taken because 'critical junctures' are reached and contingent choices made that lock the primary actors into particular courses of institutional development that subsequently prove difficult to reverse. As subsequent chapters reveal, the notion of 'path dependency' provides us with a powerful *raison d'être* for the policy trajectory followed by South African reformers as well for an explanation for those 'paths not taken' (Scokpol and Pierson 2002: 665-6).

### ***policy constraint and South Africa***

World opinion holds South Africa's transference of power from apartheid rule to parliamentary democracy to be a model of peaceful political transition. This shift from racial authoritarianism to racial pluralism was thought bold, enlightened and demonstrative of how political conflict might be reconciled. But, a comparable transformation from racial to bargained corporatism is equally deserving of our esteem.

Indeed, for Anstey (2004), South Africa's model of co-determination may even stand as an exemplar for a more profound 'African Renaissance'. In terms of its ambition and visionary sweep, the new dispensation for employment relations matches that envisaged for the polity as a whole, yet was similarly founded on pragmatic compromise and negotiated settlement. One way of looking at this is to regard such accords as being South Africa's equivalent of 'the third way'. The question now arises as to whether those employment relations regimes that lie midway between the rule of the market and that of the state can endure in countries like South Africa that are semi-industrialised yet progressively subject to the discipline of the global marketplace. Whatever else, South Africa is a country where employment relations is still likely to occupy centre-stage in public policy circles and contribute to wider debates concerning the viability of organised employment relations for transforming economies in a context of neo-liberal orthodoxy (*after* Traxler 2003 a,b and c). These issues alone should ensure a continuing interest in the South African 'story' for some time to come.

But there are also other conclusions to be drawn from this analysis of constrained policy choice for developing countries like South Africa committed to instigating wholesale changes to their national employment relations systems. *First*, even though exercising choice is always an uncertain and constrained affair, the discretion afforded to reformers becomes even narrower when business is perceived by them to be economically strong and labour politically powerful, with both capable of acting independently of the state. *Second*, and as a consequence, the likely preference is for employment relations to be somewhat organised in character but without outright control by the state. Thus, choosing 'mutualism' as the favoured policy route is seen to be the least problematic option for newly democratised states wishing to steer a middle course between the polar force-fields of either statist or marketplace employment relations. What happened

institutionally to post apartheid to South African employment relations bears testimony to this.

*Third*, there is a conjunction of historical forces and changed political and economic realities that place South African reformers in a policy bind such that any new employment relations regime will be required to consolidate democracy whilst simultaneously helping to restructure industries and workplaces (*after* Webster and Adler 2000: 1-17). Hence, ‘mutualism’, as the blueprint for an overall reform strategy, continues to serve as a useful expedient in overcoming inherent policy dilemmas arising from the aftermath of apartheid labour relations. It seems that policy discretion is frequently constrained by historical happenstance and structural forces such that decisions concerning the choice of policy bundle remain somewhat circumscribed, as in the case of South Africa. Thus, there are credible reasons to explain why South African reformers chose ‘mutualism’ ahead of all other pathways and why their discretion to do otherwise remains limited for the time being.

*Finally*, and given the constraints of recent history, we can reasonably assume that the custodians of policy are committed to making neo-corporatism work as originally conceived, especially in terms of its stabilising capabilities – at least for the foreseeable future. Nevertheless, acknowledging its continuing appeal from a policy perspective only gives rise to another set of concerns regarding its future prospects. Most notably this relates to how and why such corporatist experimentation remains problematic within a South African context and what has to transpire before it can become institutionally embedded as a consequence. The danger is that should employers and unions choose not to co-operate with ‘mutualism’ and disengage from its institutions, then the possibility always remains of any subsequent official disillusionment with corporatism provoking a slow policy slide into one of two polar extremes: ‘elitism’ or



‘atomism’. The next part of this doctoral thesis (chapters three and four) not only helps us to appreciate why alternative stratagems appeared unattractive to the *new* South Africa but also why neo-corporatist structures and social concertation processes became its preferred policy route along with the risks inherent in this. Only after chronicling the recent institutional history of South African employment relations can we focus on the thorny issue of employer associability (and corresponding collective action problems) and explain its pivotal importance to those wishing to see this *new* employment relations endure.

## **Chapter 3. The rise and fall of apartheid labour relations and its legacy for the New South Africa**

### **3.1 Introduction (overview)**

In this first part of the thesis, we continue to explore the development of South African employment relations from apartheid through to post apartheid times as a way of contextualising the issue of employer associability and other related collective action problems that might undermine public policy reforms. In the preceding chapter, we reviewed alternative strategies for state reform of employment relations and identified South Africa's preferred route to transformation. Next, using a path dependency approach, we explain the reasoning behind this predisposition, describe how it was made (institutionally) manifest and identify the challenges and impediments to be addressed before new and revised institutions can flourish as intended. In order to understand what was introduced and why requires us to first appreciate the true character of apartheid labour relations. This we now set out to do but not before first explaining why South Africa is a 'country case' of special interest to us from a broader comparative perspective.

1994 saw the official ending of apartheid in South Africa. This was achieved by means of a political settlement reached between the main protagonists: the ruling National Party (NP), the African National Party (ANC) in alliance with the South African Communist Party (SACP) and the Inkatha Freedom Party (IFP). Together, they formed an ANC-led Government of National Unity (GNU). Power sharing continued until the 1999 elections when the ANC, in partnership with the SACP, took office outright having won an absolute majority of seats in Parliament and having canvassed two thirds of the total country-wide vote. In addition, this alliance took effective control of seven

of the nine state provinces that constitute regional government in South Africa (eg: Harcourt and Wood 2003:89-90). All importantly, however, freedom from apartheid was only achieved by virtue of a political compromise brokered between political adversaries rather than through any outright military victory on the part of an exiled liberation movement. As such, dismantling apartheid structures amounted to a 'negotiated revolution' from within the country (Adam and Moodley 1993: 59-70). A similar fate befell apartheid labour relations when a series of bargained reforms undermined the whole character of the apartheid labour regime even prior to its official demise. Succeeding agreements reached between organised labour and capital, and facilitated by the new Government of National Unity, have formed the backdrop to a programme of legislative reform that now frames all subsequent institutional arrangements (eg: Du Toit *et al.* 1996 3-39).

Following liberation, policy concern has focused on a programme of nation building that has centred on democratising and normalising society as well as on restructuring a previously closed economy that has subsequently become open to international markets and trade liberalisation (for example, Donnelly 1999: 217-218; Macun and Webster 1998: 36-42). The introduction of a new legal dispensation for South African employment relations has proved crucial to this whole reconstruction project. Breaking with the past and addressing new realities continues to be of paramount importance for the architects of employment relations reform given its past prominence under apartheid and its discredited status internationally. Ten years on from the ending of apartheid and it would seem timely to reflect upon what has happened to South African employment relations in the interim. Three aspects of the post-apartheid system would appear to be of primary interest to us.

First, unlike other transforming countries elsewhere (for example, the Soviet bloc, Eastern Europe, Latin America and Africa), South African trade unions, specifically those organising black workers, have retained their political and economic influence beyond transition. The black union movement's reputation is derived from its mobilisation of resistance to the white regime in both workplace and community, especially in the latter days of the old system (see, for example, Baskin 1991; Hirschsohn 1998; Kraak 1993: 209-240; Wood and Harcourt 1998). During this phase, it acquired membership, resources and organisational skills, winning concessions from both the state and employers (Baskin 1996: 22-30; Bezuidenhout 2002: 99-112; Macun 2000: 58-65). It gained for itself a strong voice that could not be ignored in building the new nation (Baskin 2000: 45-47; Friedman and Shaw 2000: 203-210). Yet, after initial success, many such labour movements find it difficult to satisfy their supporters' expectations in any post-authoritarian era. Will the same be true for organised labour in South Africa? Any union movement that has been in the forefront of a successful struggle to remove an oppressive regime then faces the dilemma of finding a new role for itself. But have South African trade unions found that role? This question is especially pertinent given their opposition to a programme of economic liberalisation espoused by the ANC as the ruling party in power and their close political ally.

The second aspect is related. Partly under trade union influence (De Villiers and Anstey 2000: 25-27, 32-34; Webster and Adler 2000: 17-18), public policy decisions made initially by the GNU and after 1999 by the ruling ANC and its SACP ally flew in the face of received wisdom about what a transforming economy should do. During the 1990s, International Monetary Fund, World Bank and World Trade Organisation orthodoxy was that such economies should free their labour markets through deregulation, decentralisation and privatisation. Instead South Africa looked in part to Northern Europe for inspiration when it came to employment relations policy solutions.

It set up institutions to promote social dialogue at national level, through legislation it encouraged sectoral or regional collective bargaining, and within the workplace it sought the establishment of bodies analogous to works councils. This contrasts sharply with the rush to liberalise and deregulate labour markets elsewhere as in various Eastern Europe and Anglo-Saxon countries. This kind of neo-corporatism with social concertation features to it (Baccarro 2002a: 3-4; Baskin 2000: 47-49), introduced at a time when, with the removal of sanctions, the economy was being exposed to free trade and needed to attract inward investment, would seem perilous. The successful neo-corporatist economies of northern Europe are buttressed by social and institutional norms that nurture associability, co-operation and compromise (eg: Crouch 1993; Lehmbruch and Schmitter 1982; Traxler 2003 a, b and c). Given South Africa's deeply troubled history, building such norms, especially after the euphoria of democratisation has worn off, would seem to be a long and painful process with no guarantee of success. How much progress might reasonably be expected and on what time scale?

The third aspect concerns employers. For the most part they stand as economic representatives of a white business elite and, as such, major beneficiaries of a dualistic and exploitative apartheid labour regime - whether complicit or not (eg: Lipton 1992; Natrass 1999). Yet, even though they had long borne the brunt of black union militancy and were tarred with the brush of the old regime, employers and their managers were far from being usurped. Indeed, the opposite may be stated. Not just labour but organised business has been placed centre-stage in terms of its anticipated participation in new institutional arrangements (for example, Donnelly 2001; Natrass 1998). So it is important to ask how employers see their role in this transitional period. To what extent can they be expected to put the antagonisms of the past behind them? Moreover, can they adapt to the requirements of a new employment relations system that is designed to both consolidate extended workplace rights and freedoms as well as help in the

structural adjustment of a recently liberalized economy. For example, in all the neo-corporatist systems of advanced Europe, employers operate within a framework of strong associations, which involve a willingness to collaborate with fellow employers in bargaining policy. To what extent are South African employers likely to do this and, if not, what future for the public policy initiatives that have emerged in the last ten years. Their willingness to engage with this new institutionalism becomes a precondition for the longer-term success of this newly organised employment relations system.

In light of these aspects of South African employment relations, this review is organised into various sections spread over these next two chapters. The intention is to examine what has changed institutionally post apartheid, understand the motives and origins that have helped shape these reforms and to identify new problems and tensions that have arisen subsequently. Accordingly, this chapter starts with a description of those institutional features that have helped define apartheid labour relations and then proceeds to identify those developments that led to its demise. The more important historical landmarks to be noted are the rise of organised black labour and workplace militancy, the organised challenge to apartheid authority that followed and the latter's attempts at reform that together proved apartheid's undoing. This chapter then ends with an assessment of the apartheid legacy that reformers have been forced to take on board when contemplating how to restructure the employment relations system. Building on this historical account, the next chapter sets out the terms of the post apartheid settlement that help define South Africa's new employment relations along with the principles and motivations that underpin its design. Particular attention is paid to the institution-building aspects of the new employment relations regime and its multi-tiered character. By chronicling what has been dismantled and rebuilt post apartheid and explaining the rationale behind this new institutional framework we can gauge how far South Africa's employment relations has come post apartheid but also how much is still

left undone. Equally, reviewing what changed and why helps us to explore the essential character of this recast system and the response of the actors in terms of their engagement with it. To this end, the final section of this next chapter is devoted to identifying a number of contemporary debates apropos the overall impact of these reforms. This then allows us to reflect upon the challenges facing South Africa's experiment with social corporatism and so better contextualise the terms of the debate to follow regarding the centrality of employer behaviour within this new paradigm. But first, we need to delineate the defining characteristics of apartheid labour relations, all the better to appreciate the contemporary debates to come.

### **3.2 Suppression (1948-1990)**

Official apartheid rule began with the rise to power of the National Party in 1948 and only effectively ended in 1990 when political opponents were unbanned and talks on power sharing initiated. The repeal of key race laws in 1991 including those most closely associated with apartheid's authoritarian system of labour relations quickly followed (Adam and Moodley 1993: 39-58; Bendix 1996: 101; Ohden and Ohlson 1994: 231-5). Prior to this, apartheid had become associated with a set of race laws and policies that were threefold in intent: to segregate society along explicit race lines, to secure white supremacy and to ensure parity for Afrikaners with their English counterparts. Under the guise of separate but parallel development for both white and black communities, Grand Apartheid instigated a series of measures over a forty year period that were intended to confine the majority black population to areas segregated from those of a white minority. Officially, residency for non-whites was restricted to the bantustans (homelands) or to townships within prescribed urban or industrialised zones. Thus, white minority rule and privilege was to be secured through the expediency of imposing an inferior status for non-whites who were to be precluded from any

substantive purchase on South Africa's economy or even meaningful access to its polity (Ohden and Ohlson 1994: 214-17).

### ***segregation***

Such inferiority in the labour market took several forms and amounted to systemic control, even coercion, of black workers regarding their employment, pay, conditions and skill acquisition (Bendix 1996: 75-101; Kraak 1995 and 1996; Standing *et al* 1996: 381-418; Webster 2002: 179-186; von Holdt 1995: 19). Indeed, basic worker protections were denied to the majority of the working population in ways that formally sanctioned a de facto racial duality in the labour market first observed under colonial rule (Kraak 1993: xxv-xxvi; Webster 1999: 30-35). Such colonial regulation laid the foundations for an apartheid regime that would endeavour to preserve a labour aristocracy for its white minority by transposing the black majority into 'a cheap and rightless workforce' (Webster 1999a: 36). Consequently, for most of the last century, but especially from the 1940s through to the early 1980s, the ability of Africans 'to seek work of their choice, to live where there was work and to have their families with them' was severely restricted under apartheid labour controls (Kraak 1993: 3). Accordingly, legal measures were introduced that codified a white worker privilege in, and protection of, employment in ways that created highly stratified labour markets to the detriment of all non-white workers (see, for example, Bendix 1996: 72- 101). More specifically, government controls were extended in the 1960s and 1970s for the purposes of suppressing freedom of movement, of job choice and of association for Africans (Kraak 1993: xxv). In combination, these three particular restraints on worker freedoms epitomised the severity and reach of apartheid labour regulation as characterised below.

### ***influx control***

Immobility for black workers arose out of a system of 'influx control' first consolidated in the 1930s and 1940s, then extended throughout the 1950s and 1960s and only finally



terminated in 1986 (Kraak 1993: 20-5). Such measures were designed specifically to control the flow of labour into areas outside of the bantustans (Bendix 1996: 420). Job seekers were recruited by agencies under licence from the state and were directed into the 'least skilled, worst paid and most arduous categories of work', including farming, mining, construction, forestry and domestic service (Kraak 1993:4). The extensive use of contract labour proved pivotal to this system of racial job control and none more so than with the deployment of migrant labour down the mines and its confinement to compounds on site (Finnemore and Van Der Merwe 1987:3-4; Webster 1999a: 31-35 and 2002:182). By 1980 for example, official estimates had the proportion of those Africans working outside the bantustans on a contractual basis at one-third (Kraak 1993: 12). Meanwhile, daily or weekly commuters became another important source of contracted labour for (white) employers as the authorities actively reduced housing stock in townships outside of the homeland areas. Consequently, two discrete categories of black worker emerged between the 1960s and 1980s. A small number of approved urban dwellers residing and working permanently outside of the bantustans became dwarfed by a much larger group of migrants and commuters from inside the homelands who were allowed to work precariously in prescribed areas (Kraak 1993: 4-12).

### ***job reservation***

However, where they worked and under what contractual status was not the only prescription placed on black workers in the apartheid era. Additional controls decreed the types of employment and skill that the majority of job seekers could hope to access (Kraak 1995). As embodied in the Labour Relations Act (1956), a formal process of 'job reservation' was also instituted whereby particular occupations were officially classified as belonging to a single race group (Bendix 1996:87). Furthermore, this codification of job segregation was augmented by the practice of white trade unions reaching closed shop agreements with employers that effectively excluded black

workers from holding down particular jobs or, at least, rationing their access to them (Kraak 1993: 78). The deployment of a work-based colour bar continued right up until the 1980s and ensured that both work and skill became highly segmented (Kraak 1995). Certainly, the majority of skilled, supervisory and managerial positions were held to be the preserve of Whites whilst unskilled and insecure jobs those of African migrant workers and the urbanised poor. Meanwhile, intermediate semi-skilled posts tended to be filled by a mix of Whites, Coloureds and Indians (Webster 1985 cited in Kraak 1995: 664). Processes of work segmentation not only exacerbated racial division but also class ones as well.

### ***union exclusion***

Statutory disqualification on race grounds also ensured that union organisation conformed to a similar duality. This is because the Industrial Conciliation Act of 1924 had previously decreed that only registered trade unions could be recognised for bargaining purposes and so participate in centralised (ie: sectoral) bargaining, courtesy of newly-founded Industrial Councils. Because the Act decreed that only employees could belong to such unions but withheld this legal status from 'pass-bearing natives', Africans were effectively denied any registered trade unions rights (Bendix 1996: 81; Kraak 1993: 114; Wood 1998:28-29; Webster 1999a: 36). Eventually, this formal exclusion from formal bargaining institutions was extended to most Coloured and Asian workers by means of the Labour Relations Act (1956) which proscribed the registration of any mixed unions with White, Indian and Coloured members (Wood and Harcourt: 1998:77).

By explicitly prohibiting any union representing black workers from gaining recognition through registration, the Act conveniently deprived the majority working population of access to a centralised collective bargaining process that formed the

centrepiece of all apartheid labour policy until the early 1980s (Bendix 1996: 8).

Moreover, through this bargaining system, white unions and employers also started to fix low pay rates for African workers as a way of offsetting the cost of awards afforded to white skilled workers. Consequently, real wages for Africans were calculated to be a fifth of that of whites by the early 1970s and still a third by the early 1990s when most apartheid labour law had already been abandoned (Wood and Harcourt 1998:78).

Curiously, the apartheid authorities stopped short of denying black workers the right to associate out of some warped sense of voluntarism. Instead, measures were introduced that excluded those unions organising black workers from sitting in Industrial Councils (the apartheid state's forum for centralised bargaining) as well as denying to them any workplace recognition from white employers. (Bendix 1996: 82; Kraak 1993:14; Webster 1999a: 37).

As a consequence, the labour movement became a divided one. On one side, registered (mostly white) unions were co-opted into a type of 'racial corporatism' designed to contain worker unrest and moderate pay (eg: De Villiers and Anstey 2000: 25; Standing *et al.* 1996: 14). By the 1970s, a corporatist exchange had evolved whereby white labour enjoyed the privileges of job reservation, decent pay and consumerism whilst organised business that of industrial peace, healthy profits and tariff protection leaving the state with the guarantee of political support from both industrial constituencies (Schreiner 1994:10). In contrast, excluded independent unions struggled to secure legitimacy from the state, recognition and gains from the employer and the support of suppressed workers (eg: Baskin 1991:6-33; Catchpole *et al.* 1998:271-273; Kraak 1993:127-173;). Meanwhile, workplace governance and labour control often manifested itself in one of two ways (Webster 1999b: 31-33). The first amounted to a type of despotism whereby physical and economic coercion and racial dominance became the basic form of job control as exemplified by the compound system within the mining industry

(Buroway 1995 and Moodie 1994 cited in Webster 1999a: 35-40 and 2002: 182-3). The second came to be described as 'racial fordism' by which whites monopolised the skilled and supervisory positions in most workplaces whilst non-whites were simultaneously excluded from mass consumption 'norms' as a consequence of apartheid regulation (eg: Gelb 1987 and 1991). Both these facets of white managerial control underscored much of what transpired under an 'apartheid workplace regime' (von Holdt 2000: 106-8 and 2002: 287).

In short, apartheid labour relations was based on a system of racial authoritarianism that operated across labour markets, inside workplaces and within industrial relations institutions, leading to a sustained exploitation and oppression of the black majority by a white minority. Even so, South African labour history cannot simply be characterised in terms of the harm done to black workers contrasted with the protected privilege afforded to white counterparts and their managers. Equally important has been the defiance that this subjugation provoked within the black working community and that contributed to the eventual downfall of apartheid labour relations. Such opposition manifested itself in particular forms of worker resistance that were both formal and informal, organised and unorganised and that led to adversarial relations taking root in workplaces held to be hotspots of low trust and shopfloor militancy (Webster 1999a: 29).

### **3.3 Defiance (1972-92)**

Hostility towards apartheid labour relations became apparent through a combination of workplace resistance and union militancy directed at an oppressive management inside, and a repressive authority outside, the workplace (Bendix 1996: 80-99; Kraak 1993 and 1996; von Holdt 2000 and 2002; Webster 1999a and b and 2002; Wood and Harcourt 1998). These two distinctive but linked forms of opposition best illustrate the overall

antipathy felt towards both employer and state. The first relates to diverse forms of black worker hostility that culminated in certain workplaces becoming off limits for managers and supervisors alike (eg: von Holdt 1991: 38). For many, the workplace became a contested terrain within the broader struggle to render apartheid rule itself 'ungovernable' (von Holdt 2000: 106-8 and 115-20). The second and more formal outlet for black worker resentment came with the emergence of a radicalised black labour movement in the 1970s. Not only did it become an institutional force within mainstream employment relations but also evolved into a significant political actor in its own right (eg: Adler and Webster 1995: 77-83; Hirschsohn 1998: 644-659; Kraak 1993: 209-248; Webster 1999a: 40-45; Wood and Harcourt 1998).

### ***resistance***

The denial of formal voice for black workers led to an array of unorganised and informal work-centred opposition that first emerged amongst migrant workers in colonial times. This defiance ranged from sabotage, pilferage and the creation of a 'contra-culture' designed to insulate black workers from their white managers through to a reliance on informal social networks that eventually help spawn a more organised mobilization of the workplace from the 1970s onwards (Webster 1999a: 30-34). In the decade to follow, organised struggle evolved into a wholesale 'culture of resistance' that took the form of work stoppages, general strikes, go-slows and overtime bans and even extended to breaching agreed procedures and disrupting disciplinary hearings (von Holdt 2000: 102-106). In extremis, this hostility could spiral into violent confrontations between militants and scabs, even leading to loss of life in some notable instances (Webster 1999a: 42; Webster and Simpson 1991).

Increasingly, management prerogative itself came to be seriously questioned by black workers who held their place of work in little regard other than as an extension of

apartheid authority. Overthrowing the government became the superordinate goal for organised black workers and rendering the workplace unmanageable a legitimate target on the way (von Holdt 2002: 188). Indeed, the apartheid workplace has been noted for its overall sense of ‘ungovernability’ whilst workplace organisation became known for its ‘militant abstentionism’ from negotiating any semblance of order and stability (von Holdt 2000: 106-8; Webster 1999a: 50). However, organised black labour refused to confine its challenge to apartheid authority to the workplace but sought to re-invent itself as an institutional force within a broader insurrectionist project.

### ***the rise of labour***

Ever since mining was first developed under colonial rule in the late nineteenth century, the fortunes of South Africa’s labour movement have waxed and waned in accordance with changes to the political dispensation – not least with the very rise and fall of the apartheid state itself (Bendix 1996: 76). Not surprisingly, the composition of the overall union movement has reflected deep racial and political divisions as a consequence. This fissure mirrored the racial duality found in the workplace with exclusively white trade unions prospering from their incorporation into a corporatist bargaining system and adopting a vigorously protectionist stance within workplaces. This left black labour organisations struggling to discard their second-class status with both an intransigent state and a retaliatory employer alike. However, simply categorising organised labour by reference to totally separated ‘white’ and ‘black’ labour constituencies is misleading. There has always been an element of the unregistered labour movement prepared to adopt a non-racial constitution and so organise along multi-racial lines since the 1930s (Bendix 1996: 82-84; Webster 1999a: 38).

That apart, industrialisation provided the spur for the emergence of black trade unions that acted independently of the mainstream industrial relations system despite their

exclusion from any formal apartheid institutions and processes such as industrial councils. Moreover, a growing number of black workers, who could still legally associate but were barred from membership of registered trade unions, sought to establish shop-floor based trade unionism for themselves. These organising efforts met with mixed fortunes until the early 1970s (Baskin 1991: 1-53; Bendix 1996: 84-92; Kraak 1993: 127-173; Webster 1999a: 41). Indeed, 1973 is commonly held to be a watershed year for apartheid labour relations following the spontaneous (and largely unorganised) strike wave that took hold in Durban and other centres early on in that year (eg: Baskin 1991: 17-18; Bendix 1996: 92; Kraak 1993: 128; Webster and Adler 2000:1). One estimate has over a hundred thousand black workers taking to the streets in protest against deteriorating conditions and demanding wage increases in defiance of laws prohibiting such unlawful action (Wood and Harcourt 1998: 78-79). Hereafter, employment relations changed markedly in three major respects.

First, this demonstration of shop-floor mobilisation gave impetus to an already rekindled black worker consciousness that sparked the rebuilding of a more radicalised union movement. Indeed, the very launch of new industrial unions further fuelled black worker militancy and union organising (Baskin 1991:18-26; Bendix 1996: 92-93; Macun 2000: 59-65). As a consequence, a renewed union movement emerged in the 1970s and 1980s that became markedly different from that which had struggled to survive previously. Hence, 'black' unions were formed directly and explicitly around an expanding industrial African workforce and stayed independent of employers, the state and a registered (white dominated) union movement (Wood and Harcourt 1998: 79). They also began to organise along lines similar to those of the British shop steward movement (Bezuidenhout 2000: 5). Moreover, many of these unions provided the nucleus for the largest and most powerful of South Africa's (six) labour federations to

be formed in 1985 along explicitly non-racial lines - the Congress of South African Trade Unions (COSATU). This federation now accounts for some forty per cent of all union membership (Hirschsohn 1998: 644-645; Macun 2000: 60-61) and, ahead of all others, continues to be at the forefront of the labour movement's engagement with political and economic transition, post apartheid (Adler and Webster 1995; Baskin 2000: 45-49).

Second, having failed to suppress this growing movement, the apartheid regime set up the Wiehahn Commission of Enquiry in 1977 as a means of placating this new wave of militancy. Concessions granted under the 'Wiehahn reforms' (1979-82) enabled independent unions to engage with employers at sectoral and enterprise levels by the mid-1980s (Baskin 1991: 26-28; Bendix 1996: 94- 99; Kraak 1993: 116-123; Wood and Harcourt 1998: 79-82). As a result, these unions were absorbed into the institutional mainstream of apartheid labour relations whilst simultaneously promulgating mobilisation, protest and challenge beyond the workplace and into the wider community (Webster 1999a: 41-42; Webster and Adler 1999: 359). In addition, their formal incorporation into an officially sanctioned and statutorily entrenched bargaining system coincided with the advent of 'unofficial' plant bargaining as they began to force more and more individual employers into recognition as a consequence of their former exclusion from multi-employer bargaining proceedings. This, in turn, has led to a duality in the bargaining system (see, for example, Bendix 1988: 358-71).

Third, this combination of expanding recognition, organisation and militancy now allowed independently organised labour, with COSATU as its spearhead, to identify with a broader struggle against the state in pursuit of national liberation. This extended remit has been categorised as 'social movement unionism' by such commentators as Scipes (1992), Seidman (1994), Waterman (1993) and Webster (1988). The term is



intended to denote a type of trade unionism that is 'oriented towards radical social change and the struggle for human rights, social justice and democracy' (Hirschsohn 1998: 636) and, in South Africa's case, was crucially forged beyond the confines of the union itself (von Holdt 2002: 285-293). To this end, the black union movement was prepared to ally with grassroots community networks as well as national political bodies and so engage in a variety of protest actions, mass mobilizations and political campaigns (Hirschsohn 1998: 655-658). Henceforth, for many black workers, union membership and activism were to be seen as a counterweight to their lack of citizenship (Macun 2000: 63).

### **3.4 Challenge and apartheid reform (1990-1994)**

Crucially, by the late 1980s, black worker interests had become the central focus of apartheid labour relations rather than those of their white counterparts. Employers were now forced to respond to workplace dissent by negotiating directly with independent trade unions rather than, as previously, relying solely on sectoral bargaining processes to resolve conflicts largely associated with the white worker interests of registered unions. This development also meant that enterprise bargaining began to feature prominently alongside sectoral bargaining and led to the creation of a two-tiered system not previously observed under apartheid labour relations (Bendix 1996: 100). On a broader front, worker militancy linked up with township unrest to confront apartheid authority itself with a 'molotov cocktail' of strikes, rent boycotts, consumer boycotts and political stay-aways (Webster 1999a: 43). Meanwhile, COSATU formed the vanguard of political campaigning over the abandonment of official apartheid and the holding of free elections, through its alliance with popular opposition movements such as the United Democratic Front (UDF) and its launch of the Mass Democratic Movement (MDM) in the late 1980s. With the ANC banned and its leadership in exile,

COSATU filled the ensuing political vacuum by becoming the very embodiment of political opposition itself.

This political and industrial turmoil provoked a crisis of authority for employers and the apartheid government such that the latter, under pressure from the former, sought to contain the unrest (Webster 1999a: 44). An employer-endorsed Labour Relations Amendment Act (1988) epitomised this return to repression by both repealing and restricting key trade union rights acquired previously through favourable judicial rulings. In addition, the Act weakened job security and union representation through the codification of unfair labour practices, outlawed certain categories of strike and secondary action and made unions liable for unlawful striking by their members (Baskin 1991: 261-265; Bendix 1996: 100; Bezuidenhout: 2000: 7; Wood and Harcourt 1998: 82). By 1989 these strictures had only provoked, rather than curbed, more conflict and simply goaded organised labour (notably COSATU) into invoking collective defiance against the legislation in the form of three general strikes (Baskin 1991: 385-393 and 404-421). Matters were further brought to a head that same year when a National Defiance Campaign (NDC) was mounted that once again endorsed civil unrest and mass protest against all unjust and discriminatory legislation (Bendix 1996: 100; Wood and Harcourt 1998: 82-83). Such use of force and counter-force had quickly escalated into a final stand-off that could only be resolved by one or other of the protagonists conceding ground. As a consequence, the following year saw the apartheid regime reverse its policy of repression and, for the first time, make conciliatory overtures to labour, given the absence of a credible political alternative.

This took the form of an historical Accord that was reached with the two biggest labour federations as both government and the business community attempted to signal rapprochement and an end to hostilities (Baskin 1991: 437-440; Bezuidenhout 2000: 7;

Friedman and Shaw 2000: 194-195). Through this 'Laboria Minute', apartheid authority and organised business not only agreed to revoke the contested elements of the revised legislation but to concede further political and industrial space to Labour. Specifically, bargaining rights were extended to those previously excluded (eg: agricultural, domestic and public sector workers). Thereafter, government agreed to act only with the agreement of the labour movement when contemplating changes to its labour dispensation (Adler and Webster 1995: 82-83; Baskin 1991: 439-440; Catchpole *et al.* 1998: 273; De Villiers and Anstey 2000: 33-34; Hirschsohn 1998: 659; Webster 1999a: 45; Wood and Harcourt 1998: 85). In return, trade union affiliates agreed to abandon further planned action and to participate in a reconstituted National Manpower Commission (NMC) that, as a statutory body, had been charged with formulating public policy on labour matters. This particular aspect of the Minute held great significance for the broader transition from racial authoritarianism to political liberalisation. Henceforth, the majority of organised labour (primarily COSATU affiliates) resolved to partake in corporatist-style consultation and negotiation that organised business welcomed and to which the state readily conceded.

This Accord represented the high watermark of the resistance years and the ending of formal apartheid labour relations. But, more importantly, it also showed 'democratic transition and reconstruction' to be achievable and policy deadlock resolvable through recourse to negotiated settlement (*after* Adler and Webster 1995: 83). As such, it became the forerunner to a tripartite structure that afforded independent trade unions both authoritative voice and a forum for shaping the whole democratisation agenda – not least employment relations itself (Friedman and Shaw 2000: 190-203; Webster and Adler 1999: 360). Apartheid reform of its labour relations set in train a process of political exchange between state, labour and business that formed the mainstay of post apartheid employment relations. Indeed, the very replacement of the labour dispensation

is itself the product of political compromise (for example, Du Toit *et al* 1996: 29-32; Habib 1997: 64-65). To appreciate why this political denouement is so significant from an historical perspective requires us to first assess apartheid's overall impact on South African employment relations. Reviewing the apartheid inheritance in this way provides a basis for understanding more fully what has been reformed, why and to what end. Such a review also allows us to identify the enormity of the challenge awaiting the architects of reform and to critique their blueprint for it.

### **3.5     Apartheid's legacy**

#### ***powerful labour movement***

The most striking aspect of this legacy concerns the political and industrial status enjoyed by Labour post apartheid and its subsequent role in helping transform employment relations from one racially divisive and oppressive to one socially inclusive and co-determinist (for example, Adler and Webster 2000: Baskin 2000; De Villiers and Anstey 2000; Wood and Harcourt 1998). By moving from outright opposition to conditional engagement with apartheid authority, Labour guaranteed for itself a leading role in the liberation and reconstruction of the country (Adler and Webster 1995: 98-100). This happened because independent unions had secured for themselves institutional access to state policy-making under late apartheid such that they could not simply be eased aside when it came to transforming the employment relations regime and consolidating democracy (Webster and Adler 2000: 1-4). For the new polity, organised labour had become integral to this whole transformation project. Perhaps COSATU's entry into a 'Tripartite Alliance' with the ruling parties of the ANC and SACP has come to symbolise best this new political reality (Eidelberg 2000: 129-157). Usually, in such cases, civil rights movements first open up the political franchise before raising labour standards overall. It appears the reverse has happened in South

Africa's case such that 'gains in workplace democracy preceded gains in the parliamentary arena' (Lawrence 2004: 203).

Labour's wherewithal ensured that South Africa's 'double transition' towards simultaneous political democratisation and economic liberalisation was to be negotiated by means of social pacts that amounted to a 'bargained liberalization' of the economy (Webster and Adler 1999 and 2000). Labour proved to be sufficiently powerful enough to temper the pace of restructuring and ameliorate the social costs of economic adjustment. Moreover, Webster and Adler (1999: 347-349) argue that such social pacting can continue to be used to generate sustainable jobs, protect living standards and facilitate skill acquisition in return for all parties agreeing to prioritise on growth, flexibility and international competitiveness. This is because the institutional means now exist for such exchanges to take place (*after* Webster and Adler 1999:378-379). Labour's political power also meant that South Africa's adaptation of European-style social corporatism was itself the product of the negotiated compact (Baskin 1993a).

But this union power is also derived from an organisational strength that has grown constantly over the course of the last twenty-five years or more (Bezuidenhout 2002:110; Macun 2000: 58-65). Illustrative of this is the fact that between 1980 and the mid-1990s, union membership quadrupled, having doubled in the first five years and then again by 1996 (Lawrence 2004: 201). Over this period, both union membership and density were seen to increase. For instance, membership expanded from a base of 673, 000 in 1976 to 3.8 million by 1998, out of a paid workforce of just under 8 million in 1998. Of these, 1.7 million (45%) were members of COSATU whilst the number of registered trade unions also rose over this same period from 173 to 248 (Bezuidenhout 2002:100). Meanwhile, between 1985 and 1998 union density in the non-agricultural formal sector of the economy rose from eighteen to fifty one percent (*after* Naidoo

1999: 16-17). This growth was mostly attributable to successful organising activity in three notable sectors of the economy – manufacturing in the 1970s and 1980s, mining from the early 1980s and the public sector in the 1990s. Together, these organised sectors account for nearly eighty two per cent of total COSATU membership (Bezuidenhout 2002: 101). As a result, union structure is characterised as ‘an island of large unions, dominating within particular sectors of the economy, within a sea of many, smaller unions’ (Macun 2000:66).

Organising success on this scale also translates into an increased rise in the ‘union wage premium’ for members compared to non-members, most notably for urban African males (Butcher and Rouse 2001: 11-12; Hofmeyr and Lucas 2001: 713-715; Moll 1993). However, caution needs to be exercised at this point. According to Department of Labour data, the beginning of the new century looked promising for organised labour with a rise in the number of registered unions from 464 to 504 between 2000 and 2002 and a comparable increase in membership from 3.6 million to 4.1 million over the same period. Yet there now appears to be a reversal to fortune underway for union organisers, largely attributable to rising job loss and negative job growth in the formal sector associated with trade liberalisation and the removal of trade tariffs in exposed industries such as clothing and textiles. Latest returns for 2004 suggest a fall in both union registration and membership down to 341 and 3.1 million respectively, amounting to an estimated overall union density of some 42 per cent (Annual reports 2000-2005). Interestingly, Lewis (2004: 191) makes a useful observation regarding these trend figures. Arguably, independent unions were still able to make substantial gains and force concessions from the state through sheer market and workplace power rather than through entering into any formal political alliance with a ruling party as is commonly supposed.

### *a contested workplace*

Another legacy to have left its mark is the persistence of a 'low trust dynamic' and adversarialism in racially divisive workplaces (eg: Goldberg 1994: 11-13; Macun and Webster 1998:43-44). As yet, a return to 'ungovernability' cannot be discounted because the racially fractured workplace relations that helped stoke have yet to be repaired post liberation (von Holdt (2000: 123-7 and 2002: 293-5). Any analysis of strike trends and behaviour provides confirmation that the workplace can still harbour much unrest. This is because many workers and their representatives still consider industrial action integral to their struggle for improved conditions inside the workplace and for fundamental freedoms outside it (*after* Backer and Oberholzer 1995: 31). Despite methodological shortcomings, the historical record consistently shows there to have been a strong association between political upheaval and strike activity and none more so than in the turbulent 1980s and 1990s (Anstey 1999: 61; Backer and Oberholzer 1995: 30). As the struggle for political liberation intensified, the number of annual working days lost due to strike action reached a high watermark of some four million plus between 1990 and 1994. But even this characterisation may understate the level of industrial unrest for two further reasons. First, strike impact is likely to have been under-recorded for this period, especially as political stayaways (that amounted to full-blown general strikes) were never fully taken into account (Anstey 1999: 60-1). Second, the incidence of violence and intimidation progressively worsened as strike activity intensified during the transition from confrontation to dialogue (Backer and Oberholzer 1995: 17-19).

But, South Africa's reputation for strike proneness remains even post apartheid. For instance, Wood and Psoulis (2001: 301-302) discovered from a national survey of COSATU union members that almost two thirds reported themselves to have participated in some form of strike action during 1998. Somewhat sardonically, Anstey

(1999: 63-64) claims South Africans to have become 'world class strikers' over the last two decades when compared to countries in the EU and OECD but also confirms a decline to more modest levels as new and revised democratic institutions and processes take hold. Yet national data for the last decade continued to show reasonably high levels of strike activity when measured in terms of both work days lost and workers involved. More dramatically, however, data for the beginning of this decade shows a fall in strike incidence - seemingly as a consequence of the union decline alluded to earlier. For instance, the total number of working days lost due to action plummeted from 3.1 million for 2000 to 0.5million for 2001 (*after* A Levy and Associates Annual Report 2002).

### ***distorted markets***

Three features closely associated with apartheid-run labour markets have dominated the thinking of those charged with rebuilding employment relations in ways intended to complement economic reconstruction, political democratisation and racial cohesion. First, society is still one stratified by pronounced racial and class divisions that are themselves the direct product of white oligarchic rule (Donnelly 1999: 199-201; Kraak 1995: 657-687). Specifically, extreme (mostly urban) wealth exists alongside extreme (mostly rural and township) poverty despite South Africa's official standing as a 'middle income' country (ILO 1999: 6). Second, apartheid has accentuated the gap between developed and developing parts of the economy such that South Africa fits into neither category easily. This is further exacerbated by a growing disparity between urban and rural levels of economic activity (ILO 1999: 9; Kraak 1995: 668-670; Standing *et al.* 1996: 236-287). Third, this combination of pronounced racial division and strongly defined labour market segmentation has produced a highly skewed jobs market with a burgeoning informal employment sector that accounts for anything between a fifth to well over a third of all economic activity (Standing *et al.* 1996: 83-



85). Indeed, current estimates report one third of all those eligible for work being employed in this sector alone (Statistics SA 2002). In part, its size is the direct product of an apartheid rule that forced black enterprise and employment into the informal economy and further compounded the problem of under-representation for black workers (Standing *et al.* 1996: 86-87).

Such market distortions also led to capital formation being highly concentrated in the hands of an economically powerful white business community that was small in number (Savage 1987: 10-11; Douwes Dekker 1988: 18-19; Uys 1996). Consequently, business ownership has been highly distorted within South Africa with just five 'white-owned' corporations controlling more than eighty per cent of quoted shares by the mid -1990s (Michie 1997: 156). By contrast, African ownership or control accounted for only one tenth of those companies quoted on the Johannesburg Stock Exchange by the end of the century. Such concentration persists despite a policy of 'black economic empowerment' that has encouraged a transfer of ownership and control to an embryonic Black business community (ILO1999: 9)

### ***systemic inequality***

In sum, state-controlled racial inequality polarised society such that a small affluent elite and a large disenfranchised majority of poor households lie either end of a highly skewed wage spread (see, for example, Leibbrandt *et al.* 2001: 73-86; Michie 1997: 156). Such inequality is shown to be extreme, persistent and of the highest by international standards (*after* Leibbrandt *et al.* 2001). Indeed, South Africa's Gini coefficient has always powerfully measured the extent of this income inequality. According to McGrath and Whiteford (1994), the coefficient stood at .68 when using 1991 census data and .65 when using 1993 census data and is comparable to that for Brazil and the Russian Federation. Apartheid profoundly influenced the country's

earnings distribution given that racial and gender discrimination, along with geographical and economic immobility, has been shown to determine earnings ahead of other factors such as education and experience more so than in other countries (Fallon and Lucas 1998 cited in ILO 1998:8). Not surprisingly, wage compression continues to be at the forefront of a labour movement's redistribution agenda and likewise impacts on sectoral and enterprise pay determination.

Similarly, unemployment effected whites as opposed to all other racial groupings less severely, irrespective of whatever definition is used. For example, with the ending of apartheid in 1994 total unemployment stood at just under a third of the active population with whites accounting for a mere six per cent of the total compared to Africans' two fifths (Standing *et al.* 1996: 116; table 4.9). Ever since, unemployment levels have remained comparable to those under apartheid, with the rate fluctuating between twenty nine to thirty two per cent on a narrow definition and forty five per cent on a broader one (Statistics SA 2002). Equally disappointing has been the failure of job creation to keep pace with targets set by government (Macun and Webster 1998: 45). This labour market inactivity continues to preoccupy policy reformers concerned with its fall-out effect in terms of economic crime and the threat to social stability (ILO.1999: 7; Standing *et al* 1996: 1).

Likewise, inequalities of opportunity continue to impede entry into, and advancement within, labour markets, most notably for African youths and females. Apartheid systematised discrimination such that Africans and other non-whites are still seriously disadvantaged in terms of access to quality schooling and training compared to white counterparts (Standing *et al.* 1996: 386-389). For instance, the amount spent on African secondary education in 1990 was half that for White secondary education and differences in educational attainment have reflected this imbalance (ILO 1999:9).

Meanwhile, vocational training has been 'low, declining and maldistributed' (Standing *et al.* 1996: 66). Such discrimination has not just contributed to an earnings inequality (ILO 1999: 9) but also impeded the formation of a skill base that meets the requirements of an aspiring knowledge economy (Standing *et al.* 1996: 449-450).

### ***failing economy***

Finally, shortcomings in apartheid labour markets merely compounded deficiencies present in the economy overall. The two decades prior to the ending of apartheid had seen the economy stagnate, growth decline, net investment fall, average real wage rates decline, and productivity growth disappoint (Habib and Padayachee 2000: 246-7; ILO 1999: 3-11; Michie and Padayachee 1997: 9-25; Nattrass and Seekings 2001: 45-55). In addition, the provision of a physical and social infrastructure in terms of housing, health, education, transport, telecommunications and public utilities had proved inadequate for the majority of the population, both rural and urban (Michie and Padayachee 1997: 12-17). A policy of import protectionism for key industries such as agriculture, chemicals, textiles and car manufacturing had further contributed to this sluggish performance whilst trade and investment sanctions not only added to South Africa's pariah status but also its economic woes.

Equally troubling was the fact that an under-performing industrial sector, and its dependence on import-substitution, had led to a considerable deterioration in its international competitiveness. The requirement now was for this previously semi-closed economy to be made ready for trade liberalization and conversion to export-driven industrialization (Bhorat *et al.* 2002: 1-6; ILO 1999: 1-3; Standing *et al.* 1996: 38- 41). However, the economy's vulnerability to such global exposure placed an enormous burden on an incoming liberation government already ideologically and politically committed to addressing past wrongs through redistribution policies and institutional

reform. Increasing the economy's ability to compete openly now became as much of a priority for the state as dismantling the apartheid paradigm.

### 3.6 Conclusions

This chapter has provided us with an historical account as to what characteristically constituted apartheid labour relations, how it came to be challenged from below and what legacies it managed to bequeath. Bearing in mind our interest in contemporary employer associability and its link to bargaining reform post liberation, there are three highly relevant attributes that carry across from late apartheid into the early post apartheid period. *First*, there is the institutional norm of centralised bargaining as encapsulated in an apartheid state-sponsored industrial council system. Here, registered employer associations became the bargaining agents for white-owned businesses in reaching industry-wide agreements with 'established' (primarily white) trade unions that then encompassed both 'party' and 'non-party' employers and their employees. Eventually, and as a consequence of the Wiehahn reforms, coverage eventually extended to black workers as their 'independent' union leaders successfully agitated for access to this racially exclusive bargaining forum. *Second*, the labour movement, as personified by the COSATU union federation, has become a strong political, economic and institutional force within the country. This means that, when it comes to issues of bargaining reform and voice regulation, its views can neither be discounted nor its preferences sidelined. *Third*, and as a direct consequence of the rise of a labour movement that felt increasingly empowered to challenge apartheid rule and employers head on, changes have occurred to the very bargaining structure itself. This has taken the form of a gradual switch from essentially single (that is, industry) to multiple level bargaining over the course of the apartheid era. This entailed experimentation with political bargaining at peak level, the consolidation of multi-employer pay bargaining at

industry or sector level and growing employer recognition of union bargaining at the shop-floor level- all in the late apartheid era. However, constitutional and legal structures had yet to reflect the new institutional realities behind these changes to the overall bargaining structure.

How South Africa set about addressing this legacy and righting past wrongs forms the centrepiece of the chapter to follow. As will be seen, making amends for what transpired under apartheid labour relations and ensuring an equality of treatment across races has been the driving force behind all subsequent reform. This resolve has taken the form of a bargained legal dispensation founded on general political exchange that would lay the foundations for a new employment relations system intended to transform both workplace and economy. The historical narrative, as set out in this chapter, helps explains how and why such steadfastness has taken root. It provides an account of a dual labour relations regime that decreed employment, pay and skill acquisition be racially segregated and of its impact in terms of provoking worker retaliation, workplace ‘ungovernability’ and economic stagnation that culminated in its eventual demise, despite ill-conceived attempts at state reform. Confronting this legacy set the tone for what was to come following a transfer of power to those charged with the rebuild of South Africa’s new employment relations. The next chapter outlines what exactly has supplanted apartheid labour relations, what new demands on the system command our attention and what problems are beginning to emerge that might jeopardise its institutional well being.

## **Chapter 4. Ten years on from apartheid: taking stock of South Africa's *new* employment relations**

### **4.1 Introduction: an agenda for change**

The apartheid experience, as set out in the previous chapter, obliged reformers to confront certain realities when finally putting paid to apartheid regulation. The challenge was how to replace it with a labour regime that would prove palatable to all parties. These realities took shape in a set of entrenched norms that had come to define apartheid labour relations by the time of political hand-over in 1994. First and foremost, racially defined pay, job and training disparities had spawned acrimony, discord and mistrust between minority white managers and majority black subordinates. Black worker dissent then found its political voice in the shape of an expanding, if fragmented, labour movement that developed independently of both state and political party. As a result, union leaders, with the support of a highly politicised (mostly urban black) membership behind them, eventually become important community leaders in their own right. Meanwhile, grassroots labour movements had also earned a fearsome reputation for exerting militancy in the workplace and for notching up notable victories against their employers.

In truth, COSATU, in becoming the main focus of dissent against apartheid authority for both township and working people had adopted a dual strategy of 'radical reform' by the end of the apartheid reform era. (Adler and Webster 1995: 80-83 and 92-94). The underpinning logic was for 'social movement' trade unionism to combine negotiation with mass action as a way of pressing the authorities to abandon their apartheid programme completely. As a consequence, affiliated unions and their members had grown accustomed as much to negotiating with organised business and government as

to undermining their authority. A similar response could be expected from organised labour when it came to partaking in the institutional overhaul of the whole employment relations system.

Moreover, two landmarks of apartheid reform further contributed to the agenda for regime change following political emancipation. First, under *force majeure*, a powerful and independent labour movement that had always lacked legal status became incorporated into official employment relations, following the Weibern reforms of the early 1980s. However, these same unions still struggled to win recognition from recalcitrant employers at both enterprise and industry bargaining levels. Second, this incorporation led to union demands for, and participation in, embryonic corporatist structures such as the National Economic Forum (NEF) and the National Manpower Commission (NMP). These bodies had been formed in the early 1990s for consensus-building purposes and as political expediency on the part of a state anxious to appease robust union-led opposition. Nevertheless, the precedent had been set for a more inclusive policy-making process at the national level and this now formed part of the discourse as to what was to happen to employment relations come political liberation. If nothing else, these developments demonstrated how far South Africa's independent labour movement had come under authoritarian rule and how much more political space needed to be conceded to it in the context of a fledgling democracy (Freedman and Shaw 2000: 199-203).

These advances for the union movement apart, two further considerations helped shape all subsequent policy thinking regarding institutional reform of South African employment relations. First, as a political ally of the new ruling party, the views of the most powerful union federation (COSATU) could be expected to carry considerable weight. When it came to drafting any new legal dispensation, organised labour's

presence had become an absolute prerequisite for both business and government (eg: Baskin 2000: 44-47; Webster and Adler 2000: 1-9). This explains why labour was such a 'force to be reckoned with' when it came to determining the future of South African employment relations and its very involvement, a precondition of success (Wood 2000:11). Second, any reconstruction of the employment relations system had also to facilitate the broader transition from elite rule to universal political franchise through strengthening the institutional voice of non-white workers and their unions (Macun and Webster 1998: 45-47).

Both these political imperatives ensured that regulatory reform of employment relations became a necessary adjunct to any broader settlement between apartheid authority and its political opponents. Thus, there was need for a form of 'voice regulation' that could steer some middle course between an employment relations heavily prescribed by the state and one wholly disciplined by the marketplace (see chapter 2) and in which collective bargaining would prove integral (the Presidential Labour Market Commission 1996: 3-4; Standing *et al.* 1996: 10 and 155-66). Clearly, the apartheid experience made fundamental reform of employment relations (and collective bargaining) not just obligatory but urgent and that this would entail dismantling old structures, introducing new ones as well as radically overhauling those institutions and processes worth retaining. Such an enterprise amounted to more than a cosmetic makeover (see chapter two). It became equally apparent that regime change could only occur by means of a concordat involving the bilateral parties on the one hand (primarily COSATU and Business South Africa, respectively) and the incoming Government of National Unity (Ministry of Labour) on the other. In short, transforming employment relations was considered fundamental to the dual task of consolidating democracy and reconstructing the economy (Adler and Webster 1999:358-65). But other realities also required that any reform be brokered between labour, business and the state as part of the wider political settlement that ushered in liberation. (eg: Baskin 2000: 44-47; Habib 1997: 65-72; Webster and Adler 2000: 1-9). Received wisdom was for a form of re-institutionalisation that eased past antagonisms



through facilitating political exchange and cooperative relations at national, industry and workplace levels (*after* Du Toit *et al.* 1996: 20-21). The question now arose as to how this shared aspiration was to be made tangible.

## **4.2 Regime change**

Accordingly, this new beginning was marked by the introduction of a new legal dispensation intended to simultaneously empower and constrain unions and employers alike in pursuit of this embodiment of cooperative relations. In short, the new framework heralds a shift towards a form of regulation that enables, but not compels, bipartite parties to engage with institutional structures and practices held to be more democratic than those experienced under apartheid (Adler 2000: 17; Donnelly. 1999:205). . As such, it presented the risk that reform would develop piecemeal, whereas the logic of its design required a comprehensive, encompassing integration. Unions and employers were encouraged, rather than compelled, to involve themselves in the offered negotiating, co-determination and dispute resolution mechanisms (Adler 2000: 17; Donnelly. 1999: 205; Du Toit *et al.* 1996: 33-4; Habib 1997: 65-8). This shared determination to break with such an adversarial and discredited past further illuminates the demand for all reform initiatives henceforth to comply with a Constitution that itself conforms to the International Labour Organisation's conventions on core labour standards. Not surprisingly then, fundamental rights to associate, organise, bargain and strike have all been enshrined in law (Du Toit *et al.* 1996: 20-21).

In addition, new and revised institutional processes were agreed upon that allowed for both economic and social agendas to be addressed in seemingly balanced ways (Du Toit *et al.* 1996: 38). Desirable outcomes were to be twofold: a process of 'redistributive justice' that addressed inequalities in employment, pay, training and security along with the pursuit of a 'dynamic efficiency' that improved labour productivity and flexibility

whilst rewarding performance more equitably (*after* Standing *et al.* 1996: 1-5).

Henceforth, institution-building would be shaped as much by the need to reconstruct the economy, industry and enterprise as to right past wrongs perpetrated in workplaces. In this respect, policy intent was unambiguous: equity demands as much as efficiency imperatives were to be given at least equal prominence within new and revised institutional arrangements (Donnelly 1999: 206; Du Toit *et al.* 1996: 39). Patently, South Africa's new employment relations would be required to resolve tensions arising between the two competing reform agendas of improved security and well-being for workers and enhanced flexibility for employers (Standing *et al.* 1996: 6-9). The ensuing institutional framework would make possible a system of 'regulated flexibility' in which both sets of demands could be realised through evenly-balanced dialogue and exchange (*after* COSATU – Douwes Dekker and Johnson 1998; Standing *et al.* 1996: 12-16).

Equally, other constraints weighed heavily with those tasked with drawing up a blueprint for reform of the national employment relations system. Paramount was the **unification** of the system in ways that made it explicitly non-racial and socially cohesive within the broader transition from authoritarianism to democracy. Henceforth, a single and all-encompassing system of interest representation became an overriding factor for policy-makers (Donnelly 1999: 202-204). As a result, previously marginalised groups of workers such as public servants, farm labourers and domestic workers now joined the mainstream of employment relations for the first time (Webster and Adler 1999: 360). Reforming the very institutional framework itself was also considered to be a priority and altering the way that business, labour and the state were expected to relate to each other became an important guiding principle for what followed. Consensus, not antagonism, between the actors was considered to be a desirable attribute of all subsequent reform (Macun and Webster 1998: 36). In short, institutional reform was

intended to help move the employment relationship away from distrust towards cooperation, from makeshift towards more enduring engagement and from distributive towards more integrative interaction between bargaining agents (Baskin and Satgar 1996:103).

**'Normalisation'** was similarly held to be cardinal for those policy reformers seeking to rehabilitate employment relations, post apartheid (Macun and Webster 1998: 36).

Affording organised labour access to customary political and employment relations discourse was held to be a vital component of this process as were stabilised and predictable relations between parties and reduced workplace conflict. Equally, making employment relations less politically charged requires bargaining settlements to become more responsive to changing economic circumstances, such as unemployment and inflation. On the one hand, normalisation seemed to require making employment relations and politics overlap. On the other, it required the relationship to be less 'political', in terms of being part of a national struggle, and become more economically driven to the pursuit of national prosperity. Normality also called for social partners to develop an organisational capacity and strategic sophistication that went beyond immediate interests and their adversarial past (Macun and Webster 1998: 40-41).

It follows that strengthening **institutional voice** for a previously disenfranchised majority of workers and increasing their representational opportunities was held to be mandatory for a country determined to regularise a turbulent society and consolidate a hard won democracy (Adler 2000: 15-17; Macun and Webster 1998:47; Schreiner 1994:16-18). Within the context of this negotiated transition, peak representation appeared to be a necessary compliment to political emancipation. However it also needed to be both encompassing of constituencies formerly excluded (eg: women, rural communities, the poor and unemployed) and sufficiently power-balanced between those

organised interests, already enjoying institutional legitimacy (Schreiner 1994: 18-21; Standing *et al.* 1996: 10). Thus, a form of 'voice regulation' was to be promulgated that stood midway between market discipline and state interventionism and that placed various multipartite bargaining and consultative forums centre stage (Macun and Webster 1998: 45-46; Standing *et al.* 1996: 10). As a consequence, those overseeing the reforms settled on a form of social corporatist 'architecture' that precluded any return to state authoritarianism and elite oligarchy (Douwes Dekker and Johnson 1998: 21). Promoting voluntary, self-regulated, multi-level dialogue, upholding the independence of labour market parties, and encouraging their (and others') entry into policy debates that would help shape the future was considered to be a better guarantee of industrial, not just political, democratisation (*after* Douwes Dekker and Johnson 1998:18). Similarly, any subsequent multipartite and multi-tiered engagement should not just restrict itself to wage setting and the like but be extended into the realm of broader social and economic policy-making (Baccaro 2002a: 4 and 2002b: 7-10; Gostner and Joffe 2000: 77-78; Webster and Adler 2000: 3). In short, a multi-layered, articulated system that roughly followed the European pattern was chosen to compliment political emancipation. Fragmented, decentralised and market-orientated arrangements along Anglo-Saxon lines were deemed not fit for the purpose.

In sum, this resolve to learn from past mistakes and start making amends informed the whole drive for what was to follow. Reconfiguring employment relations along neo-corporatist lines demonstrated a policy determination to sever any associations with racial corporatism and to introduce a regime change that would transform South Africa's discredited employment relations system. However, institutional change also appears to have been as much the product of pragmatic conciliation between bilateral negotiators over the detail of the legislative reform as of ideological bias on the part of state-endorsed policy-making circles (Adler 2000: 15; Freedman and Shaw 2000: 206-

209; Du Toit *et al.* 1996: 26-32). Thus, new arrangements are now codified within an enabling legislation (Labour Relations Act 1995 as amended in 1996 and 2000) that gives substance to both policy preferences and pragmatic compromises. Thus, the legislative framework functions as a politically nuanced corporatist compromise. As such, it represents an agreed response to a crisis of expectation anticipated in the wake of political liberation but also to potential worker discontent arising from the economy's sudden exposure to internationalised markets (Habib 1997: 70-72).

### **4.3 Institution-building**

In harness, the NEDLAC Act (1994) and the Labour Relations Act (1995) provide the basis for new legal framework by which four distinctive neo-corporatist structures were to be made manifest and co-determination made possible (Adler 2000: 1-4). The earlier Act officially established the first of these - the National Economic Development and Labour Council- and is commonly referred to as the NEDLAC forum. Tripartite representation within NEDLAC is organised across four chambers: the first three focus on matters of mutual concern to do with public finance and monetary policy; trade, mining, agricultural and industrial policies; and labour market issues. Representation in the final chamber was broadened to include those organisations emblematic of traditionally disadvantaged groups from the wider community (for example, rural poor, women, youth and the unemployed) and interested in issues around civic reconstruction and development (for example, water, health, education and housing). Uniquely, opportunities are provided for representatives of the informal employment sector and socially excluded to impact on key government policies. The intention has been to promote a more 'augmented' form of dialogue rather than restrict it to a 'narrow insider' one (Casey and Gould 2000: 120-121). However some still express concern that this fourth constituency might be outmanoeuvred by 'the big three' within the chamber due

to persistently weak representational capacity (for example, Webster 1995: 26-29). This worry apart, extending interest representation and mediation in this way is considered to be innovative from a comparative perspective, especially given a world-wide growth in neo-liberal deregulation and the fact that South Africa is widely classified as a semi-industrialised economy (Adler 2000: 14; Webster 1995: 25).

NEDLAC's goal is to facilitate peak social dialogue so that government, labour, business and community organisations can reach accords and produce policy frameworks that ostensibly sustain growth, advance social equity and create employment. By such means, the 'big three' are also meant to shape socio-economic policy and oversee labour market institutions in ways that 'consolidate national unity, reconciliation and development' (Habib 1997: 65). In short, NEDLAC provides a venue for policy bargaining between the parties and, to this end, is empowered to consider any legislative proposal or policy amendment that falls within its remit ahead of any parliamentary scrutiny. The expectation is that any agreement, concordat or policy recommendation agreed within NEDLAC is to be proclaimed by Parliament (Gostner and Joffe 2000: 77-78). To date, NEDLAC has devoted considerable time and energy to producing agreed legislative drafts covering organising, employment protection, discrimination and training rights as well as the Workplace Challenge Initiative that is designed to help restructure work, organisation and industry (Gostner and Joffe 2000: 84; Webster and Omar 2003:195). Indeed, it was this very NEDLAC process that helped produced the Labour Relations Act of 1995 – the framework for industry bargaining, workplace consultation and dispute resolution that, together with the NEDLAC chamber, are meant to provide the institutional means by which cooperative relations are expected to flourish. Reaching consensus over such controversial and complex legislation has proved to be one of its most enduring achievements to date (Habib 1997:66)

Accordingly, this second piece of major legislation provides for a voluntary centralised bargaining system whereby the bilateral parties can elect to establish a bargaining council provided that it is ‘sufficiently representative’ of a designated sector or industry (Du Toit *et al.* 1996: 34; Labour Relations Act 1995, chapter 111). Once registered with the Department of Labour, such a body is authorised to conclude and enforce agreements (including pay), resolve disputes (under accreditation), establish (and administer) training schemes and confer on workplace forums additionally agreed matters for consultation. Additional powers also enable it to determine, through agreement, when and where strikes and lock-outs are to be precluded; to submit proposals for consideration by NEDLAC on matters affecting its industry or sector and to administer funds relating to pension, insurance, medical aid, sick pay, holiday or unemployment schemes. All importantly, there is also the means to legally extend, through ministerial approval, industry agreements to non-signatory employers and trade unions. As a counter-balance, the Act also allows non-party employers to apply for legal exemption from the terms of any such agreement – the equivalent of ‘hardship clauses’ in German sectoral agreements (Bhorat *et al.* 2002: 51-3; Du Toit *et al.* 1996: 34; Klerck 1998: 92; Stapelberg 1999: 30-32).

Whilst the scope remains for centrally determined pay, terms and conditions to be extensive, the reality may prove to be otherwise. First, participation in industry bargaining is voluntary rather than compulsory on the parties. This means that Bargaining Council coverage across and, even within, sectors is variable although it continues to operate in key industries such as clothing, textiles, engineering, metal and chemicals. In contrast, enterprise bargaining appears to be the norm in other sectors such as food, paper and retail whilst any form of collective bargaining is absent from yet others such as agriculture and domestic service (Klerck 1998: 99). It seems that dual

bargaining has only emerged where unions are both strong on the ground and representative across industry and this has yet to become widespread (Bezuidenhout 2000: 6).

Second, even where sectoral bargaining occurs, agreements often only establish pay and conditions minima leaving the parties free to negotiate additional terms by way of enterprise bargaining, should they so choose (Harcourt and Wood 2003: 93-96). For sectors such as clothing and construction, this narrow scope to multi-level bargaining is commonplace with industry-wide restructuring, investment or training agreements remaining a rarity (Klerck 1998:99). Nevertheless, one estimate has sectoral bargaining agreements covering just under half of all those in formal employment for 1997 and is more likely an underestimate given that most agreements are extended to the employees of 'non-party' employers (ILO 1999: 33). Indeed, this coverage rises to slightly less than two-thirds for manufacturing alone, according to Natrass (2000: 133). Such bargaining coverage is considered to be relatively high when compared to many other middle-income countries. It also appears that bargaining councils perform a dual function in both standard-setting on pay and conditions for key industries and sectors as well as in fulfilling a meso-welfarist role in providing a number of social benefits that would otherwise fall to the state to provide (ILO 1999: 34).

As originally conceived, statutory-endorsed workplace forums (WF) are meant to be the functional equivalent of German works councils in guaranteeing co-determination rights to workers. Indeed, this model of social governance is the one institution that has been imported from outside South Africa and into a national employment relations that has no tradition of shared decision-taking to call on (*after* Anstey 1995 and 1997).

Bargaining councils enjoyed a head start insofar as South Africa enjoyed a tradition of industry-wide negotiation and the concept was widely understood by both employers



and unions. Workplace forums, on the other hand, were radically new and targeted the inherent problem of autocratic management and reactive shop floor defiance. The law allows for their introduction into all enterprises with more than a hundred employees, the object being to enhance both workplace democracy and productivity.

However, these Forums are far from being compulsory but crucially require a union to trigger their formation. Application by a majority representative trade union is made to the appropriate authority who then explores whether there is sufficient agreement between the parties (as to its desirability and constitution) to warrant its establishment. Representation is through workforce election, with seats allocated in accordance with the relevant occupational weighting (Habib 1997: 67; Wood 2000: 9). The intention is for Forums to formalise the way managers are expected to consult with union representatives, provide employees with a say in their working arrangements and begin making inroads into an apartheid legacy of 'militant abstentionism' and 'workplace ungovernability'. By such means are the prospects for workplace stability and industrial peace to be enhanced, even against a backdrop of structural adjustment linked to market deregulation and trade liberalisation (Satgar 2000: 65). Unfortunately, legislative negotiators have produced a form of co-determination that epitomises an uneasy compromise between two competing policy agendas: boosting productivity, flexibility and 'world-class' competitiveness for employers whilst providing workers with a say as to how these are to be achieved. The fear is that any Workplace Forum can easily deteriorate into a 'site of contestation' rather than advance the grand cause of partnership relations (Wood and Mahabir 2001: 233).

An institutional separation of powers is also expected to operate such that Forums focus exclusively on non-wage matters whilst registered trade unions continue with their more traditional remit of pay and conditions bargaining (both in and out of the workplace).

But unlike Germany, there is little or no legislative attempt at separating bargaining from co-determination processes. It would appear that these processes are not meant to be mutually exclusive but, rather, to compliment each other such that they become indistinct in practice. Nevertheless, it remains unclear whether Forums are meant to augment or replace enterprise bargaining, given the variety of form possible in law (see, for example, Adler 2000: 9; Klerck 2000: 18). Less ambiguously, legislators wish Workplace Forums to be formed only at the request of a trade union and for the latter to then act in a spirit of codetermination.

Hence, Forums have rights of information, consultation and joint decision-making as with other European 'second channel institutions' of representation (*after* Rogers and Streek 1994 and Streek 1992). Employers are expected to consult with Forum representatives on, amongst others, matters relating to workplace restructuring and work re-organisation, plant closure and redundancies, mergers and ownership transfers, job grading and merit pay schemes, training and education. They are further required to make joint decisions on appropriate grievance and disciplinary procedures (unless covered under a collective agreement), the rules of misconduct, anti-discrimination policies and practices, and changes to company welfare schemes. Finally, employers are obliged to disclose to Forum representatives all information relevant to their proper functioning (Adler 2000: 7-8; Habib 1997: 67; Wood 2000: 9). However, unlike their German counterparts, it is unclear whether Forums are expected to function as consensus-seeking, problem-solving bodies or as negotiating committees that resolve traditional conflicts of interest. As matters presently stand, there is little to prevent Forums from being incorporated into existing enterprise bargaining arrangements given the absence of any 'peace obligation' and the retention of a right to strike (Anstey 1995: 39-41; 1997: 117-118; Klerck 2000: 18).

The final construct addresses the institutional overhaul of a state-sponsored dispute resolution system that became seriously compromised under apartheid. The burden of this work now falls on another new body called the Commission for Conciliation, Mediation and Arbitration (CCMA) that is funded by the state but governed by a tripartite body appointed by NEDLAC. Its role is to be 'pervasive and fundamental' in that virtually all disputes are to be automatically referred to the CCMA prior to adjudication (Du Toit *et al.* 1996: 37). This revised remit also extends to resolving particular issues of procedural injustice such as discriminatory treatment and unfair dismissal as well as to settling collective disputes over organising rights, the jurisdiction of Bargaining Councils and the establishment of Workplace Forums. Such an extended system of arbitration and consultation is innovative within a South African context, but is also deemed fundamental to good order, given the potential for organised conflict arising from the voluntarist nature of the system, the current strength of labour and the history of maltreatment of workers.

Expanding dispute resolution in this way is the product of two particular influences. First, there evolved under apartheid a relatively successful private-sector body (IMSA) that earned credibility with disputants compared to its state counterpart, namely the Industrial Court. Secondly, notions of 'good practice' have been imported from Britain (ACAS), Australia (Arbitration Councils) and the United States (state arbitration for public service bodies). The hope is that it can become the cornerstone for all co-determination processes by acting as an automatic reference point for deadlocked parties. Given this remit, there is concern that the CCMA may be overwhelmed by a caseload burden that produces backlogs, given heightened demand and some unrealistic expectations from policy makers (for example, Baskin and Satgar 1995). To help with this, the CMAA has powers to delegate dispute handling to accredited bodies such as

bargaining councils. After considerable delay and sustained pressure, forty four of the seventy two registered Councils are now taking on an internal dispute resolution role under the auspices of the CCMA (SALB 2003).

This brief account of the new institutional lay-out for South African employment relations emphasises the co-determinist nature of the system with business, labour and government empowered to settle matters between them over such issues as legislation, pay, work disputes, industry restructuring, education and training. The intention has been for these neo-corporatist structures to permeate the various institutional layers, mollify previously antagonistic relations and accommodate competing agendas around flexibility and security (*after* Standing *et al.* 1996: 6-9; Standing 1997a: 19-26). But their evolution over the subsequent ten years prompts the question as to how well current realities match this early promise. Any review as to what has happened to employment relations in South Africa over the last decade shows a number of developments to have taken place that cast shadows over the prospects for South Africa's experimentation with neo-corporatism over the longer term.

#### **4.4 Reform after ten years**

After a decade of supposedly transformed employment relations and certain structural problems have begun to surface. It seems that various multi-layered institutions and processes have not always functioned as required. In part, such unintended consequences are due to certain design flaws that are the product of muddled policy thinking. But they also arise as a consequence of how the parties reacted to what was expected of them under the new dispensation. It may be that in making employment relations reform negotiable for, and agreeable to, all parties has entailed some loss of coherence in a way that undermines its overall fitness for purpose. Equally, the actors have shown a mixed response to what has been placed on offer. Far from

wholeheartedly embracing the new dispensation, elements of both business and labour have taken positions ranging from guarded approval through to outright opposition. In part, this ambivalence is testimony to a mutual disregard for, and distrust of, each other that is a left-over from apartheid days. But such wavering commitment is further compounded by the voluntarist nature of the new labour regime itself and by the susceptibility of employer and worker representative bodies to weak institutional capacity. This becomes even more apparent when assessing the chances of new or revised institutions becoming embedded, concertation processes made robust and an organised and articulated employment relations system enduring over time (*after* Adler 2000: 17-32).

**NEDLAC**, for example, has been unable to capitalise on its early success as a facilitator of social legislation and address concerns over social welfare policy, economic adjustment and industry restructuring. For Gostner and Joffe (2000: 90), this means that NEDLAC is not being used ‘optimally’ by the social partners, missing the opportunities on offer. In particular, it has disappointed as a potential broker of Labour Accords that allow unions to exchange industrial peace, support for government policy and wage restraint in return for more worker-friendly policies and initiatives around training, employment and welfare provision (*after* Harcourt and Wood 2003: 87). Why this should be so are indicative of the deep problems undermining both tripartite and bipartite engagement with neo-corporatist structures and co-determinist processes at all levels.

First, the government’s role has changed from being reactive to proactive in tripartite settings and vice versa for labour, post liberation (Friedman and Shaw 2000: 207). The government drives the agenda for NEDLAC, not least by unilaterally determining what is to be excluded from tripartite discourse (Adler 2000: 25). Even where it welcomes

NEDLAC 's input into aspects of social legislation, it often prefers to formulate policy from a distance, only presenting it to fellow NEDLAC partners when practically the finished article. But, above all, it seeks to dilute NEDLAC's influence over the shaping of broader macro-economic policy (Adler 2000: 17-18). Crucially, government's attachment to a market liberal strategy known as GEAR (Growth, Employment and Redistribution) is held to be a 'non-negotiable' and 'non-contestable' feature of the NEDLAC chambers, despite opposition from organised labour- most especially the government's triple alliance partner, COSATU (Gostner and Joffe 2000: 89). One consequence is that sceptical labour members on NEDLAC are more frequently at odds with government representatives than are their business counterparts who prefer to withdraw into the shadows whenever potentially divisive issues materialise (Adler 2000: 24-25).

Second, the bilateral representatives themselves have demonstrated ambivalence towards the NEDLAC process, even choosing to by-pass it when proving convenient for them to do so. For COSATU-affiliated unions, the 'alliance route' to the ruling party (ANC) is considered to be more productive on occasion than being bound by decisions reached in chamber that might limit future options. Equally, it is not unknown for employers to retreat from formal NEDLAC processes and approach government ad hoc, informally and directly, especially over changes to macro-economic policy. It seems that both partners are not averse to using venues other than NEDLAC for overturning potentially unfavourable decisions. By contrast, both appear more comfortable with NEDLAC proceedings when blocking policy initiatives instigated by government and when defending their respective secular interests rather than establishing their own agenda (Adler 2000: 16-18). But choosing to defect from the tripartite process at critical moments only reduces NEDLAC's authority and status within the overall employment relations framework. Behind this caution and selective engagement with NEDLAC lies

a cultural legacy of suspicion and distrust between protagonists that colours all their dealings with each other, not least those at national peak level. In turn, this leads to a narrow sectionalism that often places positional bargaining centre stage at the expense of more collaborative styles of discourse (Freedman and Shaw 2000: 208-209; Grawitzky 2002: 50-51). Finding the right balance between confrontational and co-operative behaviour within NEDLAC exchanges is proving elusive for social partners.

Third, NEDLAC's problems are further compounded by difficulties arising from weak capacity and limited strategic cohesion. As resources become depleted so representatives struggle to cope with the whole gamut of NEDLAC activity and with the sheer volume of meetings and complexity of issues that this gives rise to. In addition, the partners seem unable, even unwilling, to devote sufficient resource to ensuring that the NEDLAC dialogue informs efforts made at industry and enterprise levels.

Furthermore, both sides seem handicapped by disunity within their ranks such that they struggle to speak authoritatively for their respective constituencies within NEDLAC chambers and to the detriment of any overall coordination (Adler 2000: 26; Sellars 2000: 508-511; Wood 1998: 44-45). For organised labour, a multi-federated and fragmented union movement exacerbates old rivalries that can only undermine its capacity to speak with a powerful and unified voice (*after* Macun 2000: 68-74). This capacity problem is further compounded by inter-rivalry amongst the affiliated COSATU leadership, decline in the service standards to members, inadequate training for union representatives, depleted resources for research and education and a growing careerist instrumentality amongst union staff (eg: Buhlungu 2002: 25-28; 2000a: 75-97; 2000b: 187-199; 1997; 1994: 26-32).

For organised capital, serious 'fault lines' run through the business community such that rival employer federations compete to speak convincingly at the national level. This is

because the propensity for South Africa's business community to associate strongly at the national peak level is hampered by a lack of industrial, racial and ideological homogeneity that weakens its representational authority (Nattrass 1998: 21-23). Difficulties with stretched resources, fragmented representation and uncoordinated activity only impede the development of a more strategic focus as to how the NEDLAC parties are to make better use of their opportunities for influencing public policy outcomes (Gostner and Joffe 2000: 88). Reluctance by social partners to challenge and debate openly the more controversial features of policy further exacerbates a decline in the status of tripartite dialogue. So long as decisive leadership, strengthened capacity and strategic focus are missing, NEDLAC will continue to be seen as a forum that responds to external policy initiatives rather than as one that enjoys a reputation for agenda-setting in its own right (Gostner and Joffe 2000: 100). Nevertheless, come the millennium and NEDLAC partners still felt themselves able to reaffirm their commitment to ongoing dialogue and to mobilising investment, adjusting the economy, providing decent jobs and improving the skill-base of the workforce (NEDLAC 2001 in Anstey 2004: 58).

**Bargaining Councils** also struggle to fulfil their potential in helping to adjust the economy, restructure industry and redistribute employment, training and reward. A crucial element in the transformation of South African employment relations has been the reform of its bargaining system with a view to developing a form of articulated bargaining that both produces framework agreements and facilitates pattern bargaining within and across sectors and industries (Klerck 1998: 104). Indeed, Bargaining Councils are likely to prove pivotal to any long-term success, in terms of an articulated system, given that industry bargaining is thought to be the linchpin of a system like South Africa's where coordinated bargaining is thought desirable. (eg: *after* Sisson and Marginson 2002; Soskice 1991 and b; Traxler *et al.* 2000; Traxler 2003a and b).



Unfortunately, articulation is far from guaranteed when parties can choose either to evade or avoid any central bargaining imperative, as in South Africa (*after* Silvia 1997). Voluntarism in this system sanctions a level of employer defection from the central bargain such that any potential coordinating effects can easily be undermined (Donnelly 2001: 2-3; Klerck 1998: 107).

Already, some observations indicate that bargaining councils might have lost their appeal for some employers in some areas of the economy. First, a few large companies are ideologically opposed to their involvement in multi-employer bargaining in the conviction that it perpetuates internal market rigidities, encourages excessive regulation and impedes local flexibility. Next, some regional bargaining councils, notably in construction and clothing manufacture as well as some in the paper and leather sectors, have already collapsed due to employers withdrawing their support (Klerck 1998: 100; Harcourt and Wood 2003:93; Webster and Omar 2003: 200). Meanwhile, other employers exhibit a blatant disregard for agreed terms and even pay wages below set minima despite the existence of industry agreements. Increasingly, other employers feel driven to circumvent the terms of any such agreement and so side-step their legal obligations to employees by re-classifying them as ‘independent contractors’. This already appears to be the case for parts of the footwear industry, some small firms and certain greenfield sites (Webster and Omar 2003: 205; Wood 2000: 139). However, the hope is that this legal nicety has now been largely foreclosed by an amendment to the Labour Relations Act in 2002 whereby such employer strategies are no longer tenable in law.

There is also growing evidence to show employers choosing enterprise ahead of industry bargaining and so bypassing Bargaining Council proceedings altogether (Webster and Omar 2003: 195; Wood 2000: 138). Equally, some (by no means all)

trade unions have made strenuous efforts to secure local recognition rather than campaign to establish bargaining councils in those sectors unfamiliar with multi-employer bargaining arrangements (Wood 2000: 138). Meanwhile, according to Webster and Omar (2003: 207-208), there are also employers in such growth sectors as the call centre industry who appear wedded to the supposed virtues of individualised contracts and performance management. What might help explain this trend is a growing employer demand for enterprise-level autonomy in wage-setting that underscores firm-specific flexibility strategies as in other parts of the world (for example, Klerck 1998: 102-103; Webster and Omar 2003: 210). Finally, there is some dismay at the persistent narrowness of the bargaining scope within many Bargaining Councils (for example, Klerck 1998: 99; Macun 2000; Macun and Webster 1998: 43). In part, this is due to industry negotiators being guarded in not extending their remit beyond conventional bargaining agendas for fear of censure from their respective constituencies. (Smith 1997:75).

Confidence as to the future of coordinated bargaining is further shaken by the fact that neither business nor labour appears capable of much unity of purpose in certain industry circles despite their need to do so. The resolve of union and employer representatives to make bargaining councils credible is damaged when 'strategic cohesiveness' is lacking (*after* Adler 2000: 11). Solidarity is too often fragile and prone to fragmentation for strong coordinating capacity to be apparent. For organised labour, tensions between leaders and the grassroots can frustrate attempts at imposing discipline and making industry agreements stick whilst inter-union rivalry within confederations only ensures that the best equipped affiliates gain the most from Bargaining Councils at the expense of those less favourably resourced. Likewise, within employer associations, the interests of large corporations predominate over those of the smaller enterprise who then try to undermine costly agreements by opposing their legal extension, seeking exemption,

forming breakaway interest groups or simply absenting themselves altogether from industry bargaining processes. Meanwhile, large corporations sometimes defect from the central bargain, if considered necessary, by lobbying government directly when strongly opposed to a position held by their own association. The cause of coordinated bargaining is helped even less when South African employer organisations behave, more often than not, as 'lowest common denominator' bodies (Baskin 1993: 62). This implies that collective agreements are easily reached over more straightforward matters but prove difficult to achieve once more demanding and complex trade-offs, around industry restructuring, are to be sought as the price of settlement.

But it is not all gloom, by any stretch of the imagination. These setbacks are to be offset by some notable advances. First, as previously observed by the ILO (1999), sectoral bargaining enjoys a certain presence within the formal sector and even manages to impact on the informal sector to a limited extent, mainly through a shadowing effect. Second, both employers and unions in such key sectors as manufacturing continue to find virtue in sectoral bargaining processes. Indeed, opening up their domestic markets, post apartheid, has prompted clothing and vehicle manufacture to strengthen, rather than weaken, their commitment to national bargaining structures, albeit with mixed results (Anstey 2004: 64-68). Third, other sectors such as chemicals (in 1998) have introduced multi-employer bargaining chambers across the whole sector for the very first time. By no means all sectoral parties have set their minds against taking the opportunity for centralised exchange that bargaining councils can bring.

Based on these observations and industry findings, the supposition is that only selectively do sectoral agreements in South Africa inform the cut and thrust of supplementary enterprise bargaining in practice and that only partially is pattern bargaining firmly in place within and across sectors (Webster and Macun 2000: 151-

152). This is to suggest that bargaining in South Africa is to be characterised as multi-tiered rather than coordinated, given that industry and enterprise bargaining can mutually co-exist with little impact either way in terms of a patterned bargaining effect (for example, Klerck 1998: 103- 107). The central contention is that dual bargaining with weak coordinating effects appears to be the dominant pattern within South Africa rather than one that is highly centralised, coordinated and encompassing. Whilst the *potential* for industry bargaining to become a significant medium for negotiated change remains, there is a general presumption that bipartite bargainers (even less those they represent) remain unmoved as to its coordinating and transformational possibilities. As yet, there is scant empirical work that attests to the validity of such conjecture. Accordingly, this thesis, and associated fieldwork, is best seen as a first attempt at rectifying this oversight – at least as it relates to employers and their associations. But for now, on this evidence, we can assert with some confidence that although legal revision to industry bargaining has had a variable and uneven impact across sectors, it is still institutionally significant, if not yet robust. .

**Workplace Forums** have similarly struggled to match their early promise. The numbers speak for themselves. Only a handful of workplace forums have been established since their enactment in 1995 and none in the manufacturing sector. Two years on from their inception, Macun and Webster (1998: 43) found only eight workplace forums to have been formally ratified under the legislation, rising to just seventeen by the end of the decade (Kirsten and Nel 2000: 47-49). Meanwhile, Wood and Mahabir (2001: 230) consider no more than six of these to be ‘currently operational’. Not surprisingly, there has been considerable debate from the outset as to their credibility when, constitutionally, forums require a ‘union trigger’ followed by employer acquiescence (Adler 2000: 7; Anstey 1995 40-41; Kirsten and Nel 2000: 53). Consequently, their formation is conditional upon the goodwill of employer and worker

representatives alike and this is far from certain given the inherent misgivings they share over the virtues of co-determination and joint problem-solving.

First, union activists are concerned that any representation in forums might undermine existing union structures and that traditional union roles become eroded as a consequence. Their fear is that their representatives may become side-lined as Forum representatives and managers collude to marginalise the union's agenda (*after* Buhlungu 2000b: 180-2; Wood and Mahabir 2001: 239-241; von Holdt 1995: 61). Many also worry that domestic bargaining may become weakened should a Forum be granted access to a union's bargaining territory and so triggering unhelpful demarcation disputes (*after* Wood and Mahabir 2001: 239-241; Wood 1998: 138). Equally, there is a rump of employers concerned that their prerogative to make unilateral decisions will be compromised and that unwelcome rigidities will occur as a result (Macun and Webster 2000: 156). Meanwhile, local union leaders remain fearful that their engagement with a Forum may simply be perceived as 'collaborationist' by a rank and file ever distrustful of partnership relations, originating from apartheid days. This culture of non-collaboration leaves workplace representatives with little room for other than public opposition to problem-sharing overtures from local managers (Wood and Mahabir 2001: 239). Finally, we need to recognise that the legal threshold (of one hundred or more employees) renders such forums automatically off limits to a majority of workers and is therefore held to be a serious impediment to any future growth in their number (for example, Anstey 1997: 101-112). Thus, three-quarters of all workplaces in the formal sector are estimated to employ less than this minimum requirement whilst vast numbers employed in the informal sector remain excluded given this legislative threshold (Kirsten and Nel 2000: 40; Klerck 2000: 9-10; Wood and Mahabir (2001: 240).

To date, the extension of enterprise bargaining, rather than workplace co-determination, appears to be the more significant institutional development. Perhaps this is only to be expected given how badly conceived Forums were in the first place and the fact that their value for the parties is frequently underestimated or misunderstood (Kirsten and Nel 2000: 28). Unfortunately, this institution has been grafted onto a system in which workplace organisation and distributive enterprise bargaining are the norm and shared problem-solving the exception. Indeed, what experiments of this kind there have been have tended to be non-statutory and instigated under local agreement rather than statutory-endorsement. It seems that, under voluntary arrangements, employers feel temperamentally better suited to seek a change agenda whilst workplace representatives feel more comfortable in opposing it (Wood and Mahabir 2001: 240-241). Widespread approval for Workplace Forums will continue to be withheld so long as unions and employers alike remain convinced that their introduction undermines the authority of each (Kirsten and Nel 2000; Klerck 2000; Mapadimeng 1998). Again, this lack of belief is fuelled by a 'low trust dynamic' that has been the hallmark of most South African workplaces to date (Webster and Macun 2000: 153-154).

#### **4.5 The state's response**

These problems are further compounded by a certain official disregard towards their resolution. This suggests a growing ambivalence on the part of government towards the plight of both centralised bargaining and co-determination processes and is assumed to be the product of a growing preoccupation with market liberal-orientated policy-making (for example, Wood and Mahabir 2001: 241). This official unconcern is due in part to a rapid shift in the basic ideology that informs broader economic policy. Ironically, the 'decade of liberation' between the mid-eighties and the mid-nineties brought a remarkable change in the philosophy of the ANC. It shifted from neo-marxism towards

market liberalism. Fear of 'capital flight', pursuit of free trade, pressure from international lending institutions to observe fiscal rectitude and the perceived need to reassure corporate South Africa help to explain the ruling party's ideological drift from its socialist moorings (Donnelly 1999: 194-197; Michie 1997: 157 and 160; Williams and Taylor 2000). Easing aside its neo-Keynesian inspired reform package known as the 'Reconstruction and Development Programme' (Adelzadeh and Padayachee 1994), the ANC has promoted a market-orientated policy called the Growth, Employment and Redistribution Programme (GEAR), first sponsored by the Department of Finance (1996). At its core are a number of supply-side (fiscal and monetary) measures that are held to be 'non-negotiable' by the state (Padayachee 1998). Such manoeuvrings only help to confirm this shift in the ideological leanings of the ruling party.

Nowadays, the ideas behind COSATU's original reform programme (RDP) provide a focus of opposition to the State's own neo-liberal policy inclinations rather than the blueprint for any 'progressive' revival of the economy (Gotz 2000: 188). For government, macro-economic policies are not intended to preclude social dialogue taking place between the partners. Rather, outcomes from the process are expected to compliment the workings of the economy in ways that reinforce growth, job creation and development but neither at the expense of financial market stability nor overseas competitive advantage (*after* Natrass 1996: 29). Seemingly, nurturing entrepreneurialism and galvanising business are of more concern to South African policy-makers than contemplating substantive reform of a still evolving employment relations regime. In short, there has been little by way of policy developments to bolster neo-corporatist structures and processes since their inception post liberation. However, this tenth anniversary of political emancipation for all South Africans serves as a timely reminder for us to take stock as to what new employment relations has come to mean in South Africa. Following a decade in which various institutional weaknesses have come

to light, it is perhaps incumbent upon us to identify what these might be with a view to how these might best be remedied. Reflecting on what has been achieved to date and what still remains undone becomes the focus of attention in the concluding section.

#### **4.6 Conclusions**

When marking the tenth anniversary of political liberation from apartheid it is apt that we reflect on what has happened to South African employment relations, given its original prominence within a broader political landscape. There have been few other places in recent times where employment relations played so large in the struggle to both liberate and transform society. Post apartheid South Africa is just such a country and so warrants our continued interest from a comparative perspective. This is because a re-institutionalisation of its employment relations was placed centre-field when it came to nation-building. Apartheid's legacy and labour's political and industrial strength made this an inevitable consequence. As a result, a number of demands are now made of this new employment relations regime. The hope is that such regime change can help transform the country by contributing to political democratisation, economic adjustment and racial assimilation. As a result, this transformed system is also meant to alleviate tensions arising from a 'triple transition' towards improved workplace efficiency, worker rights and racial equity (*after* Webster and Omar 2003: 211). This weight of expectation is enormous and its prospects of success uncertain but I have tried to show through this review how far South Africa has progressed, not just how far it has yet to travel.

In trying to mitigate class and racial conflict first structured under apartheid and re-institutionalise society along more democratic lines, South Africa has chosen to reconstitute its whole system of employment relations. This reconstruction takes the form of a tripartism that is corporatist in terms of its institutional structure but one that



is also infused with co-determinist characteristics and social concertation processes (*after* Adler 2000: 3-4; Baccaro 2002a: 4; Baskin 2000: 47-55; Schreiner 1994: 15-21). As with its European predecessors, this particular form of neo-corporatism was borne out of perceived necessity and in response to crisis (Habib 1997: 70-72). Accordingly, collaborative processes have been installed at the macro, meso and enterprise level as the means by which interactions between the parties are to be regularised, workplace relations normalised and union voice legitimised. Such re-institutionalisation is especially significant for the majority of those previously excluded on racial grounds from having any kind of rights-based relationship with their employer. Tripartite dialogue within NEDLAC chambers, agreements reached in bargaining councils, the co-determinism of workplace forums and the dispute resolution processes of the CMAA provide the institutional means by which South Africa's employment relations is to be recast - away from contestation and towards concertation. The ambition is for a system of articulated bargaining to emerge that has, at its heart, a set of interlocking institutions that are designed to compliment each other in regulating South Africa's *new* employment relations (*after* Dore 1997: 26-27).

However, doubts persist as to how institutionally robust this neo-corporatist system of interest representation may eventually prove to be. Ten years on and problems have already surfaced around defective design, bipartite ambivalence, weak capacity and official complacency towards this new institutionalism. These unintended consequences have raised questions as to its expected durability. Developments over the next decade may well determine whether South Africa's experimentation with social corporatism remains institutionally sound or merely operates as some kind of structural 'hollow shell' (*after* Hyman 1997: 318 in Millward *et al.* 2000: 138). Another reason for caution regarding future prospects lies in the nature of the legal dispensation itself. Participation in corporatist structures of interest mediation is essentially voluntary on trade union and

employer alike, given that framework legislation is more enabling than compulsory in character. This requires them to demonstrate both a capacity and propensity to engage with social dialogue, sectoral bargaining and workplace consultation. For this to happen, both parties have to overcome certain organising problems that are best characterised as the twin challenges of *engagement* and *capacity-building*. In short, they have to be willing to engage fully with collaborative institutions and processes and possess the wherewithal to use them as intended.

These prerequisites are crucial to organised business and labour becoming strong corporatist actors in their own right. It seems that social corporatism works best when organised actors become powerful and disciplined such that they exchange freely within given processes. It appears that we still await a full-blooded, strategic (rather than tactical) commitment to the cause of social concertation and consensus-seeking behaviour. For Adler (2000:20), the fundamental problem lies in the fact that neither the state, business nor labour have yet to declare themselves ‘unambiguous champions of engagement’ with this re-regulated employment relations system. Until that happens, partnership relations as the new normative framework will forever remain more aspiration than reality. This gives rise to a number of questions that in themselves ensure an ongoing interest in South Africa’s experimentation with enlightened corporatism. Are unions sufficiently adept at conforming to the demands of social partnership, given their ‘social movement’ roots? To what extent are employers prepared to defect from the central bargain as in other (European) countries? Will the state strengthen co-determinist institutions, should this prove necessary? Answers to these questions will tell us the chances of South African employment relations remaining ‘organised’, bargaining ‘articulated’ and corporatism ‘enlightened’.

For labour, being a strong corporatist actor obliges the movement to develop a *strategic* capacity that relies on a unity of purpose as well as on a strong political and workplace organisation that can act as both opponent and social partner as circumstances dictate (after Adler 2000: 24-25; Friedman and Shaw 2000: 206-210; Wood and Psoulis 2001: 310-11). This approach means unions developing more centralised structures that forge closer links between union leaderships and shop steward movements as well as promoting inter-union (and inter-federation)) coherence and the establishment of mutual long-term goals (eg: Macun 2000: 72-75). The ideal is for unions to exercise a 'strategic engagement' that is collaborative when apposite, but still holding in reserve more confrontational and combative methods that accord with its 'social movement' roots (after Adler 2000: 24-25; Adler and Webster 2000 18; Harcourt and Wood 2003: 94-98 and 101; Macun and Webster 1998: 46). This allows Labour to retain its potential for industrial unrest whilst maintaining support for a corporatist compromise that constitutes the means by which the movement formalises its relationship with government and business.

For business, *associability*<sup>4</sup> becomes a crucial determinant of corporatist strength as employers remain potentially the weakest link in the whole corporatist chain (Donnelly 2001: 553). Low associability undermines the claim of employer representatives to be authoritative negotiators within multi-employer bargaining processes and it is the latter that form the centrepiece of any coordinated bargaining system. (eg: Traxler 2003 a and b). Until a critical level of associability is achieved, employers will always be prone to defect from any central bargain and free-ride as a consequence, leaving their representatives to struggle to exercise voice within tripartite and bipartite structures. The

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<sup>4</sup> Within the South African context, this refers to the propensity for an employer to belong to an employers' organisation that, in turn, is a 'party' to agreements reached through the bargaining council process.

extent to which this constituency sees social dialogue, industry bargaining and co-determination as help or hindrance when 'restructuring' the enterprise will prove to be fundamental in making neo-corporatism successful in a South African context.

Equally, the state has a significant role to play in assisting bipartite partners to engage meaningfully with these multi-layered processes and public policy needs to reflect this commitment. An overly concern to appear even-handed towards bipartite parties has led the state to downplay its responsibility for ensuring that peak dialogue, sectoral bargaining and workplace consultation remain robust processes supported by strongly co-ordinated institutions and committed actors. Maintaining neutrality and seeking the middle ground between the interests of Business and Labour is no longer sufficient. The state needs to champion the cause of South Africa's *new* system of employment relations more explicitly than has perhaps been the case to date. This is to imply that public policy should concern itself less with brokering pragmatically-driven compromises between social partners and more with protecting the institutional integrity of an organised employment relations system.

These issues aside, it appears that all parties continue to see virtue in this new institutionalism for the present, albeit for different reasons but also because it helps smooth the transition towards racial harmony, full democratisation and an open economy (Adler 2000: 15-17). So, some (but by no means all) employers continue to find advantage in a system that allows issues around economic adjustment, industry restructuring and work re-organisation to be addressed but at some cost to their decision-making powers. Equally, independent trade unions have secured for themselves an official standing that was previously lacking due to their incorporation into new structures, but, again, at some expense to their autonomy of action. Likewise, the relationship the state has with Labour and Business has become more entrenched

and regularised institutionally and, as a result, less turbulent in terms of political and industrial stability. Finally, through negotiated settlement, the *new* South Africa has re-equipped itself with a legal framework that is neither explicitly auxiliary to, nor restrictive on, the collective actions of these social partners. Rather, the new dispensation is intended to be *enabling* on both unions and employers in ways that facilitate their attempts at forging a relationship more organised than disorganised, should that be their preference. A strategic choice that is neither free nor forced for the parties remains the hallmark of a new institutional regime designed to dispel forever the legacy of apartheid labour relations. As a consequence, there is a perceived advantage from a public interest viewpoint in having such enabling arrangements enshrined in law, not least in guaranteeing a role for the bilateral partners when it comes to influencing all future employment relations policy-making.

However, within each constituency, there are still those that regard any engagement with this type of organised and coordinated relationship with some suspicion and not a little distrust. Even those participants deriving benefit from it seem motivated to act from narrow sectarianism rather than from any heartfelt conviction that South Africa's pursuit of 'mutualism' in employment relations is an enlightened experiment worth preserving (see chapter two). For the most part, this makes any commitment to current arrangements by the parties appear largely tactical and superficial. Until standpoints change, the institutional resilience of South Africa's employment relations over the coming years remains far from certain. Such a critique calls for all parties to adjust their bargaining behaviour and thereby acknowledge that 'the shadow of the future' hangs over their deliberations when preferring their formal relationships to be, by and large collaborative rather confrontational as in the past. Appreciating this more strategic perspective can then lead state, employer and worker representatives to commit more fully to the various multi-tiered processes on offer (*after* Standing *et al.* 1996: 10). For

changes to outlook to occur, there first needs to be a discourse that acknowledges deficiencies in both the design and practice of this emerging employment relations regime. This debate further requires consideration to be given to new policy measures that might help consolidate social dialogue, industry bargaining and workplace co-determination, as presently constituted.

Central to this argument is the requirement for institution-building to take place in ways that forces state, capital and labour to engage more fully with the formal structures and processes on offer (*after* Donnelly 2001: 564-566; Klerck 1998: 109). Otherwise, there is risk of a new duality in South African employment relations arising (in terms of highly organised and unorganised zones) such that lean corporatism and weak economic coordination appear as an inevitable aftermath (*after* Traxler 2003b: 206-7; Traxler et al. 2001: 298-305). Whether such diversity of practice can impede the emergence of South Africa's new enlightened corporatism as originally intended, only time will tell. Indeed, it is this next decade that will more likely confirm whether this institutional rebuild is to stand the test of time or fall into some state of disrepair<sup>5</sup>. Perhaps what is needed is for a debate that throws into sharp relief possible trajectories for the future and associated threats and opportunities confronting those wanting to persist with this more articulated bargaining system. It is in this vein that this author uses the next couple of chapters to investigate the whole issue of employer associability and to explain its

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<sup>5</sup> There is one overriding consideration ahead of all others that demand such policy deliberations take place (Arndt and Lewis 2000: 886-87; Crothers 2001). Perhaps nowhere is a more co-operative bargaining behaviour urgently required than in South Africa given the extent to which the aids pandemic has taken hold in the workplace and given the parlous state of welfare and public health provision (*after* Horner-Long and Ortlepp 1996). One estimate already has eighteen per cent of the workforce currently HIV positive, rising to over a quarter by 2005/6 with 190,000 deaths already recorded for 1999 and 2000 (P.e.o.p.l.e. 2001). If nothing else, this humanitarian crisis should, of itself, provide the catalyst for social partners to adopt a form of dialogue that addresses the colossal social and economic impact of aids beyond simply the level of the firm. How well South Africa's new employment relations copes with this catastrophe provides a true measure of how far it has been transformed in practice. How compassionately 'democratic corporatism' helps ameliorate the 'costs' of this human tragedy not only allows us to re-evaluate its claim to superiority over less explicitly organised and co-ordinated systems but once again to re-assess its institutional durability. The next decade will more than likely tell us.

centrality to arguments surrounding the robustness of this evolving system. To this end, an established European literature is first deployed as a means by which to explore key concepts and dilemmas surrounding an employer's decision to associate with others or not. Next, an important and recent debate is rehearsed to explain why present-day employers need even more convincing as to the merits of associability and centralised bargaining in light of new issues and dilemmas. Finally, discourse upon the problematic nature of collective action for employers is then specifically contextualised within a contemporary South African setting. This then allows for a more informed discussion over the course of the remainder of the thesis concerning the design and nature of the fieldwork prior to embarking on an account of survey findings and their wider significance in public policy terms.

## **Chapter 5. Why employers matter when it comes to South African bargaining reform**

### **5.1 Introduction: an employer agenda for employment relations**

To date, we have undertaken a country review of how South African employment relations came to be transformed following political settlement and rejection of ‘racially based corporatism’ (*after* De Villiers and Anstey 2000: 25). We took the opportunity in chapter two to locate the preferred public policy destination for those charged with developing an alternative employment relations regime to that which had prevailed under apartheid. This was followed in chapter three by an account of what constituted apartheid labour relations and what impact this has had on the actual policy thinking of those charged with the responsibility for replacing the country’s employment relations system. The preceding chapter has also attempted to explain the nature of this regime change by reference to a new institutional framework that is meant to exhibit certain neo-corporatist characteristics such as social concertation processes and an articulated bargaining structure. This same chapter advanced a number of reasons to explain why social dialogue, co-ordinated bargaining and co-determination have yet to materialise to any meaningful extent within South Africa but that the potential to do so is still within grasp. Prominent amongst these impediments was the fact that the capacities and motivations of the participants was found wanting in certain key respects. But, in addition, what this analysis also illustrates is the following.

For fledgling democracies like South Africa, radically reforming its employment relations can prove to be a difficult business, in terms of unintended consequences, and, thereby, problematic for those charged with overseeing its transformation. This is because transition often entails a policy stratagem for moving from one undesirable



policy paradigm to another more in keeping with the idealised vision of its reformers. However, for countries like South Africa, such stratagems tend to be ‘contingent’ rather than ‘prescriptive’ and ‘emergent’ as opposed to ‘deliberate’ – to borrow from a management literature on strategy (for example, see Mintzberg and Waters 1985). This is further exacerbated in South Africa’s case by its actual implementation being contingent upon a form of co-determination that has to accommodate conflicting ideological and material interests, political compromise and unforeseen happenstance. Moreover, this suggests that any blueprint for institutional reform that empowers the bipartite actors can only be made concrete through the joint determination of those other than the policy-makers themselves- namely, South African workers, employers and their respective representative bodies. It is *their* preparedness (not the state’s) to engage with the various neo-corporatist processes on offer that will help determine whether new, as well as revised, institutions such as social dialogue, industry bargaining and workplace co-determination take hold or not.

For reasons outlined in the first chapter, the natural focus of attention for this thesis is centred on the employer constituency rather than that of labour. A natural starting point for this new-found interest in the employer arises from the theoretical contribution made by the likes of Kochan *et al.* (1986 and 1984) in arguing for employers and their strategic decision-making to be placed at the heart of any (national) industrial relations systems model. Given the need to nuance this argument, we now consider the importance of employers deciding whether to combine collectively with a view to joint bargaining or whether to evade such collective arrangements completely and to conduct negotiations with unions on their own. Within a South African context, these choices refer to an individual employer’s<sup>6</sup> decision to partake in an industry bargaining forum

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<sup>6</sup> I readily concede Wedderburn’s observation that, in reality, an employer ‘is a fiction endowed with personality by the law’ below whom stand managers empowered by their Boards of Directors (or

(namely a bargaining council) and thereby help realise the ambition of those wanting to see an inclusive form of employment relations evolve that is both organised and co-ordinated. The central argument here is that the fate of any revised bargaining institution like that to be found in the *new* South Africa ultimately rests on employer strategies that help determine attitudes towards employer associability and its identification with multi-employer bargaining- the very focus of this thesis.

Accordingly, the next couple of chapters are organised around four key themes that are designed to examine various aspects surrounding the relationship of employers to their associations and their significance for employment relations generally. The first explains, from a public policy viewpoint, the centrality of the employer to the eventual maturation of South Africa's radically revised organised employment relations system – one that aspires to both economic co-ordination and to a form of (multi-tiered) articulated bargaining, best characterised as essentially semi-voluntarist but still enabling on the parties. To this end, the remainder of this chapter is devoted exclusively to an explanation as to why employers have had to be rehabilitated into any contemporary analysis of employment relations but especially when it comes to discussing countries like post apartheid South Africa that are built upon corporatist compromises or accords and that are also intended to be organised and co-ordinated (see, for example, Thelen 1994; 2000; 2001). The significance of both employer co-ordination and cross-class coalitions forms the backbone to this part of the analysis. This leaves scope for the three remaining themes to be explored in more detail in the proceeding chapter. Thus, the next topic for consideration contemplates the changing

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equivalents) to develop views and make decisions consistent with their best interests (1971: 41 cited in Sisson 1987: 192). Nevertheless, for the purposes of advancing arguments, testing hypotheses and interpreting findings, I prefer to deploy this 'fictional' shorthand throughout this thesis.

temper of the relationship between employers and their associations in a more contemporary setting and its relevance for this particular thesis.

Discussion also centres on received ideas as to why employers may rationally choose to associate or not but also updated to account for the impact globalisation might be having on employment relations strategy. By this means, the challenges and dilemmas facing associations in first attracting and then retaining membership are brought into sharper relief. This treatment allows us to locate more deep-seated elements of *employer associability* within the specific context of a South African economy in transit from being closed and protected to one open and liberalised as well as of a polity once racially exclusive, now pluralistically inclusive. Established 'European' and 'South African' literatures that are both conceptual and empirical in scope are drawn upon as a means of delineating for us the fundamental terms of the debate that is germane to this thesis. Such groundwork allows us in the final section to identify for ourselves what might be thought an appropriate research agenda, given the impetus behind this country study. However, the structure of both chapters is also driven by the need to address all-important questions concerning employer intentions towards, and their affinity with, associations that can protect and advance their interests as their bargaining agents within South Africa's centralised bargaining process known as the bargaining council system.

First, why are employer motives now thought to be fundamental to the genesis and sustainability of social corporatist systems, its institutions and processes, rather than those of labour as first thought? After all, conventional thinking traditionally places strong labour movements centre stage when it comes to identifying the historical determinants of corporatist systems- at least in Europe- see, for example, Korpi (1983) for a classic account of 'union driven' corporatism. What has now changed that makes the employer become a primary focus of attention for this debate? To some extent, this

question refers to the part played by 'employer co-ordination' within advanced economies generally. Specifically, employers acting (more or less) cohesively lies at the heart of those economies exhibiting co-ordinated market characteristics and thereby its significance for emerging countries like South Africa that prefer seeing their own economies manifest similar attributes (Hall and Soskice 2001; Soskice 1990b and 2000). But it also highlights the crucial role played by employers in choosing to enter into 'cross-class coalitions' with labour, as evidenced through political settlements reached at critical historical junctures such as that brokered in South Africa in 1995 (*after* Bowman 1985; Fulcher 1991; Swenson 1989 and 1991). This dichotomous agenda examines both political and economic rationales behind employer preferences to become collaborative and associational.

Second, what contemporary challenges to their standing have employers' associations had to endure when trying to attract and keep employers in membership? This question refers to a growing propensity for employers in various North European settings to defect from the central bargain through either 'disassociation' when the opportunity presents itself or by forcing the association, as their bargaining agent, to withdraw from a central bargaining forum. For some, notably Pontusson and Swenson (1996), this phenomenon amounts to an '*employers' offensive*' against more organised forms of employment relations generally and centralised bargaining in particular. Others, namely Traxler, have observed a more nuanced position taken by other European employers whereby they stop short of a complete withdrawal from centralised bargaining arrangements but rather continue to engage with more diluted forms that amount to an '*organised decentralisation*' of the whole bargaining structure (1995: 3-16). In this instance, employers are prepared to tolerate the demands of associability in return for increased discretion when it comes to implementing the terms of any centralised agreement.

Such developments are held to be yet one more consequence of 'globalisation' and the resultant pursuit by governments and employers of 'world-class competitiveness' and are presumed to apply wherever multi-employer bargaining is to be found such as in South Africa itself. Of primary concern to us here is whether these same tendencies are present in a business community like that in South Africa that is obliged to operate within the context of a radically altered social, political and economic landscape. If so, does this amount to a comparable shift in attitude on the part of South African business both towards associational membership and centralised bargaining in the form of bargaining councils? To what extent, then, are South African employers prepared to engage with industry bargaining processes or to disengage themselves completely from this revised institution?. In short, given the South African scenario, which is the more likely outcome: 'disassociation' or 'association'?

Third, can we assume that certain innate and elemental dilemmas and issues also confront South African employers when contemplating whether to subscribe to membership of an employers' association and so empower it to act as their agent in bargaining council proceedings? After all, as with all organisations founded on voluntary subscription, members can always reserve for themselves the right to choose between '*exit*', '*voice*' and '*loyalty*' when it comes to the kind of relationship they wish to establish with their employers' association (Hirschman 1970). The types of universal predicament that commonly face employers pondering associability are conventionally referred to as 'collective action problems' and have been especially well documented within the context of highly developed economies of the Northern Hemisphere (for example, Offe and Wiesensthal 1981; Olsen 1965; Streek 1991; Traxler 1993). But how widespread are these problems across the world? Are we right to assume their presence in emerging countries like South Africa that are simultaneously evolving economically, culturally and politically?

Certainly, some commentators would wish to suggest that inherent dilemmas over associational membership can have a more idiosyncratic meaning for employers when exercising choice within the semi-voluntarist context of South Africa (for example, Bendix 1996; Donnelly 2001; Nattrass 1997). This requires us to familiarise ourselves with the kinds of 'rational choice' problem confronting South African employers when deliberating whether to become party to bargaining council proceedings through their membership of a registered association. But before doing this, we first need to remind ourselves of more conventional explanations as to why individual employers have preferred to act collectively in the first place and forego any autonomy and independence of action from that of their association.

Fourth, having established the general terms of the debate regarding employer associability, we turn our attention to more specific characteristics of organised business as they apply to South Africa and its distinctive history (for example, Nattrass 1998). This prompts the question as to how associational business in South Africa is structured and what significance this holds for us when examining its role in industry bargaining? Finally, given such particularisation, what are the main strengths and weaknesses of South Africa's associational system, especially given the opportunity for employers to distance themselves from centralised bargaining processes? This especially refers to its capacity to industry bargain and to engage in other co-deterministic forums more generally. In short, does it have the wherewithal to become a leading corporatist institution in its own right or will it remain in the shadows, being confined to playing some peripheral role in any future developments? Reflecting throughout this and the proceeding chapter on these particular questions concerning employers and their associability should allow for the identification of a research agenda that can then inform the basis for my own study into a manufacturing employer's disposition towards association and industry bargaining from a South African standpoint.

## 5.2 Employers and co-ordinated economies

Through a mixture of policy preference and pragmatic compromise, the new South Africa has shown desire for a type of corporatism that aspires to transcend a narrow remit of wage moderation and low unemployment (as characterised by earlier European prototypes) to one that helps transform both the economy and society. To this end, multi-tiered institutions have been put in place that are not merely intended to address 'distributional issues' arising from apartheid's legacy but also 'production' ones linked to recent trade liberalisation (*after* Streek 1992a in Thelen 1994: 116-8). Thus, South Africa's conception of European-style social corporatism is tasked with helping to re-distribute wage, jobs and skill acquisition from whites to non-whites as well as to adjusting the economy, restructuring industry and re-organising work in pursuit of economic advancement. Moreover, this type of employment relations is not just thought integral to this whole nation-building project but fundamental to reconstructing and developing the whole economy in a more unified and re-distributive way than had ever been conceived under apartheid. Seemingly, this imperative not only requires South African neo-corporatism to be 'democratic' and employment relations 'organised' but that the very economy itself behave in a 'co-ordinated' fashion across both labour and product markets. But what exactly has this term come to mean and, more importantly, what is its relevance for us when contemplating the nature of employment relations reform along corporatist lines as has occurred in the *new* South Africa.

This conception of economic co-ordination has been made manifest in certain North European countries (notably Germany and Sweden), and is to be contrasted with Anglo-Saxon counterparts such as Britain and the USA who favour their economies remaining 'non-coordinated' (Soskice 1990b: 174). This dichotomy is also thought crucial to explaining the 'varieties of capitalism' as observed by others such as Albert (1993) and

Hall and Soskice (2001). The former are to be categorised as ‘business-coordinated market economies’ (CMEs) in which ‘non-market co-ordination’ between firms figure prominently with the state setting the institutional framework into which labour becomes ‘incorporated’. In contrast, the latter, as ‘liberal market economies’ (LMEs), tolerate little collusive co-ordination between companies with the state kept at arm’s length and labour excluded as much as possible (Soskice 2000: 103). Under such circumstances, the logic is for employers to minimise forms of collective representation and regulation above the level of the firm and to maximise ‘managerial freedom’ down in the workplace, as is readily observed in certain Anglo-Saxon countries (Thelen 2001: 99).

By comparison, business co-ordination has a strong presence in certain North European countries and tends to operate predominantly at the sectoral level. Here, employer associations and industry unions are seen as key actors but with worker and employer representatives incorporated into them and an ‘institutional framework’ (of incentives and constraints) in place that sets ‘the rules of the game’. These frameworks supposedly encourage the development of *long-term* co-operative relations between companies, workers and their owners as well as between the companies themselves (Soskice 2000: 106). This is of particular interest to us given the case of South Africa where industry bargaining is meant to play such a fundamental role in terms of multi-tiered co-determination. Indeed, there have even been attempts under the new dispensation for (tripartite) industry accords to be struck over policies that are intended to facilitate restructuring and productivity coalitions. As yet, however, these are far from being commonplace, seemingly restricted to highly exposed industries such as clothing, textiles and vehicle manufacture, and with mixed results (for details see Anstey 2004: 64-68; Hirschson *et al.* 2000: 128-132). Just as importantly, we know little as to the strategic thinking of South African employers when choosing between the competing



behavioural ‘logics’ of ‘business coordination’ and ‘non-coordination’ (*after* Thelen 2001: 72-4).

Thus co-ordinated market economies are to be characterised by non-market institutions that aspire to provide certain ‘public goods’ considered beneficial from a policy perspective. These are to provide companies with access to long-term financing; as well as affording unions a key role in maintaining co-operative relations in the workplace and in co-ordinated wage bargaining across companies. In addition, these ‘complimentary institutions’ are meant to encourage meaningful company investment in vocational training for young workers and sustain inter-company co-operation on technology development and industry standard-setting (Soskice 2000; 106-108). Arguably, the market co-ordination that these ‘institutional interconnections’ engender leads to superior economic performance and to improvements in overall international competitiveness (Soskice 1990b: 171-2 and 176-95). Moreover, as firms take root in these broader (politico- economic) institutions of finance, technology transfer, vocational training and education and even welfare, so do they appreciate more fully the virtues of bargaining co-ordination and to favour institutional processes that enhance it (Thelen 2002: 384).

This is because such employers start to adopt a strategic outlook that sees strong unions and centralised wage-setting as *resources* rather than as *constraints* on employers’ attempts to control unit labour costs, provide workers with appropriate skills and consolidate co-operative relations with workforces (Thelen 2002: 387). Indeed, given time, such employers come to realise that workplace co-operation can only become sustainable through employment relationships that are ‘collectively managed’ above the level of the firm (Thelen 2001: 73). For instance, within a contemporary European context, it is assumed that some employers are increasingly drawn to the attractions of

bargaining co-ordination through a shared pressure to adopt 'best practice' solutions as regards just-in-time' technology, work organisation and employment terms (Sisson and Marginson 2002: 207-8). Co-ordinated standard-setting through industry agreement has its appeal for some from a restructuring perspective despite the continuing pull of decentralised bargaining. But how well do these same motivations play with their South African counter-parts plagued by an apartheid legacy of labour unrest, under-capitalisation and labour-intensive production regimes?

But of equal concern to us is the fact that such synergetic advantages only accrue to employers when there is a high degree of *employer co-ordination* in place across all these realms, not just industry bargaining itself. Indeed, how effectively corporatist bargaining integrates with these other 'interlocking complementarities' now becomes of central interest for anybody wanting South Africa to evolve a business co-ordinated market system of its own (*after* Soskice 2000: 109). Thus, strong employer co-ordination provides a better chance of non-market co-ordination taking hold in ways that render emerging market economies like South Africa more, as opposed to less, coordinated. For industry bargaining reasons in particular but also in support of peak social dialogue (concertation), it is the numerical strength of employer associations that begins to matter in terms of determining employer co-ordinating *capacity*. The following set of reasons explains why this is an important precondition of employment relations systems becoming organised and, hence, co-ordinated in practice.

It seems bargaining co-ordination is strongly predicated on the institutional presence of multi-employer bargaining in a designated sector or industry. Indeed, the two appear to be positively correlated to one another in that the more organised *multi-employer* bargaining becomes the greater the degree of employer co-ordination across that sector (Traxler 2003a: 8). Obviously, the more employers that become incorporated into any

central bargaining process the greater the number of employees covered by the terms of that same agreement and thereby the more likely we are to observe ‘horizontal co-ordination’ appearing across that sector or industry (Traxler 2003b: 197-8). Meanwhile, the probability of such employer co-ordination occurring ‘vertically’ is further increased when there is also *multi-level* bargaining *in situ* that takes on an ‘articulated form’ such that higher-level agreements frame and inform those at lower levels (Crouch 1993 cited in Traxler 2003a: 8). What then becomes crucial under both ‘vertical’ and ‘horizontal’ co-ordinated systems are the numbers of employers prepared to allow their association and peak bodies to act as their bargaining agent within the prescribed domain.

Thus, bargaining co-ordination and, by extension, both macro-economic co-ordination are heavily dependent on a ‘critical masse’ of employers being willing to combine together to form an employers’ organisation that represents their interests in their dealings with labour (Traxler 2003b:206). This I now refer to as ‘*critical associability*’ by which is meant that a particular density of ‘*associated*’ employers is needed to ensure that bargaining co-ordination is the likely outcome from any centralised bargaining process. Of course, the reverse also holds: a certain level of *disassociation* (or defection from the central bargain) by employers seriously undermines the *co-ordinating capacity* of any centralising bargaining mechanisms and, thereby, the emergence of social concertation itself (Vatta 1999: 248). Since South Africa’s transformed employment relations system aspires to co-ordination and social concertation, then ‘critical associability’ must become a central public policy concern and attention paid to the *capacity* of employer organisations to recruit, retain and govern potential and existing members. However, if associational membership levels begin to carry weight in this way, even more do the individual decisions of employers to associate voluntarily given that their automatic co-option into membership can no

longer to be taken as read within a South African context of enlightened corporatism  
(*after* Thelen 1994: 120).

This line of argument is important for us to take for the following reasons. For Soskice (1990a), it is employer co-ordination, rather than labour strength and centralisation as portrayed in the more conventional corporatist literature, that now becomes the key variable in determining whether modern social corporatism succeeds in terms of desirable 're-distributional' and 'growth' outcomes. This is because the underlying basis for corporatist compromise has changed from one predominantly demand-orientated to one now supply-driven such that, for example, the ability of firms to compete in new, more dynamic internationalised markets commands our attention ahead of issues around wage distribution (see, for example, Streek 1992 b). This is as true for South Africa as anywhere else in light of its re-entry into a world economy best epitomised as 'global'. In light of these changes to the corporatist agenda (Thelen 1994: 109-110), the focus of analysis now properly switches towards the *interests* and *strategies* of employers and away from those of unions, as previously upheld by such as Cameron (1984); Korpi (1983) and Schmitter (1981). In short, it is the very *capacity* of employers to co-ordinate themselves that secures wage restraint and that encourages necessary production innovation and adaptation to changing and volatile markets rather than the ability of trade unions to be affiliated, solidaristic and powerful. As a consequence, it is the business association that has become the most prominent corporatist actor in open economies, whether advanced or not. Moreover, the *capacity* of associations to organise and represent employer interests now becomes the central focus of attention, especially when it comes to their helping establish 'wage co-ordination' within institutionalised forms of pay determination (Soskice 1990a: 41-43).

In pursuing this particular line of reasoning, it becomes necessary for us to place *business associability*, along with the very *organisability* of employer associations, centre-stage in any examination of the response of business to South African bargaining reform. This requirement is even more apparent if we acknowledge employer co-ordination to be fundamental to concerted bargaining taking hold in ways auxiliary to an even broader economic co-ordination (Soskice 1990a: 58-60). This implies that the tendency for businesses to enter into association with each other (ie: their '*associability*') is dependant upon the perceived merits of co-ordination for employers. Unfortunately, the gains to be derived from membership are not self-evident given certain 'collective-action' problems for employers that appear detrimental to their interests (more on this later). They need to see virtue in an 'institutional framework' that equalises pay across skill levels (so as to discourage poaching); that promotes bargaining across sectors (in pursuit of wage restraint); and that also gives independent voice to workforces (in order to enhance flexibility and high-performance production) (*after* Soskice 2000: 116-7). But any benefits that employers might derive from taking collective action are counter-balanced by perceived drawbacks that primarily relate to their foregoing an autonomy and independence of action. This part of the analysis is held over for more detailed discussion in the chapter to follow.

As a consequence, an employer association's capacity to convince prospective members of the merits of 'associability' and so draw them into associational membership (ie: their '*organisability*') becomes an overriding consideration for those believing employer co-ordination integral to the sustainability of labour and product market co-ordination. Equally significant are the preferences and concerns of employers when deliberating upon the attractions of a type of associational membership that ties them to industry bargaining processes. Put simply, exercising rational choice over associability in the South African context not only reveals how predisposed employers are towards

the revised centralised bargaining system but also their standpoint on grander notions concerning bargaining and marketing co-ordination. And yet, although acceptance of this *economic* rationale may prove to be a necessary condition for employer co-ordination taking off, it is certainly not a sufficient one. There is also a parallel body of work that emphasises the *political* reasoning behind employers' preferences for entering into alliances with organised labour that further the cause of corporatist bargaining institutions. This work, unlike that on the 'varieties of capitalism' as above, emphasises the importance of 'agency' rather than 'broader institutional arrangements' when it comes to making coalitions happen. In particular, this refers to the significant part played by elements of capital or labour in determining whether corporatist coalitions are likely to occur in the first place (Thelen 2002: 382).

### **5.3 Employers and 'cross-class' coalitions**

As previously noted, conventional wisdom portrays neo-corporatist employment relations to be the product of labour movements that were both organisationally and politically powerful at the historical moment of its formation. In such cases, highly centralised union confederations are conceived of having converted a political and economic strength into a commanding institutional presence such that employers were then 'pushed back' into the shadows (Thelen 2002: 377). But others, notably Bowman (1985), Fulcher (1991) and Swenson (1989 and 1991) challenge this reading of labour history and argue the need for 'bringing capital back in' when discussing the origins of neo-corporatist bargaining structures (Swenson 1989: 513). For them, establishing the norm of centralised bargaining has just as likely rested on the support of key elements of the business community as on the presence of a strong labour movement. Indeed, using the example of post-war Denmark and Sweden, Swenson wishes to make the case for bringing the employer back into prominence more than ever before.

Here, he demonstrates how a centralisation of bargaining occurred more at the behest of those employers finding advantage in promoting the institutional strength of labour rather than as the product of any significant shift in power from capital to labour (1989: 515-542). Similarly, using game theory, Bowman shows us how, under certain conditions and constraints, employers can collusively promote the union's pursuit of the Common Rule in sectors where intense market competition prevails (1985: 37-64). He then illustrates this tendency with an example drawn from the bituminous coal industry in the United States at the turn of the last century (65-77). In this case, organised employers actively promoted unionisation and industry bargaining as a means of standardising labour costs and even went so far as to give support to strikes aimed at forcing defectors back into the central bargain. A similar 'cross-class alliance' was also held to be at the heart of the development of Germany's famed system of co-ordinated industry bargaining, but this time within sectors rather than across them.

Both these historical examples highlight the crucial part played by a critical 'political' element of the employer constituency in bringing about a centralised bargaining institution, whether at national or sectoral level. Employers, not unions, seemed to be the driving force behind such institutionalised arrangements, and, far from being reluctant or passive participants in such cross-class coalitions, appeared supportive, even pro-active. In short, they are better characterised as 'regime makers' rather than 'regime takers', as commonly pre-supposed, given their preparedness to help construct and maintain corporatist bargaining in its various forms (Thelen 1994: 114). But does this not also make them 'regime consolidators' in the sense of ensuring the sustainability of centralised bargaining institutions, rather than their erosion, when placed 'under strain' as witnessed recently in certain North European countries (see, for example, Hassel 1999 but also Pontusson and Swenson 1996 and Thelen 2000)? It is equally valid to ask this question of a country like South Africa where a significant re-

regulation of centralised bargaining now underscores the semi-voluntarist nature of the system. At the time of political liberation and democratic reform in the mid 1990s, South African employers were forced to confront dilemmas and make choices similar to those faced by their European counter-parts from a previous era (Donnelly 2001: 552).

Nonetheless, to argue that the employer warrants our attention ahead of that of the union movement is much more debatable when it comes to South Africa given the distinctive history and development of its labour relations as outlined in preceding chapters. A conventional narrative has independent ‘black’ labour, rather than ‘white’ business, as playing the more decisive role in ending apartheid labour relations and replacing it with a ‘bargained’ corporatism’ that formed the centrepiece of a negotiated settlement between the parties (Baskin 1993a). Yet, elements of both ‘white’ labour and capital, are commonly depicted as having acted in a combined ethnic and class alliance to help forge and maintain apartheid in the first place (eg: Lipton 1985: 256-364).

However, business was far from unanimous and whole-hearted in its collusive support for an economic apartheid that condoned job segregation, labour market duality and separate ethnic development and became increasingly opposed, on ‘cost benefit’ grounds, to measures that helped sustain it (Lipton 1985: 227-255). However, although the record shows ‘progressive’ employers helping to erode the worst features of apartheid labour market policy it was only a highly mobilised ‘black’ labour movement that could muster the necessary political and industrial might to dismantle the whole apartheid labour relations edifice (Donnelly and Dunn 2006: 3-8). The irony for us is that a strong labour aristocracy, as part and parcel of the white oligarchy, appears to have been instrumental in establishing apartheid labour relations and an increasingly powerful ‘black’ labour militancy, as the locus of internal political opposition, in its



eventual removal. But this is not to deny that fragmented business interests were reactively, if also uneasily, both complicit in, and averse to, these labour developments but at different stages depending upon where the various political and economic drivers were taking them at any one time (Lipton 1985).

Labour strength, relative to that of capital, also crossed over into the era of reform that followed. It was the solidaristic power of organised labour, rather than that of business, that proved pivotal in forcing through corporatist reforms under late apartheid that were advantageous to its interests, most notably the Wehahn reforms of the early 1980s and the 'Laboria Minute' of 1990 (for example, Donnelly and Dunn 2006: 8-9). Likewise, many accounts (notably Adler and Webster 1995 and 2000; Baskin 2000; Harcourt and Wood 1998) place the labour movement at the forefront of a regime transformation that has taken place in employment relations, post liberation. The epitome of its status lies in a brokered legal dispensation that is considered to be relatively 'labour-friendly', not least in conferring on labour a political space in which to contribute to policy formulation (see, for example, Donnelly and Dunn 2006: 10-11). Labour also continues to exert influence over public policy beyond the realm of employment relations and labour markets, through its formal alliance with the ruling parties of the ANC and SACP (eg: Eidelberg 2000; Harcourt and Wood 2003: 91-2; Maree 1998; Southwall and Wood 1999: 73-4).

Indeed, the likes of Webster and Adler (1999) further maintain, albeit tentatively, that the institutional means are now in place to allow for the emergence of a new 'class compromise' to be formed around the twin demands of economic liberalisation and redistribution (347-9). Here, a 'central compromise' is supposed to form around the need to prioritise economic growth and adjustment in ways not just supportive of business but also in terms of generating sustainable jobs and rising living standards for

workers across both formal and informal sectors. In return, labour would be required to forego its demand that *all* receive high wage, security and welfare guarantees (371-3).

Such a general political exchange for South Africa amounts to a 'bargained liberalization' whereby 'a new balance (is) to be struck between market and society' in a transitional era of democratisation, reconstruction and globalisation (378-9).

Similarly, others like Harcourt and Wood (2003: 99-101) consider the prospects for a Labour Accord taking off not to be unreasonable, albeit subject to some qualification on their part. Just like Webster and Adler, they envisage union support for industrial peace, state (macro-economic) policy and wage restraint in exchange for 'pro-labour public policies' around training, unemployment insurance, social welfare and health schemes to lie at the heart of any such accord (2003: 87). But, again as with Webster and Adler, they readily accept that for it to materialise there needs to be a certain level of institutional *capacity* and degree of *willingness* from the parties that is currently lacking for reasons outlined in the preceding chapter.

Casting labour in the lead role when explaining the advent of 'democratic corporatism' in South Africa appears somewhat anomalous in comparison to a 'North European' interpretation of events that has the employer centre-field when it comes to the forging and maintenance of corporatist coalitions (*after* Baccaro 2002a: 4 and 15). But circumstances change and the conjunction of forces that gave rise to labour's strength under apartheid and its immediate aftermath may no longer prevail, to the detriment of organised workers' interests. The world-wide internationalisation of markets and liberalisation of economies make this possibility ever more certain, given South Africa's recent entry into this new economic order. Issues around fiscal and monetary discipline, free trade, export-led growth, world-class competitiveness and modernisation, even privatisation, of public utilities and services are at the forefront of most policy debates (eg: Bhorat *et al.* 2002: 1-6 and 14-16; Natrass 1996; Padayachee

1998; Williams and Taylor 2000). These changed priorities for both state and business ensure that labour's agenda around distributive justice and welfarism in and around work is of less prominence than inward investment, employment growth, labour market flexibility and skill development (eg: ILO 1999; Nattrass 2001).

Organised labour may well have proved to be the deciding factor in dismantling South Africa's warped apartheid labour relations regime at the moment of political liberation (see chapter 3), but is this still the case, post liberation? Arguably for some (for example, Donnelly 2001: 553; Donnelly and Dunn 2006; Harcourt and Wood 2003: 92-4), the future foretells organised business to be evermore decisive in determining whether this *new* employment relations becomes institutionally robust and enduring against a backdrop of economic adjustment and industry restructuring. The questions remain however: are South Africa's organised employers themselves still prepared to enter into further coalitions with labour both at peak and sectoral level as they have in their recent past? Will they continue to find virtue in appeasing a strong labour movement through centralised bargaining and labour accords as much as in times of past crisis or does the hegemonic 'Washington consensus' they now encounter set new agendas whereby political bargaining is perceived to be an inadequate response?

#### **5.4 Some concluding thoughts**

In sum, comparative studies regarding the extent to which centralised bargaining relies upon the strength and centralisation of unions has now been superseded by a more contemporary concern regarding the important role played by employers in helping to first establish and then sustain it (Thelen 2002: 380). Perhaps this changed focus merely reflects the times we live through and would apply equally to South Africa as to anywhere else. However what these country studies on 'the varieties of capitalism' and 'cross-class coalitions' also confirm is the fallacy of assuming that *all* employers always

oppose either the introduction or continuation of neo-corporatist bargaining arrangements. Their views matter and can prove pivotal to the robustness of any multi-employer bargaining system. What employers decide to do can but determine whether a coalition with labour holds and whether corporatist compromises are first likely reached and then maintained over time. Equally though, the particular 'behavioural logic' exhibited by employers towards centralised bargaining and their associability is likely to be influenced by the 'variety of capitalism' at large within the political economy of the country (*after* Thelen 2001: 102).

On both counts, there is sufficient historical evidence for Thelen to assert that the durability of centralised bargaining in some countries can be attributed as much to an employer's attachment to such institutional arrangements as to labour's defence against any attempts to undermine it (2002: 387). That said, employer co-ordination does not just evolve 'organically' but requires a framework of state support. Such cohesive behaviour is far from self-perpetuating, often being the likely product of political interplay between key actors. This also allows labour to be brought back into more contemporary analyses. Union strength can still play a decisive role in consolidating employer associability and co-ordination, especially in co-ordinated market economies (Thelen 2002: 396-7). For example, the need for employers in Sweden and Germany to dampen conflict and maintain peace in the workplace appears to have motivated their return to a centralised bargaining table (albeit with less enthusiasm than previously). The relationship would seem to be symbiotic: 'employers' dependence on labor co-operation shores up the power of unions which in turn keeps employers focused on strategies that depend on labor cooperation' (Thelen 2001: 101-2). Nonetheless, what this recent example also reaffirms is that employers' views on centralised bargaining and on the part to be played by their representatives (ie: employer associations) cannot

be discounted when formulating employment relations policies that favour more organised employment relations systems, as in post apartheid South Africa.

Moreover, public interest concerns oblige policy-makers to discover and respond to such views, not least because of the trend towards economic liberalisation world-wide, and the concomitant rise to prominence of employers in both national and international labour markets, predominantly to the detriment of union power. This policy caution applies equally to South Africa as to any other country where there is a fragile policy consensus for a corporatist compromise to prevail, for employment relations to remain organised and for multi-employer bargaining to lie at the heart of both. In short, any re-assessment of employers and their role confirms them to be pivotal actors in any neo-corporatist system that embraces centralised bargaining, economic co-ordination and social pacts. But, a policy preference for business (and labour) to be 'organised' is no guarantee of itself that this will happen given that the associability of employers is a right, not a requirement of the constitution. So, the question that now comes to mind is how willing are South African employers to combine together on a voluntary basis within employer associations that then negotiate on their behalf? Indeed, how prone to collective action will employers prove to be under South Africa's revised centralised bargaining system?

Equally germane to this discussion is the organising and negotiating capacity of South African employer associations themselves. But in order to start answering these questions we first need to understand the fundamental reasoning that lies behind an individual employer's decision to belong to an association or not before looking closer to home at South African employers and their relations with their associations.

Meditating upon an employer's rationale in this way should help us to identify the attributes employer organisations themselves need to possess, the better to fulfil their

multi-employer bargaining obligations to their members. Hopefully, such analysis can lay the foundations upon which to construct a research agenda for ourselves that can then usefully inform the design of the fieldwork. This next chapter, therefore, attempts to discover what attracts and repels employers contemplating whether to associate or not as well as providing both contemporary and classical explanations as to why such a dichotomy might exist in the first place. We will also reflect upon the implications such analysis has for South African employer organisations and the overall bargaining council system with a view to problematising employer associability for empirical purposes.

## **Chapter 6. Employer solidarity and collective action: an agenda**

### **6.1 Introduction: employers and their organisability into associations**

We now go beyond general accounts of why communities of employers are showing themselves to be all-important actors in any contemporary employment relations scene into why *individual* employers might choose to combine (or not) with others and help establish an employers association in the first place. This preference is far from obvious given that some commentators, notably Windolf (1989), have already identified a trajectory that has enterprise bargaining on the rise in response to more flexible forms of work organisation and decentralised 'productivity coalitions' as the product of changed markets and technologies. In addition, the likes of Lash and Urry (1987) have even suggested a convergence towards 'disorganised capitalism' that is characterised by a secular decline in employer associability generally, the result of an internationalisation of capital and of a concomitant erosion in solidaristic 'mass unionism'. As a consequence, this chapter is organised into various sections that, together, address a couple of questions of paramount interest to all those interested in the collective behaviour of employers.

Why is it that the logic of taking collective action can still outweigh the attractions of individual employer autonomy, especially in light of this more pessimistic prognosis? Conversely, what underlying factors might deter employers from acting collectively when given the option to do otherwise? In short, what makes a decision to associate or not such an idiosyncratic one for employers and, thereby, difficult to determine in advance? In seeking answers, an established literature is drawn upon that identifies for us some defining issues regarding the 'logic' of collective action for employers (most notably that of Offe and Weisenhall 1980; Olsen 1965; Sisson 1987; Streek 1992b; Swenson

1989; Traxler 1993 and 2003a,b and c; van Waarden 1995). But we first need to identify the potential benefits that are said to accrue to employers from acting collectively within the framework of an employers association before enquiring into why they might equally find associability less than appealing and so effectively defect from any subsequent central bargain. Finally, such an exercise sets the parameters for a more specific discussion of employers and their associability in a South African context as a means of identifying for us a research agenda more appropriate to this particular country case. Implicitly, this also requires us to examine the part to be played by employer associations themselves, both in terms of their ability in drawing employers into membership (*'organising capacity'*) and in effectively representing their interests to organised labour (*'negotiating capacity'*).

## **6.2 What drives employers into acting collectively?**

By a 'logic of collective action' is meant the *rationale* that lies behind an employer's decision to combine with their peers within an employer association that then acts as a single bargaining unit on their collective behalf. This presupposes a rational choice to be made by the employer, having first undertaken a kind of cost/benefit analysis that weighs the potential payoff for prospective members from associational membership and collective action against any possible drawbacks. The choice is often reduced to a preference between having an association mediate on behalf of oneself and others and subsequently act as the bargaining agent or having to negotiate directly with the union(s) oneself and consequently act independently of any other (associated) employer. Reasons why employers find virtue in being collectively organised in this way are invariably linked to their own perceptions of their organisational and labour market power relative to that of workers and their representatives. Equally important are those cognitions that are often themselves the product of historical country-specific 'patterns



of industrialisation' (Sisson 1987: 10-16). However, the most frequently cited reasons as to why employers prefer to see their association representing their bargaining interests at sectoral or industry level appear to be threefold as follows.

The first two relate to an employer's desire to exercise two contrasting methods of *control* from both inside ('*managerial*') and outside ('*market*') the workplace (Chamberlain and Khun 1965). It seems that where a union is considered a force to be reckoned with, employer sovereignty can only be maintained through the employer making alliance with it and regularising the formal relationship between the two of them (Flanders 1974: 355-6). This means that the bargaining structure from an employer's perspective is best viewed as a system of control that defines the nature and extent of union involvement in 'rule-making' (Sisson 1987: 190). Meanwhile, the third concerns itself with certain *administrative efficiencies* that are to be derived from the actual multi-employer bargaining process itself (Pierson 1961).

Taking this 'efficacy' explanation first, small employers are commonly thought not to possess the necessary resource to handle the complexities routinely associated with managing contemporary relationships with their trade union counterparts (Pierson 1961: 41). It is commonly assumed that industry bargaining and associational membership generates economies of scale to the benefit of hard-pressed employers in terms of time, effort and staff savings (Sisson 1987: 188). These resource gains arise from their associations acting as specialist centres of expertise for their members. As such, employer organisations can provide full-time officials dedicated to working closely with elected representatives from member companies in determining policy, advancing employer interests and fire-fighting on their behalf whenever necessary (Watson 1988 cited in Farnham 1993: 42). In taking out membership with an association, each employer not only accedes to the authority of 'professionally equipped people' to

handle shared problems but also, along the way, acquires an improved professionalism in the management of their own employment relations, albeit at one remove (Pierson 1961: 41). All told, associability supposedly compensates individual employers for shortfalls in resource and expertise and so enhances their capacity for managing their labour relations effectively. But this type of 'utility' justification is unlikely of itself to prove sufficiently attractive in tempting larger employers into associational membership. The prospect of enhanced *control* over both labour markets and workplaces is also thought to play its part in drawing employers, irrespective of their size and capacity, towards the attractions of collective action through formal association.

*Market control* for employers is achieved through their participation in cartelizing behaviour within labour markets jointly regulated by industry agreements. The shared intention is clear. Such agreements are meant to facilitate 'the regulation of competition in both labour and product markets' by taking wages out of competition (Sisson 1987: 42). The premise at work here is that by negotiating a fairly standardised set of pay and conditions with a trade union across an industry or sector, employers can effectively remove from competition a vital cost element of production, namely wages (Sisson 1987: 5 and 1991: 265). The theory underlying this assumption is that extending multi-employer pay agreements to all employers across an industry allows those companies to compete in product markets other than on the basis of undercutting each other's labour costs. Such self-regulation is predicated on joint adherence to the 'Common Rule' as observed by the Webbs whereby minimum labour standards are imposed under industry agreement on employers, below which no one employer is permitted to fall. This is because:

**‘when the associated employers in any trade conclude an agreement with the Trade Union, the Common Rule thus arrived at is usually extended by the employer, as a matter of course, to every workman in their establishment, whether or not he is a member of the union’ (Webb and Webb 1913: 209 cited in Farnham 1993: 274).**

The hope is that, in this way, competitive wage cutting can be circumvented, a ‘race to the bottom’ thwarted and labour unrest subdued. A corollary to this is that collective action by employers also protects individual employer organisations against being ‘picked off’ in turn by unions during trade disputes. Likewise, where unions are able to exercise strong bargaining power against single-employer negotiators, individual employers may feel themselves vulnerable to ‘whipsawing tactics’ on the part of union negotiators such that they become fearful of industry wage norms being pushed up above that established under a multi-employer bargaining regime. In such circumstances, industry bargaining becomes attractive to those employers seeking protection from strong unions able to deploy leapfrogging tactics in pay negotiations. As a consequence, they are drawn to the notion that restrained wage-setting behaviour and pay moderation are more likely outcomes under industry bargaining than under single-employer bargaining processes. The presumption is that the affordability arguments of individually weak employers are more likely to prevail once they choose to act solidaristically. Their propensity to act collectively presupposes the negotiating hand of employer representatives to be strengthened relative to that of labour in any industry-wide pay bargaining forum.

Finally, another ‘negative incentive’ besides that of protectionism from powerful labour movements, may also play its part in driving employers to combine. This occurs in cases where legally enforced ‘extension rules’ operate such that the terms of any industry agreement apply equally to *all* employers in that specified sector or industry. Despite individual employers being neither party to such agreements nor members of the relevant ‘contracting’ employer association, they may still find themselves legally

bound by agreed terms reached in their absence. Often the policy thinking behind such ‘ergo omnes’ rules is that non-party employers then become incentivised to partake in centralised bargaining processes and, thereby, hopefully influence bargaining outcomes to which they will be tied regardless. The likelihood of this occurring decreases in the absence of any legal extension (Traxler 2000: 313).

In sum, the espoused attractions of multi-employer bargaining lie in the possibilities it offers to individual employers. It can buttress their individually weak bargaining position (viz a viz a union counterpart), put a floor under wage competition, institutionalise labour conflict and, in so doing, mount a ‘collective defence’ against powerful unions (Silvia 1997: 190). Indeed, Streek (1992b cited in Thelen 1994: 119) goes further in arguing that such macro-bargaining produces certain ‘collective goods’ that deregulated markets and fragmented bargaining find some difficulty in guaranteeing – namely, ‘social peace’ and ‘skills’. But, how well does this exclusively (North) European viewpoint strike a cord with South African employers having experienced their shortage under apartheid (chapter three) and having to develop strategies appropriate to markets and institutions in transition, post apartheid (as documented in chapters two and four)? Certainly the implication from Sisson (1987: 43) is that employers are universally afforded some measure of *market control* through such means. And yet, once again according to Sisson (1987: 188-91 and 1991: 260-1 and 265-7), there is something even more important that multi-employer bargaining can offer employers seeking to placate strong unions other than just market control. This relates to their ultimate desire to exercise a ‘*managerial control*’ over their workers in the actual workplace and it is this aspect of multi-employer bargaining we turn to next.

Sisson claims unambiguously that it is ‘the neutralisation of the workplace from trade union activity’ that is uppermost in the minds of those employers contemplating

collective action solutions to their problems of managing alongside unions (1987: 188).

By *neutralisation* is meant the possibility for employers of counteracting union power and influence in the workplace, if not confining it (1991: 265). Some employers may come to feel that adherence to industry agreements better insulates the workplace from union interference by limiting the freedom of action available to worker representatives.

The reasons why negotiations that take place outside of the workplace are commonly thought to bolster managerial control inside it are held to be threefold. First, in return for conceding that certain substantive issues can now be subject to industry-wide agreement, employers seek to bind unions, either implicitly or explicitly, to the idea of the former reserving for themselves the right to have the final say over all other (workplace) matters (1991: 267). Second, it is commonly thought that reaching industry agreements provides individual employers with the wherewithal for extending the scope of managerial unilateralism even further. This is because the terms of such settlements are often meant to establish norms or minima across an industry that domestic negotiations can then likely build upon to the advantage of the local employer. Besides, they still afford employers considerable leeway when it comes to their implementation locally. What additional workplace negotiations (if any) that take place, are merely 'administrative or supplementary' in nature to industry agreements already struck (1987: 188).

Finally, given the fixed-term and comprehensive nature of many of these multi-employer deals, it often proves problematic for unions and their members to mount selective action against individual employers during the lifetime of such an agreement in support of broader claims and grievances beyond the workplace (1991: 261). Thus, it is the very structure of multi-employer bargaining itself that can be used to 'neutralise' the overall influence that any union might be able to exert within individual workplaces. Moreover, rather than wages being taken out of competition through industry-wide

bargaining it is the very 'mode of regulation' itself (that is, individualised contracts and company agreements) that is to be removed from the competitive field for rival firms. Crucially, this means that the way the employment relationship is to be managed becomes an overriding consideration in itself for employers. Indeed, the suggestion is that, in the final analysis, it is this aspect of 'control capacity' that can prove invaluable to an employer when it comes to improvements in productivity or performance (Traxler 2003a: 6-7).

Meanwhile, what past experience also tells us, according to Pierson (1961: 622-3), is that some circumstances are more likely to induce employers into associability than not. This likelihood increases when there is intense product market competition between firms, where direct labour costs form a high proportion of total costs and where unions correspondingly exercise a strong presence within their own and rival firms. Any one circumstance may prove sufficient to draw employers into collective action but when all three are in play, then associability is thought to become ever more desirable. Under such conditions, collective action undertaken through association is aimed as much at employers who might break ranks as at overbearing unions seeking to divide and rule. It is worth asking whether South African employers recognise themselves to be similarly placed to that described above. This is especially the case given the uncertainties they face following a change in regime that bestows a prominent institutional voice and pronounced political status on an already powerful labour movement still in formal alliance with a new and popular ruling party?

Taken together, the three dynamics to collective action outlined above are assumed to be powerful forces at work in driving employers into associational membership generally. But the question bears repeating as to how compelling are these arguments for South African employers who are not only obliged to adjust to regime change in

their relationships with labour but also to the double transition of economic liberalisation and political democratisation. This requires them, amongst other things, to acknowledge an apartheid legacy of workplace militancy, of exploitative non-competitive wage fixing through industrial council agreements but also of the rise in enterprise bargaining and workplace organisation (see chapters 3 and 4).

But to what extent do they perceive themselves facing similar opportunities, and not just threats, in their ability to exercise control arising from South Africa's own recent historical (corporatist) compromise as enshrined in the new legal dispensation regarding a re-institutionalised multi-employer bargaining system, namely Bargaining Councils? Fundamentally, do the conventional explanations as to why employers elsewhere have shown a preference for taking collective action in the past still resonate with contemporary South African businesses when confronting the challenges and dilemmas of an employment relations system undergoing transition? Alternatively, how aware are they of divergent trends and developments taking place in both European and Anglo-Saxon countries regarding the degree to which the bargaining structure is centralised or not? And, all-importantly, how much do these public policy debates taking place in the Northern Hemisphere over the appropriateness of the bargaining level resonate within a South African business community being forced to adjust not just economically but also politically and socially? It is these more contemporary debates that now command our attention.

### **6.3 What deters employers from acting collectively nowadays?**

For Sisson, employers often consider a particular bargaining structure to be 'a system of control that defines the nature and extent of union involvement' in any overall rule-making process. But this is also to suggest that the structure is more often than not a

matter of historical compromise rather than one of rational choice exercised by reasonable parties with near power equivalence (1987: 190-91). Indeed, the prevailing market conditions that confront employers can readily explain their preference for a particular bargaining level. For example, we might expect to see employers being more welcoming of centralised bargaining in industries such as printing, building and clothing where competition is intense, capitalisation relatively low, profit margins narrow and themselves relatively weak negotiators in comparison to union counterparts. Conversely, single-employer bargaining is more to be expected in less competitive industries such as heavy engineering that contain employers who are relatively large, capital-intensive and immobile and have highly-integrated work processes that employ large numbers of workers with firm-specific skills (Sisson 187: 6-7 cited in Klerck 1998: 90).

Thus, it is left to individual employers to seize on any favourable opportunities that might come their way and to effect, within given contextual constraints, alterations to bargaining structures, notably changes to bargaining levels that better suit their interests. For instance, increased employer opportunities to exploit favourable labour market conditions is said to explain the recent rise in bargaining decentralisation, as does a corresponding decline in the incidence of centralised bargaining for some of the advanced economies of Europe and the OECD over the last two decades or so (see, for example, Katz 1993; Traxler *et al.* 2001). Crucially, it seems that, from the late 1970s onwards, union power has waned as structural unemployment has grown and as the state, in abandoning Neo-Keynesian policies and adopting monetarist measures, has chosen to become less responsive to organised labour's plight. These trends have only encouraged employers to exploit the resultant competition for jobs amongst workers to their advantage in a contest with labour over the preferred bargaining level. Whereas in the 1960s and 1970s, strong unions generally agitated for less centralised bargaining



and employers for more, the reverse has occurred subsequently with organised labour having to defend multi-employer bargaining arrangements in the teeth of growing employer opposition (Traxler 2003a: 1-2). It appears from the evidence for twenty OECD countries that many employers are drawn to decentralisation (in the form of individualised contracts and single-employer bargaining) in pursuit of an extended *managerial control* over employment terms rather than from a determination to improve productivity performance and competitiveness (Traxler (2003a: 18-19). The question now arises as to whether these same tendencies can be observed amongst those employers who have to strategically manage their employment relations in emerging and transforming economies like South Africa where there is a sustained public policy support for multi-employer bargaining to take place.

Furthermore, this same evidence also points to some employers in advanced economies seeking to regain managerial control through a decentralisation of bargaining down to the enterprise level as a consequence of their disenchantment with industry bargaining. This is because the original reasons that made industry bargaining appear so attractive to individual businesses are no longer considered to be as alluring. First, the ability to take wages out of competition has been somewhat undermined by a growing internationalisation of markets. Second, neutralising unions in the workplace is more difficult to achieve given the increase in rights for workplace representatives across Europe generally. Third, employers' fears of whipsawing tactics being deployed by strongly placed unions have diminished somewhat as the latter's pay bargaining powers have waned overall (Traxler 2003a: 19). Also, the effect of legally extending agreements to non-participating employers has been somewhat tempered by increasing recourse to 'hardship' or 'opening' clauses (see above).

But these same conditions can also be said to have arisen in post apartheid South Africa. Its re-entry into a globalised competitive environment has forced employers in the exposed sector of the economy to make a company's market performance its highest priority. Privatisation, marketisation and outsourcing in conformance with 'value-for-money' norms have all led to a comparable impact on public sector employers. How convinced are such employers that wage costs are now a source of heightened inter-firm competition, especially given how labour intensive their markets are and how much does this influence their thinking towards macro-bargaining generally as reflected in their support or otherwise for bargaining councils? The degree to which South African employers perceive industry bargaining to be a help or hindrance in their endeavours to catch up with overseas competitors has yet to be established. Moreover, the new legislative dispensation, together with a re-drafted constitution that now concurs with ILO labour standards, enshrines the right of association in ways that can only strengthen the organising capacity of unions in the workplace, not least when it comes to workplace forums.

Finally, some would also wish to argue that the existence of a large informal economy and the high rates of unemployment in the formal sector can only militate against the bargaining power of unions despite their past and present strength. Accordingly, a dampening effect on the union premium can only be a matter of time despite contemporary evidence to the contrary. But do employers hold to similar views? In short, how discouraged are South African employers from participating in multi-employer bargaining and thus drawn to the virtues of single-employer bargaining as has been the case with employers in some (but not all) advanced countries of the Northern Hemisphere?

The question also arises as to whether South African employers, in having to ‘manage’ their labour relations in a period of racial, political and economic upheaval, perceive similar opportunities to decentralise opening up for them as has been reported for other employers in certain OECD countries by such as Crouch and Traxler (1995) and Traxler *et al.* (2001). At the extreme, this disenchantment with multi-employer bargaining has already been made manifest through an ‘employer offensive’ against peak bargaining arrangements in both Sweden and Denmark throughout the 1990s (Pontusson and Swenson 1996; 2000). Most notably, Sweden’s export-orientated engineering employers took the lead in dismantling well-established centralised bargaining machinery once this framework of centralisation was perceived to have failed them in terms of eliminating restrictive wage rigidity and delivering highly-prized flexibility (Pontusson and Swenson 1996: 235-9; 2000: 103). Might South African exporting companies be expected to adopt similar attitudes when exposed to international trade liberalisation?

Primarily, it would seem to be the pursuit of new ‘flexibility-driven production strategies’ that lies behind much of the pressure for more firm-level autonomy in wage bargaining. However, it is also worth pointing out that this campaign to decentralise bargaining has not been without opposition from within the ranks of other employer groups (notably public sector interests), sparking only further division within an already ‘heterogeneous’ employer constituency (Pontusson and Swenson 1996: 239-42). What this case demonstrates, and what recent studies from Germany also confirm (for example, Behrens and Jacoby 2004: 98-100; Thelen 2000; Thelen and Kume 1999), is that a serious debate is taking place between employers in those countries where centralised (either industry or peak) bargaining has a significant institutional hold. The norm of centralised bargaining appears to have become a contested arena for European employers generally. At its core lies the appropriate balance to be struck between

‘centrally-bargained parameters’ and ‘plant-level flexibility’ (Thelen 2001: 83). Two camps have become prominent within this debate, each holding directly opposing views to the other when it comes to their institutional preferences for bargaining: the *disengaged* and the *re-engaged*. I will now deal with each in turn.

First, there are those of the *disengaged* who consider it to be in an employer’s ‘natural interest’ to be campaigning for the abandonment of multi-employer bargaining generally because of its one-size-fits-all approach and, if not forthcoming, to disassociate themselves from any central bargain, when able to do so. Why industry standards established under agreement are best avoided is because they are thought by defectors to be dysfunctional since they interfere with an employer’s ability to respond *flexibly* to new requirements in the marketplace for product diversity and quality – most likely on a ‘just-in-time’ basis (Thelen 1994: 119). Standardising employment terms through peak or sectoral agreements acts as a drag on employers as they struggle to cope with the uncertainties surrounding growing market volatility and intensified competition. For Silvia (1997: 187-8), this *disengagement* reveals itself, in the case of a recently unified Germany, either through ‘association flight’ (members exiting their association) or through ‘association avoidance’ (new employers declining offers of membership). Seemingly, either tactic enables German employers to enjoy a status that is ‘association free’ and, by inference, industry bargaining-free to boot.

Meanwhile, there are those who still favour a type of *re-engagement* with ‘connective bargaining’ (Behrens and Jacoby 2004: 112) but on terms that now take account of their desire for flexibility and the associated agenda for bargaining reform that logically follows. *Re-engaged* employers continue to find virtue in a bargaining system that can generate a number of collective goods that they have come to rely on in the workplace – an ample supply of skilled labour, wage restraint, labour peace and, above all, some

labour market predictability. Although they may remain ambivalent about completely abandoning super-firm level bargaining, nevertheless, this has not stopped them from wanting to renegotiate the terms under which it takes place. The goal has been to create a 'controlled flexibilisation' of the workplace by loosening the imposition of any central agreement (Thelen 2001: 84-5).

In the case of Germany, this has been achieved through the introduction of 'opening (or 'hardship') clauses' into industry agreements that allow for variations from the latter favourable to the employer. Such clauses enable individual firms either to exempt themselves from certain terms on grounds of adversity or to use them as a basic framework for further local negotiation that more adequately reflect local circumstances. By such means can 'exceptions' and 'derogations' at the enterprise level be tolerated at industry level but only at risk of an 'institutional fragmentation' setting in whereby agreed industry norms effectively become agreed industry minima (Grahl and Teague 2004: 565-6). On the other hand, wholesale defection from the central bargain is averted by introducing a form of 'organised decentralisation' that pragmatically, if uneasily, builds some *flexibility* into the institutional framework without completely forsaking bargaining co-ordination at the multi-employer level (Traxler 1995: 7-8). The question that begs an answer is whether this same phenomenon is discernible closer to home in South Africa? In short, how strongly does this European-led debate over the appropriateness of the bargaining level resonate within South Africa's own business community?

It would certainly seem worthwhile asking whether South African employers similarly wish themselves to be identified with this debate by reference to their own revised bargaining system. If so, to what extent does the contested nature of this bargaining structure intrude on their thinking when reflecting upon the merits or otherwise of

having their associations make joint (industry-wide) settlements with trade unions on their behalf? Can we detect a similar schism opening up within the South African business community over the relative utility of decentralised bargaining as has already been observed in certain Northern European countries? Will South Africa's newly-created bargaining council system be placed under similar strain from the outset to that in Germany and Sweden, previously held in high regard as exemplars of centralised bargaining regimes? The concern here is that its introduction is to be characterised initially by employers seeking to nullify industry bargaining, either through 'flight' or avoidance', to the extent that its overall co-ordinating capacity is undermined severely. What are the chances of South African employers exhibiting similar traits to those found in parts of North Europe with similar results? As will be shown later in more detail, the legislation allows for this very possibility through the requirements surrounding their registration with a bargaining council. Equally, and contrary to decentralisation trends noted earlier, South African employers might consider their circumstances to be so objectively different that shifting the gravity of bargaining away from industry to enterprise level could be thought ambiguous and risky in comparison to businesses operating in Europe, North America and Australasia.

In short, how much of a bearing does this euro-centric debate have on South African employers deciding whether to associate or disassociate and, thereby, to endorse or embargo multi-employer bargaining? Are the arguments in favour of more enterprise-level activity at the expense of industry negotiations as attractive to South African employers as for those from the more advanced economies? Or is there a similar propensity to associate conditional upon there being sufficient leeway afforded to individual firms at the enterprise level to make associability and engagement with industry bargaining still worthwhile? Certainly the way that bargaining councils are presently constituted under the legislation (Labour Relations Act, 1995, s 30 (1)), allows

recipients of industry agreements to seek 'exemption' from their implementation on grounds of hardship. How significant is this aspect of the bargaining council system in drawing employers into a type of associational membership that also makes them 'party' to industry bargaining proceedings? Seeking answers to these and other questions regarding employer views and intentions towards employer associability and industry bargaining must feature as an integral part of any research inquiry into what helps mould their thinking when it comes to bargaining reform in the *new* South Africa.

However, what is also missing from this account of associability is some deeper understanding of the more fundamental reasoning commonly assumed to underpin employer decisions to associate or not. Unlike the preceding analysis, this refers to a presumed overriding 'logic' at work that is inherent in the minds of most employers when *rational* choosing between alternatives, irrespective of whatever political and economic contingencies predominate (Traxler 1995: 23). Thus, the innately *rational* thought processes that are said to inform employer choice over taking *collective* as opposed to *individual* action also need to be incorporated into any contemporary analysis of associability. Accordingly, an account of what is classically thought to preoccupy employers and the dilemmas they face when deliberating upon associability matters is set out below.

#### **6.4 What 'collective action' dilemmas confront employers?**

Fundamentally, there are three kinds of 'collective action' problem that can impede the organisation of employers into associations. First, the free-riding tendencies of potential members may undermine the overall appeal of associability. Second, having insufficient interests in common (ie: 'weak interest homogeneity') may only encourage a tendency in members not to comply with (parts of) industry agreements they do not like- that is, to 'cherry-pick' only what is agreeable to them. Third, a specific power disparity that

favours individual employers (potential members) at the expense of their associations only exacerbates this problem of associability (Van Waarden 1995: 69-71). From an associational perspective, these three obstacles to collective action can be separated into the dual problem of membership avoidance and non-compliance with agreements. These issues, though obviously inter-connected, are not the same. The willingness of employers to belong to an association is not a sufficient condition of their willingness to fully comply with the terms of any agreement brokered by their association (Traxler 1995: 25). This distinction has important repercussions for associations struggling to both recruit and regulate employers within their domain and renders 'employer organisability' intrinsically problematic (Tolliday and Zeitlin 1991: 22). Each of these more fundamental issues is now discussed in turn.

### ***'free-riding'***

Essentially, rational-choice theorists, notably Olsen (1965), have challenged the explicit link between collective organisation and an employer's pursuit of shared interests with others. The success of collective action generally presupposes a group members' rational pursuit of their predetermined economic interests that is not necessarily forthcoming in practice. This unpredictability happens because the very notion of acting collectively is itself subject to countervailing pressures arising from both an individual and collective rationality pulling employers in opposite directions simultaneously (Traxler 1995: 24). Indeed, even when associational members see themselves as having interests in common around the production of such collective goods as wage moderation, labour peace, restructuring and training, individual employers may shrink from contributing to the upkeep of these 'collective goods' through refusing to pay their fair share for them. At the extreme, this can result in such 'free-loaders' successfully avoiding having to pay their way altogether should the opportunity present itself (Tolliday and Zeitlin 1991: 18-19). The nature of this 'free rider' problem is thought to



be two-fold in essence. Any benefit to be derived from such collective goods cannot simply be restricted only to those 'loyal' members that pay for them but automatically extends to 'disloyal' members as well. However, to compound the problem even further, the latter not only manage to take a 'free ride' but also save on any costs incurred by those individual employers willing to pay the price for any action necessary to ensure the collective good. The former, as 'free -riding' individuals optimise their interests by maximising the gains and minimising the sacrifices to be made but at the expense of those who remain steadfast within their associational group (van Waarden 1995: 70).

Famously, this creates a 'prisoner's dilemma' (or double bind) for every individual employer able to make the above calculus regarding their *associational membership* (Olsen 1965). Should an individual employer choose not to succumb to temptation but stay true to the group then the expectation must be that others will not be so circumspect, free-ride and, hence, 'play foul'. Fear of being taken for a 'sucker' – having to 'pay' for what others can obtain 'free'- motivates otherwise loyal associates to behave similarly, even in a pre-emptive fashion. Such thinking encourages rational individual decision-making to produce 'irrational collective results' (Van Waarden 1995: 70). Moreover, this 'collective action' paradox is further compounded by the fact that employers, for the most part, are well equipped to identify the options available to them and their consequences. More than any other interest group, they can call on a ready supply of resources (finance, staff and expertise) to inform their choice -making and to conduct a cost-benefit analysis for each alternative. Even more problematical is the fact that most, if not all, employers are used to operating within competitive environments of one sort or another in ways that condition them to take the most rational course of action that guarantees their survival and maximises their interests. In addition, such an outlook is buttressed by business norms that condone legitimise and

even value one competitor outwitting another (Van Waarden 1995: 71). In short, we should not be surprised if associability inherently goes against the grain for many employers, at least in the first instance. Not surprisingly then, the temptation to free ride is much greater for employers than, say, workers and so reduces their general 'organisability' into associations overall.

Thus, employer associability (when narrowly defined as the propensity of employers to associate) can only really be guaranteed under exceptional circumstances even when group interests are fairly homogeneous. The first set of circumstances takes the form of a *coercion* that obliges beneficiaries to contribute to the common good in some way. In public policy terms this frequently refers to the use of legal extension to industry agreements and explains their presence in many centralised wage-fixing systems (Traxler 2003c: 152-3). The second arises when *compliance* becomes the norm for members of a small group tempted by the allure of various social and economic incentives (for example, networking opportunities). The third emerges when employer solidarity is underscored by the provision of such '*selective incentives*' for associated members as low-cost insurance, or expert advice and representation. The fourth and final circumstance transpires where individual employers are *sufficiently* (well) *resourced* as to provide some measure of the good themselves (Olsen 1965: 141-8). For these reasons, any offer of collective organisation from employer associations becomes inherently problematic for employers generally. But, more importantly for our purposes, the likely prospect of free-riding occurring (whether initiated by themselves or others) acts as a deterrence against individual employers subscribing to associational membership. Whether it remains a sufficient deterrent against membership-joining overall is more open to question. As earlier analysis has demonstrated, the actual context in which an employer's dilemma to freeload or associate is worked through will also have its part to play in determining the eventual outcome.

### ***'governability' and non-compliance***

Equally problematic is the matter of compliance by businesses with the wishes of their associations. Belonging to an employer organisation for employers does not necessarily equate with abiding by its rules or conforming to its goals - and vice versa<sup>7</sup>. At heart lies the problem of employer associations struggling to unify members' diverse interests (Traxler 1993: 678). This divergence arises because each and every member firm has its own distinctive characteristics in terms of its size, production methods, markets, capital formation, organisational structures and decision-making processes to name but a few. Such differences between members may well lead to sectional, if not opposing, interests. 'High interest heterogeneity' across a membership can only hinder the search for 'common ground' within an association (van Waarden 1995: 70). For instance, membership tensions may arise between large and small firms, exporters and home-producers or between close rivals in labour, capital and product markets that make any resolution of differences difficult for an association to achieve.

Charged with the complex task of unifying associational goals, an employers' organisation is likely forced into 'filtering out irreconcilable interests' in the process and so increasing the propensity for dissenting members to defect from compliance with any terms of an agreement with which they disapprove (Traxler 1993: 678). This problem is compounded given the absence of any unifying ideology (as with labour) and the fact that the 'central life interests' of employers can mostly be resolved either below or above the level of industry-wide association (Offe 1985: 190-1 cited in Natrass 1998: 26). Indeed, the more intense the competition between the various interest groups within associational structures the more difficult it becomes for that

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<sup>7</sup> The opposite also holds true: an employer may identify closely with whatever associational policy position has been adopted and abide by whatever is agreed subsequently without feeling obliged to formalise this 'shadow' relationship and take out membership.

association to achieve any worthwhile 'interest unification'. The less that happens, the greater the incentive for members to withhold their support for whatever the association proposes given the higher 'payoffs' to be made through behaving less than co-operatively.

It is for these reasons that employers are thought to be more receptive to the idea of neither complying with associational goals nor upholding the terms of agreements and thereby appearing to be less 'governable' when compared to workers in (union) membership. Thus, an *individual* pursuit of self-interest allows employers to frustrate the attainment of *collective* goals in ways that impairs their overall 'governability' by their associations (Traxler 1993: 687-8). In fact such logic dictates that employers are more prone to forsake adherence to associational goals and agreements than forego membership itself since defection from the former affords them a higher return than avoidance of the latter. For instance, choosing not to uphold industry pay agreements may simply strengthen an employer's competitiveness relative to that of conforming members unless there are counter-balancing costs to be taken account of. In contrast, the financial savings to be had from withholding membership dues are more than likely to be negligible in comparison given that the cost of membership should be relatively low whilst that for compliance relatively high (Traxler 1995: 32). If 'governability' becomes an issue for an association then, as with free-riding, individual employers are faced with the dilemma of having to weigh up the opportunity costs of conforming against not conforming to the terms of industry-wide pay agreements. But this always begs the question as to how many of these associated employers actually perceive an advantage to lie in not complying with the terms of such agreements. It is not only the *proportion* of employers in a designated sector or industry prepared to associate that critically matters but also their propensity to comply with agreements brokered in their name.

### ***'power disparities'***

What compounds the twin problems of free-riding and non-compliance even further is the fact that employers also enjoy a resource-derived power advantage over all other parties (that is, workers and consumers) in ways that only further militates against their acting solidaristically. This distinct 'power advantage' for employers also places employer associations at a relative disadvantage when it comes to their capacity for organising employers into membership (Van Waarden 1995: 69-70). This is because, in comparison with labour, *individual* employers have many sources of power at their disposal that equip them with the wherewithal, other than collective action, for defending, even advancing, their interests. Thus, employers are not only more powerful in comparison with workers but, crucially, in relation to their own associations. This power imbalance gives rise to a 'structural asymmetry in available resources' for pursuing their shared interests that characteristically represents relationship between them (Traxler 1995: 32).

The reasons for this comparative power advantage to the employer over the association are thought to be three-fold. First, employers exercise considerable power in labour markets simply through the way they invest in, organise and control production – so indispensable to overall employment and economic growth. As a consequence, this vital power resource already enables them, as *individual entities*, to influence the behaviours of workers, consumers, suppliers, competitors and government without instinctively having to draw on the collective power of associational membership as a first response. Indeed, it is a source of power to which the associations themselves have no access. Moreover, those very same resources that employer associations have at their disposal (for example, wage determination and lobbying) can also be mobilised, at a pinch, by individual employers, independently of any proposed collective action. Second, and

particular to those sectors where employers remain small in number, much reliance may be placed on informal and interpersonal contacts that amount to a substantive network being *in situ*. Such informal and *ad hoc* structures may mimic much associational activity through *de facto* collaboration and co-operation between ‘networkers’ but without the necessity of ever having to formalise the process yet yielding similar results in the form of favourable cartelizing market behaviour.

Finally, employers derive benefit from a ‘structural power’ in which they are invited to take up a privileged position within capitalist society as those largely responsible for wealth accumulation and for which the state remains indebted. Consequently, ‘even before it begins to put explicit political pressure and demands upon the government, capital enjoys a position of indirect control over public affairs’ (Offe and Wiesensthal 1980:179). This presupposes that individual employers enjoy a political and societal status that guarantees them their interests through a structural bias in the political system and that, again, should render collective action somewhat unnecessary. Once again, the particularistic strength of employers converts into a comparative weakness for their associations (Traxler 1995: 32). As employers have more alternative power resources at their disposal than do either employees or consumers we might expect them to be more resistant to notions of collective action. Presumably, the inclination of employers to associate abates the more robust they perceive their ‘structural power’ to be. To make matters worse, this asymmetrical power enjoyed by employers also makes associations less capable of strong governance. As their capacity to unify members’ interests and to get them to observe agreements diminishes, so the resolve of members to pursue their own exclusive interests *autonomously* grows.

## 6.5 Conclusions

If nothing else, these observations on employers' collective behaviour confirm for us the following. Whatever the reasoning behind *individual* compared to *collective* action for employers might be and whichever tendency appears to be in the ascendancy the final outcome can never be pre-determined (Tolliday and Zeitlin 1991: 22). But we also need to remember that employer collective action, although intrinsically problematic, has been empirically found to occur in practice and often in a sizeable way and for long periods of time. Nor should it be forgotten that collective action always has the potential to exert a decisive influence on the thinking and behaviour of individual members from one period to the next. Associability is not always relegated to a level of secondary importance for employers, despite the claims of Offe and Weishental (1980) to the contrary. Thus, the protective impulse for employers to combine together remains strong when problems seem intractable and their capacity for handling them independently appears limited. How accurately does this describe the situation facing South African employers in having to cope with the uncertainties arising from a re-institutionalisation of the whole labour relations system in a context of economic, social and political transformation? Is there a similar urge on the part of South African employers to seek protection in numbers? And is limited capacity an issue for them when it comes to their own handling of this re-defined employment relations agenda?

It is also worth noting the degree to which associations are inherently political organisations forever striving to construct solidarity amongst its members in the face of potentially conflicting interests. Their policies are often the product of compromises and coalitions intended to resolve these internal conflicts and tensions. Such contingent factors as organisational structure, leadership and ideology will also have a considerable bearing on the way associational policies are to be shaped and on their relationships

with external actors such as organised labour and the state (Tolliday and Zeitlin 1991: 22). Employers, either as potential or current members, will be well versed in these 'political' realities as they struggle to resolve their 'collective action' dilemmas. Above all, however, this account of the 'collective action' difficulties facing employers only goes to confirm the fact that sectional interests are likely to be to the fore and their group solidarity subsequently contingent and wavering for primarily rational reasons (*after* Tolliday and Zeitlin 1991: 20).

It is for these sets of reasons that it becomes appropriate for us to revisit the whole issue of collective action as it relates to the *new* South Africa and its reformed centralised bargaining system. After all, given the semi-voluntarist nature of the bargaining arrangements, employers are required to choose between acting as either 'parties' or non-parties' to bargaining council proceedings by subscribing to membership of a registered association or not. The general purpose behind any such exploration would be to ascertain whether the 'collective action' problems and dilemmas that confront South African employers remain similar in kind to those deduced in the literature as above. Is it the case that free-riding and non-compliance with agreements weighs as heavy with these employers as has previously been foretold? Indeed, the same fundamental questions need to be asked of South African employers that could be asked of employers generally. Namely, whether they are more inclined to compete than collaborate within labour markets, to individualise than collectivise employment contracts and to free-ride than associate and so not comply with industry agreements. In short, how strong is the propensity to associate within the South African business community?

Equally important for us is to discover whether their general disposition towards associability is in any way conditioned by 'European' debates concerning the merits or



otherwise of decentralisation. Thus, what becomes paramount in any inquiry into South African associability is to identify those factors that help determine an employer's decision whether to associate and partake in bargaining council processes or to disengage altogether. Drawing on what has been discussed in this chapter helps us to establish an analytical framework that compliments such a study. However, we have yet to place this country case review of associability within the specific context of post apartheid South Africa. What follows in the next chapter, therefore, is a brief account of how associability and centralised bargaining is organised within that country along with any collective action problems that have been observed to date. This should help to identify for us the more context-specific issues facing South African employers that presumably colour their views when it comes to acting collectively and participating in multi-employer bargaining arrangements at the meso-level. Thus, the intention with the ensuing chapter is to further refine the research agenda for this thesis through describing what commentators and observers of the South African scene suggest collective action signifies for employers (and policy-makers) within the more concrete setting of the country's whole bargaining council system.

## **Chapter 7. South African employers and bargaining councils**

### **7.1 Introduction**

In an attempt to describe employers' experiences of, and responses to, South Africa's ongoing experimentation with centralised bargaining, this chapter is organised along the following lines. First there is a brief account of the origins and development of this bargaining institution, not least its precursor in the form of the industrial council system first introduced under apartheid rule. This brief historical overview is intended to emphasise the pedigree of current arrangements, their continuity and discontinuity with the past and the fact that, given this history, multi-employer or industry bargaining has now become a de facto part of the 'web and weave' of modern South African employment relations. By implication, it is difficult to envisage, at least for the foreseeable future, an employment relations regime in South Africa that does not have industry bargaining in some institutional form or other (however weak). But this is not to deny that such a system is unproblematic for organised actors and policy-makers alike, as what follows clearly demonstrates.

More specific to our interests, bargaining council processes certainly appear not to command the unanimous support of the wider business community on the basis of the available evidence. Indeed, the record to date acts as a useful point of reference for us when it comes to the observed behaviours and espoused misgivings of both employer participants and defectors alike. To this end, we resume with a section of the chapter devoted to reviewing the whole bargaining council system from a largely legal perspective as a way of identifying for us its defining characteristics. This sets the platform for a discussion as to how it has evolved over the interim and what unintended consequences this has given rise to that render bargaining councils somewhat

problematic for those more supportive of centralised bargaining processes.

Identification of such issues allows us next to emphasise certain collective action problems facing employers within the bargaining council system generally. This account allows us to conclude the chapter with a discussion of the strategic options available to employers under the bargaining council system and set against the backdrop of the new statutory framework. Such discourse is in aid of contextualising the analysis of the field studies that constitutes the rest of the thesis.

## **7.2 Bargaining councils and their antecedents**

From an historical perspective, bargaining centralisation has always had a significant role to play within South African employment relations ever since industrial councils were first introduced into the system under the Industrial Conciliation Act of 1924. This legislation conceived of a bargaining institution that, through restrictive registration, would remain the preserve of white business and trade unions but one that would also be fundamentally voluntarist in character. However, what was determined between the parties could, on occasion, even be extended to cover not just high-status white employees but also to non-registered black workers (as Councils and the Labour Minister saw fit). As a consequence, the vast majority of the workforce was denied access to any representation within the official bargaining structure. Thus, for the next half century or thereabouts, the industrial council system, as the forerunner to bargaining councils, found itself to be the only officially sanctioned forum for collective bargaining in the country and, as such, became exclusive, centralised and bureaucratic. In most cases, agreements reached were automatically extended to ‘non-party’ employers and workforces. By 1980, there were estimated to be 105 industrial councils that had managed to broker 250 agreements between them although just ten of these

councils alone accounted for 80 per cent of all workers covered by industry agreement, thereby re-affirming the high centralisation of the system overall (Bendix 1988: 358).

However the Weihahn reforms of the early 1980s ushered in an era of apartheid reform such that independent (black) unions were now enabled to legally register and so partake in this statutory-endorsed bargaining process. The architects of this new dispensation fully expected emerging black workers and their representative unions to become incorporated into an established bargaining structure that had served white workers well for so long and so felt little need to abandon the voluntarist principle underpinning it. This caused problems initially. First, the independent labour movement persisted with a successful strategy of gaining enterprise recognition from individual employers and appeared reluctant to forego the bargaining dualism this gave rise to. Eventually, however, these newer unions overcame their resistance to apartheid's established bargaining system and developed a liking for, even attachment to, the industrial council system generally (Bendix 1988: 362). Meanwhile, established (white) unions began to adjust attitudes and pay considerably more attention to workplace agendas and plant bargaining. As a consequence by the time of the new dispensation introduced post apartheid in 1995, many unions (whether established or independent) had become accustomed to both industry and plant-level bargaining carrying out dual, rather than separated, functions. Increasingly too, employers were beginning to learn that there were choices available to them when it came to dealing with unions having first resisted the right of independent (black) unions to bargain in industrial councils even to the extent of contemplating their dissolution (Jowell 1989; Toerien 1989; SALB 1989).

Given such past developments, South Africa's bargaining structure is probably better characterised as already being multi-layered, even dualistic, rather than highly

centralised at the point at which we see a formal transference of political power in 1994 (Bendix 1996: 296-9). Accordingly, trend figures published by the Department of Labour indicate some decline in terms of numbers of Councils and workers covered although some slight improvement was noted for the early 1990s. Nevertheless, by comparison with the high of 1980 for example, The Department of Labour published figures for 1993 showing 86 councils in existence, covering 20,700 employers and 855,500 workers that purported to represent only about a tenth of the whole South African workforce (Standing *et al.* 1996: 151-2). Meanwhile, the ILO (1999: table 22) is able to show considerably more than a doubling in the numbers of employers entering enterprise agreements (from around 21 thousand to over fifty thousand) and of workers covered by these registered agreements (from around 315 thousand to 775 thousand) between 1993 and 1997. On this evidence, it would appear that dualism within the bargaining structure has become more, rather than less, pronounced in this early post-apartheid era.

As a consequence, the new dispensation introduced under the Labour Relations Act of 1995 that restructured the bargaining council system simply helped ratify a structural reality already firmly entrenched in the practice. Indeed, it gave official sanction to the idea of employer choice over the bargaining level. Thus, legislative reform not only continues to make bargaining voluntary on the parties but also confers organisational rights on unions that help them to establish a direct bargaining relationship with individual employers and reach local agreements accordingly. Indeed, for the very first time, the Act also makes workplace agreements as equally binding as those negotiated at industry level (Bendix 1996: 277 and 282). Moreover, workers enjoy similar protections from summary dismissal for taking strike action either in support of plant or industry bargaining. Indeed, these same safeguards even extend to secondary action and political 'stayaways' (Baskin 1996: 112). The upshot is that there is currently a

legislative environment in South Africa that promotes both bargaining centralisation and decentralisation simultaneously but without showing particular favour to either. Problematically, this appears tantamount to an institutional reinforcement of the dualism that had already developed organically under apartheid.

Nevertheless, what choices are now open to employers under the Labour Relations Act (LRA) of 1995 as regards the bargaining council system itself? First, bargaining at whatever level is fundamentally voluntary on both employer and union in the absence of any legal compulsion for them to do so. Thus, from a judicial viewpoint, there is both the freedom to bargain or not for either party. However, strengthened organising rights under the legislation and enhanced labour market power for unions provides the latter with more possibilities than ever before for forcing employers to concede recognition. Moreover, although there is no explicit duty on employers to bargain with unions, either at workplace or sectoral level, nevertheless in instances where disputes involve a refusal to bargain then they may be subjected to arbitration under the provisions of the Labour Relations Act 1995 (hereafter known as the LRA). Such refusals commonly relate to the rejection of unions as bargaining agents or of union requests for employers to help establish or sit in bargaining councils (amongst other rebuffs). Employers are expected to fully concur with the declarations of arbitrators. For these reasons, South Africa's renovated bargaining system is better thought of as being so enabling on unions as to be *semi-voluntarist* for employers. But there are still choices to be made by each individual employer when deciding upon what the preferred relationship might be with a designated bargaining council. What these options might be in practice will be examined more thoroughly later in the chapter. But, for now, we first need to acquaint ourselves with the way the bargaining council system supposedly operates within the confines of the new legal framework and, second, how it has evolved subsequently and with what difficulties.

### 7.3 The legal framework

Certain questions regarding bargaining councils come to the forefront when reflecting on the impact of the new dispensation, following its implementation post apartheid. For instance, what legally constitutes a bargaining council? What exactly is its jurisdiction and scope and how are they to be determined? What are its statutory terms of reference? How extensive are its statutory powers but also what statutory limitations apply? Thus, under the Labour Relations Act (1995), and as subsequently amended in 2000 and 2002, it is the primary purpose and function of collective bargaining, not least industry bargaining, to determine what is appropriate in terms of pay and conditions. Indeed, for Du Toit *et al.*, the legislation goes further in attempting to place collective bargaining mechanisms in the service of 'labour peace, social justice, economic development and employee quality' (2000: 159). Apparently, a lot is to be expected of a bargaining system that refrains from placing any overt duty on the parties to bargain.

Nonetheless, this lack of compulsion is subject to certain legal provisions that strongly encourage and prescribe industry bargaining procedures through the granting of organising rights to registered trade unions. Indeed, a Constitutional right of unions, employers and their associations to bargain collectively further reinforces this legislative endorsement of industry bargaining. Du Toit *et al.* would even contend that there is a duty placed on a 'contemplated bargaining partner' under the LRA (s.23) to avoid 'bad faith' bargaining in the form of unacceptable negotiating behaviour (2000: 167). It seems that associations and unions, in their capacity as bargaining agents for employers and workers respectively, are obliged in law to conduct council proceedings in good faith, once they become registered in accordance with the legislation.

Despite the above proviso, bargaining councils are still essentially voluntary bodies under the LRA given that their very formation is dependent upon the willing co-operation of one or more trade unions with one or more employers' organisations. But the Act is less prescriptive in terms of the structural form this should take. Thus, it enables bargaining councils to evolve different types of centralised bargaining arrangement, depending on the nature of industrial organisation that exists in any particular sector (ILO 1999:34). Thus, councils, when acting as bargaining units, may be individually defined by some particular combination of occupation, industry and geography (Butcher and Rouse 2001: 355). This can make bargaining centralisation appear structurally diverse, if not fluid, overall. For instance, the number of councils in total continues to show decline annually from 1994 onwards as evidenced by the 'official returns' recorded by the Department of Labour in its Annual Reports for 1994 to 2004. However, this is due primarily to amalgamations that have taken place of regional or sub-sectoral bargaining councils in clothing, motor transport, electrical engineering and chemical sectors to form more centralised national bodies (Fallon and Lucas 1998: 19). But equally, under the legislation, a bargaining council can also restructure itself into separated chambers (or sub-sectors) as occurred in the Chemical sector in the late 1990s.

De-registration of a council by registered parties is also permitted under the Act (s.30 and 59) as a means of curtailing industry bargaining for that designated unit. Thus, although certain industries such as wood and paper and fisheries may have preferred to centralise their bargaining arrangements nationally, yet others like building and construction have overseen the dismantling of their own bargaining council operation. Meanwhile other sectors, such as maritime, transport and security, are in the throes of establishing and registering their own national bargaining forums for the very first time. Also, and for the first time, the Act allows for the establishment of a bargaining council



covering the whole of the public sector known as the Public Service Co-ordinating Bargaining Council (PSCBC) that can negotiate on issues common to all public service employees (for example, pensions). This super-council is further empowered to establish bargaining councils and chambers for specific sectors within the public service that then enjoy an exclusive jurisdiction over that designated sector. Thus, there appears to be no one model of what industry bargaining might mean in structural terms within the South African context.

Prior to establishing industry bargaining, whether along national, sectoral or regional lines, the Act (s.27) stipulates that two formal requirements need to be fulfilled. First, both parties (union(s) and employer association (s)) must register the bargaining council with the Industrial Registrar who will only grant such registration when satisfied that a proper and fair constitution is in place (s.30) and that the proposed bargaining unit is appropriate as adjudicated by NEDLAC. That is, there is no such other council that can make legitimate claim to the sector, industry or region and that the registered parties are ‘sufficiently representative’ of employers and workers in that bargaining unit so designated by NEDLAC (s.29). Clearly, the Act stops short of demanding that a union (or coalition of unions) demonstrate a clear majoritarian threshold of representation for workers employed in a designated industry or sector. Indeed, registration may still be permitted even when total union membership levels amount to less than fifty per cent but where those in membership still constitute a significant minority of an industry’s workforce (Wood 2001: 7). It is only through meeting these preconditions that the council’s ‘registered scope’ comes to be determined in terms of its designated bargaining territory.

The LRA (under s.28) further states that a bargaining council can exercise the following four broad-based powers. First, councils are constitutionally obliged to conclude and

enforce binding collective agreements. Second, they can also be charged with regulating and administering various welfare matters of mutual interest to all those in the industry such as pensions, insurance, medical aid, sick pay and unemployment benefits and, not least, training amongst other jointly-regulated schemes. Third, The LRA now authorises councils for the very first time to prevent and resolve disputes arising both between the parties themselves and between those they represent through procedures outlined in its constitution. And finally, they can choose to refer items upward to NEDLAC for its consideration as well as to confer on workplace forums additional matters for consultation as deemed appropriate (Klerck 1998: 92). When it comes specifically to bargaining, the Act allows for the possibility of comprehensive agreements that not only specify minimum pay rates, pay scales, job grading, piecework rates and pension, insurance and sick pay contributions but also restrictions on ‘paying- in- kind’, contracting, piece- and overtime working. Should the parties wish it, such agreements can even stipulate the normal hours to be worked, maximum weekly hours per week, overtime to be paid and at what rate (including Sunday working) and entitlements to holiday and sick leave. This list of possible agreed items demonstrates how extensively bargain council negotiators can jointly determine substantive conditions of employment, should they so choose. Given these powers, bargaining councils have the *potential* to perform a crucial institutional role within corporatist structures beyond standard-setting on pay and conditions at sectoral level. In theory, they can also evolve into being significant providers of welfare provision at the meso-level, acting as co-ordinating linchpins between peak and enterprise levels and even settling workplace disputes. These aspects of their remit are worth bearing in mind when investigating what employers make of the bargaining council system overall.

In reality, what is agreed in council often amounts to ‘basic conditions regulations’ for specific industries and sectors. Of course, individual employers (whether ‘party’ or

‘non-party’ to council proceedings) remain free under the Act to offer a set of pay and conditions more favourable than those settled upon in council (Bendix 2000: 274).<sup>8</sup>

Consequently in practice, although bargain council agreements tend to be largely substantive through setting basic pay and conditions standards for the industry, they might also address procedural issues around job evaluation, grading and retrenchment and even (albeit advisedly) grievance and discipline. Meanwhile, the Act (under amendments to s.33 introduced in 2000 and 2002) empowers designated agents of bargaining councils to promote, monitor, inform and enforce compliance with any agreement by either issuing compliance orders, publishing their content or pursuing complaints and conducting investigations. If a dispute over compliance remains unresolved, a council may refer the matter to final and binding arbitration that may order any outstanding amount to be paid, impose a fine on the wrong-doer or set aside the compliance request.

Agreements concluded in council may be extended legally by the Minister of Labour under s. 32 of the amended Act so as to cover all employees within the council’s registered scope including those working for non-party employers. The policy justification is twofold. First, such encompassing agreements set labour standards on parties that choose not to negotiate them, for whatever reasons. Second, granting a legal extension can also prevent ‘a race to the bottom’ in terms of these same standards. There is also the suggestion that the very existence of extension provisions stimulates associational membership given the potential loss in comparative advantage that follows (OECD 1994 cited in ILO 1999: 33). However, before such requests are granted, the Minister must first be satisfied that one or more registered parties in council voted in favour of the extension and that they themselves constitute a majority of the workers/

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<sup>8</sup> Essentially, there are four wage-setting mechanisms in South Africa: sectoral bargaining with legal extension to non-parties; minimum wages by sector (see next footnote); plant or enterprise negotiations, employment contracts (IMF 2005: 55).

members represented in that council. Indeed, the Minister may still choose to extend an agreement even when the parties are unable to show that they represent the majority within the council's registered scope. Provided they are 'sufficiently representative' in the area for which the extension is sought and the Minister genuinely believes non-extension of the agreement would undermine bargaining at the sectoral level, then an application for extension may still be granted.

Accordingly, in 2005, the Minister has seen fit to extend 92 council agreements to non-party employers covering some 623, 000 workers and setting wage increases and council levies on sick-, benefit-, pension- and insurance fund benefits (Department of Labour 2005: 16). Nevertheless, this right is hotly contested especially by smaller employers who argue that unwarranted powers are bestowed on councils in contravention of their freedom (not) to associate and that often the terms of extended agreements are too costly and so rendered unaffordable (Bendix 2000: 275). They also contend that non-party compliance through legal extension undermines their ability to compete against larger firms, leading to closures, fewer start-ups and overall job loss as a consequence (Moll 1996; Standing *et al.* 1996: 148). In short, the contention is that a heavy reliance on 'overly generous labour market institutions' may produce unintended consequences that only further inhibit job creation (IMF 2005: 57). Some would go so far as to require the potential impact on job creation to become a decisive factor in granting Ministerial extensions to non-parties. Thus, legally extending agreements is a highly contested area of debate when it comes to a public policy reform of bargaining councils.

Primarily in order to address this growing unrest from non-party small firms, an amendment to the Act was introduced in 2000 such that councils are now obliged to allow non-parties to make representations to them regarding any request of a Minister to

extend the terms of their agreements. Furthermore, s.30 of the Act requires a bargaining council's constitution to provide for the representation of SMEs on the council, giving them some scope to influence the final bargained outcome. Indeed, further amendments have obliged councils from 2002 to report annually to the Registrar the degree to which small enterprises are associated and thus subject to its registered scope as well as the proportion of those workers both in union membership and covered by council agreements. Councils are further required to provide data on exemptions received from small enterprises and the numbers rejected. In parallel, changes have also been made to s.28 whereby the registered scope of bargaining councils may be extended to include informal sector and home-based workers. Another 2002 amendment is designed to close a legal loophole whereby employers evade the scope of the council through re-classifying their employees as 'independent contractors' (see next section). Legal measures are now in place that makes this employment status more difficult for an employer to achieve. But what are the policy motives that lie behind these recent changes in the legal dispensation?

There has certainly been widespread concern as to the growing number of non-party employers refusing to engage with the bargaining council system since its inception in 1995. Linked to this is an observed decline in the associability of the smaller enterprise within the system and their under-representation within council proceedings. The apparent need is for this constituency's interests to be incorporated into council proceedings more explicitly. The belief within policy circles is that through making statutory adjustments to the function, scope and duties of councils, an institutional environment can be created within bargaining councils such that non-party and small firm interests are better accommodated than has previously been the case. This policy ambition takes the form of legislative amendments that enable small businesses to exercise their voice more cogently, challenge legal extensions more readily and seek

exemptions more widely. If nothing else, these reforms demonstrate an ongoing public policy commitment to the principles of centralised bargaining as contained in the amended LRA of 1995. Whether they prove sufficient to assuage the fundamental criticism of the bargaining council system as a repository of labour market rigidity and bureaucracy and win over the ‘hearts and minds’ of non-party employers and smaller enterprises alike only time can tell.

This controversy over the extension principle helps to explain why, under originating legislation, bargaining councils are further obliged to provide ‘hardship mechanisms’, notably with the purpose of enabling small business to gain exemption from the more onerous parts of agreements (see next section). Certainly, the provision for legal exemptions to be applied for under s.30 of the original 1995 Act was intended by the legislators at the time to address directly this alleged shortcoming in the centralised bargaining system and instil some flexibility into council proceedings. Indeed, the ‘exemption’ clauses of the Act are deliberately tailored to suit the needs of small and medium-sized enterprises (SMEs) so long as they can demonstrate, (either as ‘party’ or ‘non-party’ employers) that the terms of council agreements will impact negatively on their business. There is also a right of appeal to an independent panel should their application fail. Although the granting of exemptions is not automatic, their occurrence has become more commonplace over the years, despite their infrequency in some selective industries (Butcher and Rouse 2001: 353) and even appears to be growing (Bhorat *et al.* 2002: 51). According to Stapelberg (1999: 30-1), for example, over 80 per cent of those exemptions applied for had been granted by bargaining councils affiliated to the National Association of Bargaining Councils (NABC) between 1993 and 1997. However, this figure falls to some sixty per cent of all applications by 2005, albeit with a majority being granted to the smaller firm, according to provisional data provided by the Department of Labour. Furthermore a clear majority of councils have confirmed that

small enterprises have seats on the council as well as the independent panel to hear exemption appeals (Department of Labour 2005: 16). In contrast, however, the ILO cites anecdotal evidence to suggest that (once again) smaller firms are only motivated to apply for exemption when defending a complaint lodged with the bargaining council, having first evaded registration and compliance with council agreements (1999:33). But, more broadly, discussion of these amendments and their alleged impact also prompts questions as to how effectively they address the concerns of employers and make them look more favourably upon bargaining council proceedings generally. Again, such reflections help form part of the research agenda for my own small-scale inquiry into employers' views on bargaining councils.

#### **7.4 Bargaining councils: trends and issues**

Although the legal framework allows for all sorts of possibilities in terms of structure, scope and process, nevertheless ten years on from a substantive reform of centralised bargaining and there are beginning to emerge certain discernible trends within the bargaining council system that help define its variegated character. First, a well-established voluntarism explains a widespread diversity of bargaining structure both within and across industries and sectors. For instance, bargaining councils tend to operate as fairly strong bargaining mechanisms in their own right within sectors such as clothing, textile, chemicals, engineering and metal trades – primarily and where independent unions have secured a strong foothold for themselves. Meanwhile, the all-important mining and extraction industry still retains some element of centralised bargaining (through the Chamber of Mines) post apartheid, yet technically remains outside of the bargaining council system despite the opposition of the powerful mineworkers union. It is not alone in this. Yet again, other sectors such as food, paper, retail and now construction (see above) tend to gravitate more towards enterprise

bargaining and away from centralised structures. This leaves some sectors with large numbers of mainly insecure and informal workers, most notably agriculture and domestic service without practically any form of bargaining at all and subject only to imposed minimum wage determination (see footnote 9) (Klerck 1998: 99). As a consequence, some combination of bargaining levels prevails as a matter of course within many sectors of the economy. What appears to be happening increasingly is that enterprise-level negotiators attempt to use council agreements as the foundation upon which to build and improve on local wages and conditions. Indeed, many unions contend that councils tend to focus primarily upon the basic pay and conditions of skilled workers, leaving union workplace organisers to focus on the needs and interests of those categorised as unskilled and semi-skilled. This often means that 'local' union negotiators use council agreements as the basis on which to try to narrow the gap between the two and often in the teeth of local employer opposition (*after* Butcher and Rouse 2001: 353).

Not surprisingly therefore, commentators, such as Bendix (2000: 285-70), wish to emphasise the dualistic nature of the bargaining structure overall and the tension this gives rise to in terms of those wanting centralised bargaining to become more institutionally embedded as against those preferring to see decentralised bargaining becoming more prevalent. If anything, post-apartheid bargaining reform appears only to have further exacerbated the inherent strain between industry and enterprise bargaining that can render them contradictory to each other. This tension is further exacerbated through a dispensation that caters for both a centralisation and decentralisation of bargaining in equal measure rather than unambiguously favouring one over the other (see, for example, Bendix 1996: 303-7; Klerck 1998: 106-7). Ironical as it seems, the views of the bilateral actors on centralised bargaining appear to have come full circle since apartheid times. Those very same (mostly COSATU-affiliated) unions that once



opposed industrial councils are now powerful advocates of the bargaining council system with employers now apparently much more ambivalent towards the whole idea. Such observations are worth bearing in mind when we come to discuss findings from my own (small-scale) survey on employer attitudes to bargaining councils. Another discernible trend, even observable from the time of industrial councils, concerns the types of agreements brokered within the council forum compared to those reached at the enterprise level. Less and less agreements are now meant to be comprehensive and detailed in terms of their scope, as appeared to be the case under Grand Apartheid. More commonplace are framework agreements that establish a basic set of pay and conditions for the particular industry or sector and that can then function as a template on which enterprise bargaining may or may not take place<sup>9</sup>. This appears indicative of a general move away from standard to minimum wage setting within much industry bargaining. Questions arise as to how well this changed state of affairs chimes with the wishes of employers and ease any misgivings they might have regarding the efficacy and rigidity of the bargaining council system generally.

## **7.5 Bargaining council coverage**

Also of interest to us are trend figures showing the reach of industry bargaining across the economy for the decade following its inception under the new dispensation. These reveal both a steady fall in the numbers of registered bargaining councils and a somewhat more fluctuating decline in the numbers of registered employer's organisations since 1995. For example, the Department of Labour estimates there to have been 79 registered councils in 1995 compared to the most recent figure of only 58 for 2004 based on data taken from its Annual Reports and internal Labour Market

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<sup>9</sup> Unlike many other countries, there is no minimum wage provision in South Africa except for individual sectors considered to be highly vulnerable and lacking in bargaining and where Ministerial 'determinations' regarding minimum pay and conditions may be set. Agricultural and domestic workers are those most directly affected by such determinations.

surveys. This amounts to a reduction by a quarter in the course of a decade (Department of Labour 2004; Standing *et al.* 1996: table 5.1). Although these same sources reveal there to be a somewhat more erratic pattern for employer associations nevertheless, since the late nineties, their number has continued to shrink overall and even more recently from a high of around 270 in 2002 down dramatically to 238 by 2004 (Department of Labour 2004). Part explanation for the latter may lie in the rise and fall in the numbers of 'bogus' unions and associations that have sought to gain a foothold in council proceedings for 'bad faith' reasons and one that the authorities have been increasingly keen to tackle through securing their de-registration. However, bringing together both trends for the purposes of analysis attracts discussion as to possible causation. Two contrasting explanations especially merit our attention, given our inherent interest in issues of associability within South Africa itself.

The first points to a growing disenchantment within the business community generally at the perceived rigidity of centralised bargaining compared to the assumed flexibility of decentralised bargaining, but particularly within those sectors that have become most exposed to trade liberalisation, post liberation. The growing incidence of enterprise bargaining over the years tends to confirm this as evidenced by data from the Department of Labour (for example, Annual Reports for 2000 to 2005) as does recent case study evidence of employers attempting to circumvent bargaining councils completely. A variety of stratagems appear to have been deployed that entail de-registration of councils and associations, direct non-compliance with agreements and converting workers into being self-employed and, thereby, statutorily unprotected (see, for example, Bhorat *et al.* 2002; Harcourt and Wood 2003; Skinner and Valodia 2002; Webster and Omar 2003). Alternatively, reductions in the aggregate numbers of councils and associations are less the product of burgeoning employer defection from central bargaining and more an inevitable rationalisation towards a more streamlined

centralisation of the council system. Reduced numbers of councils indicates a desire by the parties to restructure their councils through merger and amalgamation in ways that gives them more of a national and industrial focus rather than one that is regionally and occupationally narrow (see above for examples). Interpreting trend figures in this way is to imply that foundations are being laid for strengthened coordinated bargaining to occur more explicitly on a coherent industry rather than on a historically spurious geographical basis. But how welcome has such restructuring been for employers generally?

Partial support for such views comes from data presented by the ILO (1999: table 22) that shows bargaining council coverage rising slightly from just over a quarter (26 per cent) to just under a third (32 per cent) of all total private sector employment (excluding mining) between 1993 and 1997. Unfortunately, the proportion of private sector workers covered by such agreements seems to have slipped back to that for 1993 in the interim (that is, 26 per cent), according to Labour Force Survey data cited in COSATU (April 2005). Nevertheless, this still represents a sizeable minority of around a fifth of all workers in the economy given the fact that those covered are assumed to be overwhelmingly in formal employment which itself accounts for eighty per cent of all those in work (October Household Survey 2004). In the absence of any updated trend data on centralised bargaining coverage, it is difficult to gauge more precisely how robust centralised bargaining appears to be.

The conventional view to take is to acknowledge bargaining centralisation to be an institutional fixture but one that operates within a fairly weak multi-layered, articulated bargaining system. However, it would seem sensible from a policy perspective for us to know, in much more detail, which of these arguments is the more convincing in light of the evidence. What are also needed besides robust data on bargaining council coverage are some empirical studies that attempt to assess employer involvement or

disengagement from the bargaining council system as a whole and the patterns of thinking at work either way (*after* Lawrence 2000: 128). Any data that can show in which direction employers are moving on this crucial issue can only help to clarify for us the size of the problem, if any, and which of the possible policy interventions available have the most to offer. Based on best evidence to date, all that we can say for now is that size of firm continues to be a decisive factor but with inevitable consequences when it comes to the data findings. Thus, not surprisingly given that they are easier for unions to organise, larger firms are inclined to be disproportionately over-represented within the bargaining council forum ahead of SMEs. Indeed there is survey evidence to show the average party employer to be between two and four times larger than non-party firms (Boccaro and Moll 1997 cited in Natrass 2001: 19). As a result, there is a tendency for the larger capital-intensive firm to dominate council proceedings and agendas and influence the final bargained outcome to the detriment of the smaller labour-intensive one (Natrass 2001: 15). For example, one estimate for the largest national bargaining council (for iron, steel, engineering and metal industries) has less than a third of firms (albeit accounting for 65 per cent of the total workforce) setting wages for this entire industrial sector (Standing *et al.* 1996: 143).

Yet, it is also worth reminding ourselves that over a quarter of all formal private-sector workers (excluding mineworkers) are estimated to have some part of their pay, conditions and benefits set directly through sectoral agreements and determinations. Indeed, the proportion covered is estimated to rise markedly to a respectable three-fifths for those working in manufacturing alone (Natrass 2000: 133). But, such assessments fail to take account of any shadow ('trickle-down') bargaining effect that might indirectly impact on the remaining three-quarters in formal employment seemingly not covered by any industry agreement. Moreover, Fallon and Lucas contend that time-series data can even show industry agreements positively impacting on wages for non-

whites compared to whites over and above that emanating from union pressure exerted at the lower bargaining level. When taking these two factors together, the estimate is that unionised workers employed in sectors covered by council agreements can expect to earn one and a half times as much on average as those in the informal sector (1998: 18-9). Indeed, using 1995 data, Butcher and Rouse (2001: 259) are able to show that African non-union workers covered under council agreements earned a 10 per cent premium on those not covered whilst their equivalent white colleagues only managed to benefit by a couple of per cent.

Such findings demonstrate that whilst councils continue to operate robustly in relatively high-wage industries and address the concerns of mainly skilled workers, nevertheless, there is still sufficient evidence of them also increasing the wages of non-union workers, particularly among the unskilled. Whatever else, this example also goes to illustrate the redistributive role that bargaining councils continue to fulfil within the employment relations arena. All of this is to suggest that this bargaining forum still retains a substantial institutional presence within the bargaining system generally and still manages to have a say in the overall determination of bargaining outcomes that then impact on labour markets and the macro-economy more generally. More controversially, this rather benign view of bargaining centralisation attracts heated criticism from others. The central argument here is that the 'ergo omnes' rules that extended bargaining council agreements generate only further exacerbate labour market rigidities, burdens on business, slower growth and 'disemployment' (for example, Boccara and Moll 1997; Moll 1995, 1996; Schultz and Mwabu 1998). Crucially, such critics maintain that councils enforce 'wage standardization agreements' that lead to employment and wage levels being lower than need be, given the 'monopsonistic environment' they help create (Butcher and Rouse 2001: 361). But this is to beg the question as to how resilient will the bargaining council system be in the future in the

face of assumed employer disquiet at the prospect of further centralisation rather than de-centralisation.

## **7.6 Legal extension and exemption**

Mindful of the above, we now return to the twin issues of legal extension and exemption. Certainly, seeking to extend the coverage of agreements from party employers to non-party firms and their employees is becoming more widespread amongst bargaining councils. In response to greater use of legal extension, the overall incidence of exemption applications being submitted and granted is also on the rise, especially for the smaller firm (as evidenced above). Thus, legal extension and hardship clauses continue to be an institutional fixture of the bargaining council system as previously under apartheid, if not more so. But attempting to strike a policy balance between the requirement for councils to be both encompassing and flexible seems not to placate disaffected employers completely. It is not just the cost of compliance and wage rigidities associated with sectoral agreements that act as deterrents for employers. Rather, it is the perceived 'hassle factor' of having to deal with the overweening bureaucracy of a bargaining council (and the concomitant drain on resources) that inhibits businesses (especially smaller ones) from engaging fully with the council forum (World Bank Survey 2001 cited in Bhorat *et. al.* 2002: 47). It seems that the administrative and regulatory burden of council agreements could prove to be as much of a factor, if not more so, in explaining the smaller businesses' disenchantment with bargaining centralisation. Clearly, the bargaining council system's reliance on the twin principles of legal extension and exemption continue to be bones of contention within the organised business community.

## 7.7 Employer defection

Equally unsettling for proponents of the bargaining council system has been the growing tendency for elements of South African business to take matters into their own hands and adopt employment practices that frustrate, if not undermine, the reach and authority of the centralised bargaining system (Webster and Buhlungu 2004: 235).

Fundamental to this are attempts by some employers to redefine employment relationships with their workforces in ways that unshackle them from the perceived restraints of labour standards imposed through the proxy of sectoral agreement and extension (Bhorat *et al.* 2002: 52). In practice, this involves them in deploying methods that enable them to ‘de-unionize and individualize’ their workplaces in pursuit of decentralisation (Harcourt and Wood 2003: 93). It seems that bypassing bargaining councils is achievable through employers managing to change the employment status of their workers such that the former no longer fall within a council’s jurisdiction and the latter forego their entitlement to industry-agreed pay, conditions and benefits. This casualisation of the workforce can take a number of forms and vary considerably across sectors<sup>10</sup>. Nevertheless, what they share in common is the reconfiguration of work into a type of ‘informalisation and flexibilisation’ that facilitates an employer’s disregard for institutionalised bargaining arrangements (Skinner and Valodia 2002: 72-3).

Thus, outsourcing, subcontracting, pieceworking, homeworking and labour brokerage are all used to restructure workforces, leading to an ‘externalisation’ of the contractual relationship away from the employer to delegated (more elusive, less accountable) third parties (Theron 2004:23). Thus, casualisation, externalisation and informalisation create ‘a trinity of interlocking processes’ that, together, produces a serious diminution in the

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<sup>10</sup> Nevertheless, African and Asian workers are consistently more likely to be employed on this basis compared to their White counterparts in ways that contribute significantly to marked earnings differentials in favour of the latter (Hinks (2003)

‘standard employment relationship’ upon which the bargaining council system is firmly predicated (Theron 2004: 26). Employer intent is unambiguous: to avoid as much as possible the ambit of the protective legislation. But of all these ploys, it is independent contracting that has seen the most growth and caused the greatest concern in sectors where bargaining councils have previously prospered (Theron 2004: 25; Webster and Omar 2003: 208; Webster 1999c: 8; Wood 2000: 7). Here, employers convert their staff into independent contractors such that the latter are deemed in law to have been re-designated as self-employed and thereby prone to losing all entitlements and protections previously afforded to them as employees. Effectively, such manoeuvring on the part of employers allows them ‘to outsource all employment to self-employed people, turning 31 staff into 31 businesses’ (Jarvis 1999 cited in Webster and Psoulis 1999).

Perhaps the most striking account of its impact on bargaining council affairs is that provided by Skinner and Valodia (2002) in their regional case study of the KwaZulu-Natal clothing industry. Firms in this region appear not to have introduced changes to production techniques as a response to intensification in competition following import liberalisation. Rather, they seem to have changed the manner in which labour is deployed in order to circumvent the requirements of the LRA concerning their registration with bargaining councils, amongst other legal loopholes. This region has also borne witness to a considerable expansion in the use of homeworking and some selective relocation to neighbouring countries to avoid South African jurisdiction (Skinner and Valodia 2002: 57 and 62-3). But by far the most prominent strategy has been that of non-compliance with council agreements through employers exercising an opt-out. This has taken the form of restructuring their workforces into ‘a system of independent contractors’ for whom the provisions of the LRA and other protective legislation no longer apply. Clothing manufacturers in the region have been ably aided and abetted in this through the assistance of The Confederation of Employers in South



Africa (from herein, COFESA) that acts as both a consultancy and employers' organisation. What makes COFESA so different is that it provides a legal service to companies that is exclusively designed to help convert their workers into contractors and to whom production is then outsourced. The organisation would wish to claim the establishment of some 1.5 million contractors by these means across a number of sectors other than clothing ranging from footwear, leather and furniture to road freight and the metal industries. Indeed, as a new employers' association, it claims to represent 120 thousand member companies across a number of sectors, mostly in the small to medium category. It further declares itself mandated by its membership to secure evermore deregulation and individualisation of employment contracts through gaining occupancy of bargaining council seats. As yet, however, this 'renegade' body remains politically lightweight within policy circles and has been largely spurned by the bigger employer (Harcourt and Wood 2003: 93).

Certainly, COFESA's intervention in the KwaZulu-Natal clothing industry has proved catastrophic for both the major association and the bargaining council itself (Skinner and Valodia 2002: 64-5). To illustrate, bargaining council coverage has fallen from between 45 to 50 thousand employees in 1990 to only 12 thousand by 2002 with membership of the association similarly dropping from a high of 450 down to just 65 over this same period. Meanwhile, an official estimate by the lead employer group has over 300 clothing firms employing some 20,000 'contractors' not complying either fully or partially with some or all of its agreements. This example demonstrates how a voluntarism for the employer can be transformed into a mass abstention from the whole central bargain simply through choosing to disassociate from the employers' organisation. Such rapid developments can seriously undermine an industry's bargaining system and lead to increasing informalisation of employment at the expense of that of the formal sector (Skinner and Valodia 2002: 63). Perhaps it is this illustration

of regional bargaining councils going awry that accounts for the pressure to establish a national bargaining council for the whole clothing industry that occurred recently.

This account also explains the perceived need by legislators to close down these legal loopholes and COFESA-style arrangements by introducing recent amendments to the LRA in 2000 and 2002. These are intended to expand the legal definition of employee and thwart labour consultancies in their attempts at registering as 'bogus' employer associations for the purposes of securing seats on bargaining councils and scupper their proceedings through undermining their centralising tendencies. Nevertheless, there are also some useful pointers for us to take from this case study example. Often the literature (for example Fallon and Lucas 1998) assumes high levels of employer compliance with the terms of legislative provisions and agreement and their strong enforcement through a combination of powerful state authority and unions (Skinner and Valodia 2002: 57). But this case study demonstrates something markedly different. The incidence of non-compliance with agreements has become significant in sectors like clothing, whether it be through legal avoidance as orchestrated by COFESA or through (unlawful) evasion and a weak enforcement of the law. Characteristically, it also seems that an enfeebled union appears unable to prevent employers from quitting their associations and deserting the bargaining council table. For the clothing industry in particular, it seems that a combination of trade liberalisation, disempowered institutions and legal enforcement can seriously undermine the concept of voice regulation given the way that employers can readily opt out of institutional bargaining arrangements (Skinner and Valodia 2002: 58). In short, high compliance within the overall bargaining council system cannot be taken for granted, especially when employers become subject to growing pressures emanating from trade liberalisation.

## **7.8 Organising associability and collective action**

Another issue for discussion regarding the durability of bargaining councils concerns the capacity of employer associations themselves to organise employers within the designated bargaining unit and to fully represent their interests in the council chamber. Their organising capacity is inexorably linked to employer perceptions regarding the proper role and function of associations and how effectively they are held to perform their remit on behalf of members. For commentators of the contemporary scene, the attractions of associability for South African employers appear to be similar in nature to those already identified in the preceding chapter as belonging to a European sensibility. Namely, employers engage with centralised bargaining out of pragmatic considerations. First, they perceive their giving consent to council negotiations as a means of foreclosing on any further union claims or threats of action on matters already covered under existing industry-wide agreements. In other words, they see these agreements as providing the means by which leapfrogging wage demands from unions can be circumscribed. Indeed, they may even feel that lead unions are able to exercise a more moderating influence on those more militant unions with seats in the council chamber. Second, they apparently see their involvement in the bargaining council system as helping to take wages out of competition in the sense that some important elements of labour cost are equalised across labour markets without disadvantage to either themselves or competitors (Klerck 1998:99). Third, it is presumed that the larger, more profitable, firm will favour sectoral bargaining given its propensity to set minimum pay and conditions based on notions of an 'industry average capacity to pay' that is still well below that which they themselves can afford. Similarly, industry-wide negotiations may also be welcomed by medium-sized firms anxious to prevent small, 'informal' firms from undercutting them through 'sweating' labour. Fourth, many party employers may have learnt to value the stability that 'sectoral centralisation' can bring in terms of

‘discipline, order and predictability’ to a labour relations environment recently subject to political turbulence and economic uncertainty (Standing *et al.* 1996: 179). Finally, there may also be a political explanation at work as well. Employers can possibly take a view that since the bargaining council system is likely to remain such a fundamental part of government policy for the foreseeable future then they are best facing up to this political reality and making existing arrangements work to their advantage. This viewpoint is assumed to extend even to some of those preferring their own bargaining relationship to remain decentralised for reasons previously outlined (Webster 1999c).

Nevertheless, the bulk of South African employers, especially SMEs, still choose not to affiliate to any of the major associations. This may partly be explained by reference to changes in labour market conditions, especially when compared to those prevailing in the latter stages of apartheid. Crucially, for example, the levels of unemployment have remained stubbornly high throughout the 1990s and into the first decade of the new century, averaging well over 30 per cent using a broad measure. The presumption here is that the ready availability of surplus labour militates against any felt need for employers to associate and bargain centrally in response to an increasingly tight jobs market. Persistently high unemployment is assumed to favour the employer over labour in terms of any bargaining climate – especially in those sectors like clothing and textiles rendered vulnerable to trade liberalisation and job insecurity. As a corollary to this, the relative position of employers has also improved markedly over the early course of this new employment relations regime in respect of other key economic measures. So, whilst the incidence and duration of strikes has declined over time, pay settlements have been relatively modest and now appear to shadow inflation rates much more closely (Harcourt and Wood 2003: 93-4). As consequence it may reasonably be assumed that, for some employers at least, the perceived pressure to associate diminishes as labour market conditions improve in their favour. In other words, employer associations still

have to work hard at inducing employers into associational membership despite recourse to a legislative framework that ably helps their cause.

Another reason why organising employers into associability can prove difficult in a South African context lies with the ‘fragmentation’ of employer associations themselves (Lawrence 2004: 202). Rather than referring to one unified business community it may be more accurate to differentiate between three discrete groupings that mirror clear ethnic and racial divisions within South Africa’s overall business community – just one more aspect of the apartheid legacy (Nattrass 1998: 22-5). Traditionally, there appears to have been a dominant English-speaking constituency organised around the South African Chamber of Commerce (SACOB) and a politically influential Afrikaans one known as the Afrikaanse Handelsinstituut (AHI). These have now been joined in the 1990s by a rapidly growing African business community under the auspices of the National African Federated Chambers of Commerce (NAFCOC) and an officially-endorsed black business empowerment programme (BEE). But to date, none of these umbrella affiliations feel themselves sufficiently enabled to wield the kind of authority over members that can help reduce the fragmented nature of employer associability overall (Harcourt and Wood 2003: 92-3). Nevertheless, there have been some serious attempts since the 1990s to address these ‘fragmentation’ issues, not least in the formation of one unifying employers’ body at national peak level – Business South Africa- that represents business interests to government and union affiliations within NEDLAC chambers and other relevant corporatist/tripartite settings. More importantly, this organisation has also recently merged (2004) with NAFCOC to form an even more powerful, unified and representative national employers’ body known as Business Unity South Africa (BUSA).

Unfortunately, associability appears not to be fragmented solely along racial/ethnic lines. There appear to be other 'fault-lines' that are the product of 'regional, sectoral, material and ideological cleavages' first developed under apartheid and that continue to dog all attempts at constructing a sense of unity capable of exercising a powerful corporatist voice.<sup>11</sup> This especially appears to be the case at national peak level, most notably within the NEDLAC chamber. Given this fragility, organised business in South Africa can struggle on occasion to consult effectively with its constituents and secure a proper mandate for its proposals and actions. Thus, economic concertation and bargaining co-ordination are difficult to achieve in policy areas like economic adjustment where significant differences of principle and interest still can still dominate (Nattrass 1998: 28). However, forging a collective interest may not simply be undermined by 'principled differences over labour relations policies' but also through straightforward instrumentality. For instance, unions may be keen to exploit this fragile business unity whilst some employers may perceive competitive advantage to be had in seeming to take a principled stand or in allying themselves to the interests of 'marginal firms' (Douwes Dekker 1990: 19 cited in Nattrass 1998: 26).

Another 'fault-line' worth noting concerns the relationship between large corporations and the rest of the business community. Given the concentration of business ownership in few hands (see chapter 3), the views of corporate South Africa (especially in mining and manufacturing) carry substantial weight when it comes to influencing public policy outcomes. These all-important industrial actors appear able either to have dealings with the state directly or to indulge in powerful networking and partake in informal

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<sup>11</sup> Contrary to Offe's assertion of a lack of ideology (1985), the business community was riven with ideological splits as to the proper response to growing apartheid authority (Nattrass 1998: 26).

gatherings such as the Brenthurst Group<sup>12</sup>. Whatever form such persuasion of government takes, the incentive for South African corporations to act through their participation in associability (and accept inevitable compromises to their position) is far from obvious (Nattrass 1998: 22). Nevertheless, the evidence seems to point rather curiously to their parallel engagement with associability and the bargaining council system through the fact that their various subsidiaries and business units continue to enjoy membership of these very same bodies. It presupposes that market self-regulation by sector is still an important driver behind their participation and the fact that the larger firm is more motivated to pursue the collective interest (despite the presence of free-riders) because of the size of its stake in the economy (Nattrass 1998: 25). Alternatively, such large employers can always choose to act unilaterally and withhold their vital support for collective action in pursuit of narrow sectional interest. This fracture becomes even more apparent when taking account of the interests of the smaller rural concern compared to those of its often-larger urban counterpart. Searching for a commonality of interests between the two that might galvanise them into collective action can prove to be precarious.

But even if and when consent for associability and sectoral centralised bargaining is forthcoming, it presupposes a degree of organisation, self-discipline and centralisation in place that is not always easy for individual associations themselves to provide. These difficulties can be usefully illustrated by reference to a study conducted by Nattrass that investigated the collective action problems encountered by Eastern Cape employers in trying to establish regional (social) accords at the behest of NEDLAC. According to some of those interviewed there is a particular sense of frustration directed at national bargaining councils that ignore calls for regional wage flexibility to be brought into

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<sup>12</sup> This refers to a group of 15 chief executives formed at the request of Nelson Mandela to provide a business input into the constitutional negotiations and advise on other matters of interest to the incoming government.

council proceedings – ‘big business and big labour looking after Gautang’. It seems that ‘geographical rivalry’ also contains the potential for undermining employer solidarity (1997: 107). Another finding relates to the discovery of free-riding within the region but which can be seemingly thwarted through organisational and social pressure. The occurrence of such social compliance in this instance only confirms Olson’s observation of the need for ‘selective incentives’ to apply in overcoming unwanted collective action problems (1965; 1986). Nevertheless, the study shows that the phenomenon of free-riding is still possible even when the collective interest is not one easily susceptible to fracture but rather one with which all parties can readily identify (Nattrass 1997: 110). The utility of this study into employer solidarity – one of only a handful undertaken in South Africa- is further confirmation of Olson’s original insights into the problematic character of associability.

Finally, Olsonian collective action problems might also be reappearing as a consequence of economic downturns and market upheavals that have affected the affordability and legitimacy of bargaining councils in the eyes of already sceptical employers. This can take the form of a vicious circle as follows. Business retrenchment, closure and restructuring can lead to significant falls in the ‘party’ membership of councils. This loss of members triggers corresponding rises in the levy to be imposed on the falling numbers of those remaining that, in turn, feeds through into increased incidences of free-riding that can only add to the growing financial burden of running councils on those left. This trend can only further exacerbate a growing polarisation in the system between large firms that remain party, and smaller ones non-party, to bargaining council proceedings. The sorts of difficulties experienced by associations as above may help to explain why employer representatives in bargaining councils for the public service and metal industries have recently taken to endorsing closed-shop



(‘agency’) arrangements as a means of ensuring their future viability<sup>13</sup> (SALB 2003: 20-1). Whatever the reasons for their difficulty in organising employer solidarity, it is certainly the case that South African employers’ associations have to work increasingly hard to retain membership and promote sectoral bargaining centralisation in the post liberation era compared to that which prevailed under Grand Apartheid. Time will tell whether their efforts are sufficient to ensure the durability of the bargaining council system. Meanwhile, collective action problems for employers can never be completely eradicated so long as there are mutual benefits to be gained from association whilst, at the same time, there is still advantage to be had in behaving in ways that undermine this very same collective interest. As a consequence, the final say must invariably rest with individual employers and their decision whether to associate and become party to bargaining council negotiations.

## **7.9 Conclusions: employer choice and associability**

Given the above observations on employer solidarity in South Africa to date, the business community appears able to choose between various options when pondering how best to respond to sectoral bargaining reform. These strategic choices can be modelled conceptually by reference to how willing individual employers are to belong to employer associations that formally sit in bargaining councils. The possible courses of action to be taken are depicted in **figure 3** whereby the direction chosen reveals their general realignment with the system. In particular, this refers to their overall level of *engagement* with bargaining council processes and the degree of *tolerance* extended to bargained outcomes. Whatever strategy employers choose holds consequences for them in terms of their registration *status* and the position taken as regards their compliance with, the legal extension of, and exemption from, encompassing agreements (*action*).

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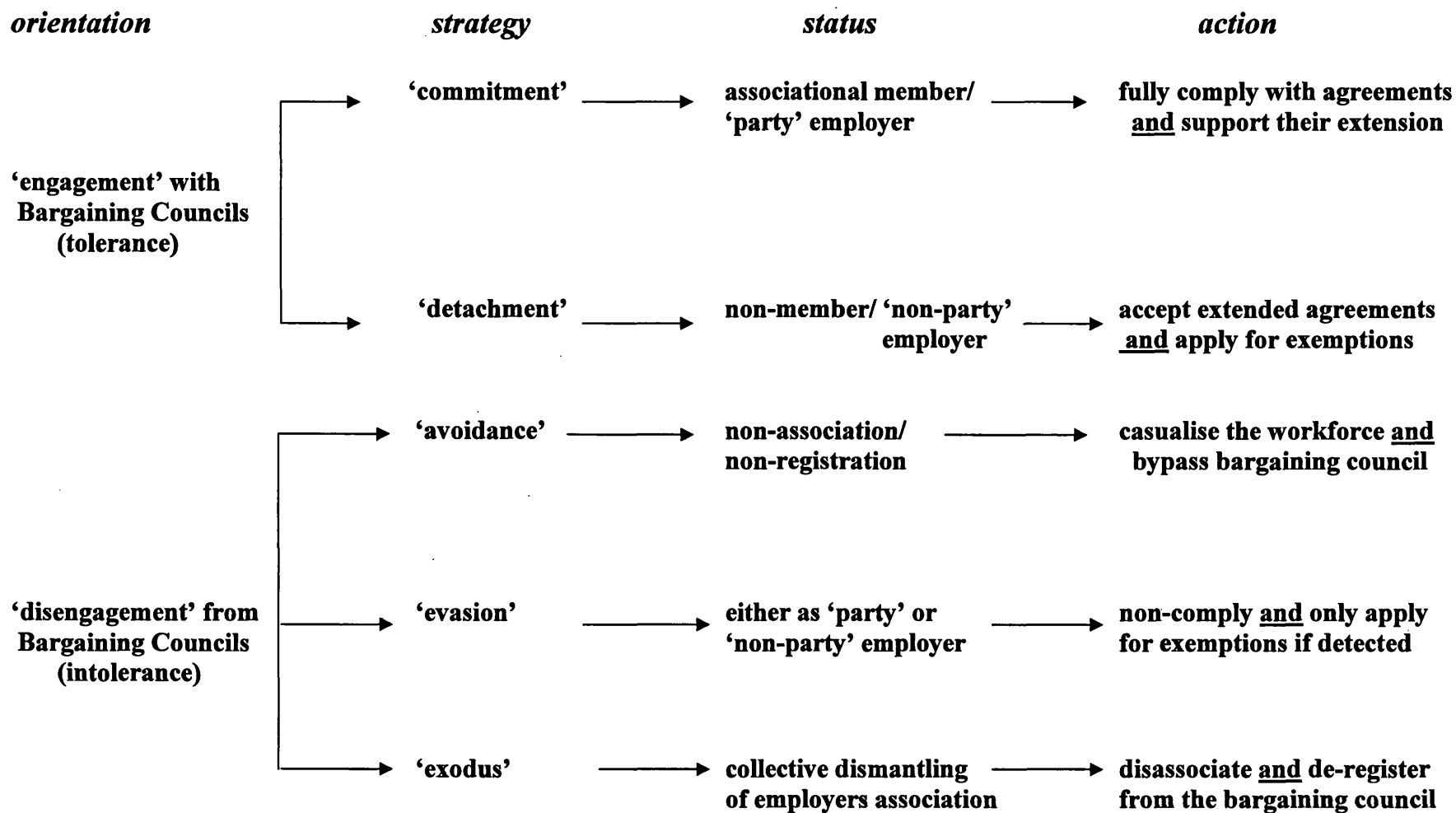
<sup>13</sup> The proviso is that non-party employers pay a nominal fee in lieu of helping to enforce a closed-shop.

For instance, for those wishing to identify themselves strongly with industry bargaining, active participation in the appropriate employers' association and being 'party' to bargaining council proceedings is paramount. The bounded logic of such *commitment* also foretells of a full compliance with the terms of any council agreement and of an unconditional endorsement for the principle of legal extension. Thus, fundamental approval for associability and industry bargaining is likely forthcoming on the grounds that '*ergo omnes*' rules still provide the best means of exercising a much-needed control of both labour markets and workplaces.

Less approving of sectoral bargaining is that body of employers who seek a more strategic *detachment* from the bargaining council system but, equally, prefer not to place themselves completely beyond its jurisdiction. These more detached employers are less enamoured than their committed counter-parts as to the perceived virtues of sectoral centralisation. The costs of associability appear to outweigh the benefits although the opposite might well apply in adopting a more free-riding perspective. As a consequence, their preference is to remain registered as a 'non-party' within the council system and abide by whatever has been agreed elsewhere. Adherence to the rules is probably made grudgingly given the presence of an accompanying inspection and enforcement regime. This lukewarm consent for bargaining centralisation also suggests a likelihood of such employers looking to gain exemptions from parts of agreements whenever possible on grounds of their general non-affordability.

**Figure 3**

**South African Employers and their strategic options regarding associability**



As a consequence such employers see little need to formally engage with collective action issues through associational membership or bargaining council proceedings. Consequently, they remain 'semi-detached' from this bargaining institution and are best viewed as passive recipients of its determinations yet ultimately tolerant of its jurisdiction. This is because they fundamentally acknowledge, as do their more associative colleagues, the legitimacy and authority of the council system and any subsequent constraint on their prerogative to manage their own employment relations as they see fit. In contrast, the same can hardly be said of those employers displaying a high intolerance, even hostility, both towards council processes and outcomes and who are even prepared to register their disapproval to the extent of disengaging fully from the bargaining system, as and when they can. At heart lie fundamental objections to the guiding hand behind centralised bargaining (that is, associations and their members) and a reluctance to be placed under the jurisdiction of a system that they retain little belief in and even less interest. This antipathy of employers towards centralised bargaining arrangements and a preference for their complete *disengagement* can take three forms.

First, there appears to be a growing body of employers who choose to reorganise the running of their businesses in ways that places themselves and their workers beyond the remit of any bargaining council. Crucial to any such *avoidance* strategy is the removal of workers from bargaining council coverage through an unopposed but lawful re-writing of their employment contracts. The process involves changing the legal status of workers from that of 'employees' with legal access to council-agreed terms and conditions to that of 'independent contractors' who are then automatically denied any such entitlement. A strategy of marginalising workers through their casualisation enables this type of employer to avoid having to register with the relevant bargaining council, either as 'party' or non-party', and so lawfully bypass its jurisdiction altogether. As a consequence, the need to associate through membership of an employer

organisation that sits in council is negated. By contrast, the peripheralisation of workforces is not so fundamentally important to those employers prepared to forsake their legal obligations to comply with council agreements as a means of gaining competitive advantage over those still choosing to abide by the law. Such *evasion* requires employers to maintain their ‘paper’ registration with the relevant bargaining council, and even retain membership of their association, but not to meet the full cost of compliance with extended agreements either through ‘underpayment’ or its recuperation by other means. Certain risks accompany this strategy given the uncertainty of exposure through disclosure and inspection (albeit weak) and of a council’s enforcement of its agreements. Where detection occurs then it likely prompts errant employers into applying for exemption from agreed terms on hardship grounds.

Ironically, activating the *exodus* option involves employers exercising a warped form of employer solidarity whereby they take concerted action designed to erode an already established bargaining council. Their motivation for doing so can be twofold. It might first arise out of a collective sense of frustration with current arrangements and lack of belief in its credibility and sustainability. Their perception is that the misbehaviour of other (‘non-party’) employers in undermining the authority and reach of the council is such that it makes their own position, as shrinking ‘parties’ to council dealings, no longer tenable. The view may then form that the best way out of this predicament is for an orderly end to be brought to centralised bargaining through de-registration of the council such that any further ‘withering on the vine’ is then avoided. Alternatively, employers may simply become converted to the virtues of bargaining decentralisation and of self-managing their own labour relations. Of course, these two sets of reasons are not mutually exclusive to each other. Whatever the motivation, de-registration is preceded by disassociation. To achieve this outcome requires employers to resign en masse from membership of their association and so bring about its final demise.

Voluntarily dismantling employer associability in this collective way guarantees the ending of an organised employer voice on the bargaining council and so precipitating its collapse through insufficient representation. The ethos underpinning employer solidarity and approval of the bargaining council system provides the focus of the field study that follows. But this empirical investigation into associability and employer preference is also one that is set within the context of a country experiencing fundamental transformation in economic, political and cultural terms, rather than in the abstract as above. The design of the study needs to reflect this important aspect of South Africa's contextualisation and not just how the institutional structure of the bargaining council system affords employers the choice to engage or otherwise with it through their associability.

## **Chapter 8. South African Manufacturers and Associability: a research agenda**

### **8.1 Introduction: the central argument**

The gist of the argument, as developed so far within this thesis, is as follows. South Africa has undergone a significant policy re-orientation away from racial authoritarianism under apartheid labour relations and towards an enlightened form of social corporatism, thereafter. This regime change places an articulated bargaining system at its institutional centre. Whilst policy reform on employment relations has peaked dialogue, industry bargaining and workplace consultation occurring between labour and business, nevertheless, the evidence for these happening to any significant extent and in any highly co-ordinated fashion is found wanting. Ten years on from apartheid and it appears that South Africa displays characteristics more redolent of 'weak', rather than 'strong', corporatism on the evidence available to date. However, we are still at a formative stage with much still to play for. Nonetheless, employers and worker representatives appear wedded to entrenched adversarial behaviours habituated under apartheid and thus struggle to adopt co-operative and co-ordinated strategies that chime better with the requirements of this new co-determination system.

For both organised business and labour to take advantage of revised corporatist institutions requires a critical majority within each constituency to be acting in concert. But this level of 'critical associability' cannot simply be assumed and relies heavily on sufficient individuals preferring themselves organised. None more so than for employers in deciding whether to associate and become party to bargaining council proceedings that are deemed integral to any future articulation of the country's employment relations system. Thus, the impetus for delving into employer thinking on collective action arises from a conviction that what businesses choose to do matters at

least as much, if not more, as that of labour. Primarily this is because collective action between employers is always deemed less likely to occur than between unions and workers since the logic for doing so remains less compelling for the former than the latter. Much now depends upon the commitment shown by South African business to the country's experimentation with social corporatism and organised labour relations. The decisions of individual employers to act collectively – not least when it comes to one of its pivotal institutions, the bargaining council system, proves crucial to whether multi-tiered bargaining becomes embedded or not. This issue of employer engagement with centralised bargaining becomes even more pressing in light of evidence from Europe of an 'employer offensive' against comparable arrangements. The question arises as to whether South Africa's own model of centralised bargaining faces a similar fate.

These concerns place employers and their collective actions at the heart of any study into the robustness of South Africa's model of social corporatism. Measuring their *propensity* to associate and act solidaristically within a centralised bargaining forum not only tells us something of their views on bargaining centralisation but on these reforms generally. Testing the validity of this claim and examining its public policy implications provides the central focus for the remainder of this thesis. Reasons as to why employers and their associability need bringing out of the shadows and back into the spotlight in the context of centralised bargaining reform have already been given in the three preceding chapters. This earlier account has been structured in ways intended to raise key issues, pose relevant questions and underscore a research agenda around the central issue of employer associability. Taken together, these various arguments can now be converted into a set of propositions that inform the design of the field study to follow. Primarily, the study consists of work undertaken in the field on two separate occasions, either side of a hiatus of five years. Subsequent fieldwork takes the form of two cross-



sectional surveys of manufacturing employers supported by interviews conducted with informants pre-selected for their ‘insider knowledge’ of the bargaining council system. More detailed descriptions of these research activities follow but not before clarifying what the proper focus for this field study should be.

## **8.2 Research focus**

The centrepiece of this doctoral thesis has become an investigation into the response of South African manufacturers towards a revised centralised bargaining system. It is also one that places employer associations centre stage and makes individual employer decisions over collective action pivotal to its success as a bargaining agent. The research focus as outlined below encapsulates this central tenet and, as with this thesis generally, is primarily orientated towards adopting a political economic perspective overall. Two important methodological repercussions result from adopting such an outlook. First of all, this country case study is undertaken with a view to examining the importance of employer associability, primarily from a public policy perspective and, as such, tends to be multi-faceted both in terms of its scholarship (politics, economics and law) and methodology (mostly quantitative with some qualitative work). This research approach has **three** distinctive features to it.

- (i) Some **ideal-type modelling**, as depicted in diagrams 1 (chapter two) and 2 (chapter seven), is conceived of as the means by which we may readily identify a range of strategic options open to both the state and employer, regarding choices over public policy stratagems and employer associability respectively.

- (ii) Two **survey instruments** have been devised and deployed within five years of each other as way of unearthing the sampled views of manufacturing employers towards both associability and bargaining councils.
- (iii) **Unstructured interviews** have been conducted with leading lights of the organised business community, academics in the field and public officials acting as observers of the bargaining scene. These informants are thought to be sufficiently well-placed to comment knowledgeably upon how the bargaining council system might be evolving in practice and how well other aspects of reform are being received within the wider employer constituency. The intention is for insights gained from the latter to inform and compliment the analysis and interpretation of findings arising from the former.

With specific reference to bargaining councils, a number of ***research issues*** present themselves for incorporation into the field studies and take the form of three specific **options** that confront our sample of South African manufacturing employers.

- (a) Whether to comply with centralised bargaining arrangements, either as a ‘party’ or ‘non-party’ to bargaining council proceedings (**loyalty**);
- (b) Whether to exercise their voice from within their own associations and fully partake in bargaining council negotiations (**voice**);
- (c) Whether to defect from the entire bargaining council system and try to evade its jurisdiction altogether (**exit**).

These issues connect with another set of fundamental questions concerning the willingness of employers to transfer their ‘bargaining authority’ to employers’ associations at some cost to their own prerogative and in pursuit of an enhanced collective power and control (Zagelmeyer 2005: 1627). But might there not also be levels of employer engagement with bargaining councils that are more provisional, circumspect and cynical? This suggests disassociated but compliant employers registering as ‘non-parties’ to agreements and being prepared to challenge their extension and seek exemption from them at every opportunity. Alternatively, how proactive are employers in seeking to unhitch themselves completely from the bargaining council system? To what lengths are employers prepared to go in order to escape the attentions of bargaining councils? Are avoidance, evasion and abstention from the central bargain serious considerations to be borne in mind by this sample of employers? Thus, the fundamental question to be asked is how attractive withdrawal from the council through disassociation and non-compliance with extended agreements remains for the typical manufacturing employer in South Africa.

Registering all these research issues in this way translates into a research agenda for ourselves that seeks answers to four pivotal research questions as set out below.

**First**, to what extent does the South African manufacturing community either approve or disapprove of the post apartheid employment relations regime in general and the bargaining council system in particular?

**Second**, in which direction is the *balance of opinion* thought to lie in respect of employers’ associability (ie: propensity to associate and industry bargain)? That is, are those who approve sufficient in number to consolidate these centralised bargaining reforms and ensure their durability?

**Third**, what helps to mould employer opinion when it comes to the question of associability? In other words, what rationales or constructs influence their thinking when deliberating upon whether to associate or not? In sum, what *factors*, if any, are deemed to play their part in helping determine the propensity of South African employers to associate or not and, thereby, engage or disengage with industry bargaining?

**Fourth**, how constant have these factors been in the minds of employers? Alternatively, are these factors thought to have changed in any significant way over this transitional period and, if so, for what possible reasons? Do such changes in thinking have any bearing on the way that employer opinion might tend to shift from one time period to the next?

A second (methodological) consequence arises from taking this more pronounced political economic stance towards the issue of employer associability. For Hakim (1987), as cited in Strauss and Whitefield (1998: 12), the ultimate use to which research findings are put directly impacts on the strategy to be adopted in the first instance. And so it is with this piece of work and other research of this kind. The ultimate purpose behind this country study is to develop knowledge and understanding that can hopefully address established policy concerns as well as to inform relevant policy thinking. Consequently, this empirical work has more affinity with the ‘policy-based’ model of research as opposed to something more theoretically conceived (Strauss and Whitefield 1998: 12). This means that the research questions, as outlined above, are not intended to translate into general hypotheses that are then to be rigorously operationalised and tested for out in the field in pursuit of ‘theory development’. Rather, they are designed

to provide focus for an empirical inquiry that can generate insights and some indicative answers through the use of summarising data and statistical analysis.

Thus, the primary goal behind both sets of survey work is to make some attempt at indicating the *feelings* that South African manufacturing employers might exhibit both towards associational membership and industry bargaining (that is, their ‘associability’) and at identifying a possible wellspring for such feelings. Without apology, the central purpose behind this work is neither to prove nor disprove the validity of certain contestable hypotheses. Rather it is to deepen our understanding of what manufacturing employers might be thinking when deliberating over their associability, how favourably disposed they might be towards it (if at all) and what implications this might hold for those responsible for employment relations policy-making. To this end, their views have been canvassed on two separate occasions over a crucial five-year period in order to gauge their general level of engagement (commitment) with the *new* South Africa’s re-institutionalised national employment relations system and to discover whether this might have changed and why. The insights of informants are then used to shed further light on the statistical significance of the registered responses to issues addressed through these two surveys. Thus, qualitative findings derived through interview are intended to deepen the interpretation and analysis of quantitative findings by means of a broader contextual filter.

In empirical terms, what now matters to us has two dimensions.

- (i) The first relates to the **weight** of employer opinion (favourable or otherwise) towards both Bargaining Councils (industry bargaining processes) and employer associations (as their designated bargaining agents). This entails using statistical methods such as frequency and cross-tabulation analyses in

order to ascertain some overall approval rating from employers for these bargaining reforms.

- (ii) The second concerns the **pattern** of employer thinking underpinning such opinion formation. What matters here is the *shape* of employer opinion as revealed through *rational constructs* that inform their thinking when reflecting upon the virtues of associability (or otherwise) in a South African context and whether opinion formation might be changing over time.

In short, the purpose of the field work is to generate data that can indicate how employers might be feeling towards South African bargaining reform generally, can identify those factors that help explain these feelings and can also inform us as to how strongly they are held by sampled respondents and whether they might in fact be changing.

### **8.3 Research design**

When inquiring more specifically into the status of employer associability within South Africa the first question to ask is how willing employers are to partake in industry bargaining through membership of registered employers' associations that sit as their representatives in bargaining councils. In other words, what is the overall approval rating amongst employers for bargaining centralisation as embodied in the authority of the bargaining council system? It is also worth finding out the degree to which these employers identify with state goals that prefer such agreements to be generally co-ordinated. In other words, how appreciative of multi-layered bargaining are South African manufacturing employers in practice? Indeed, is there a predominant view amongst employers that sees virtue in what the bargaining council system does and the

role an employers' organisations may play in it and, if so, what helps to explain this approval rating or otherwise? Alternatively, is the strength of feeling one of general hostility or resistance to the idea of a centralised bargaining forum or of a growing disenchantment with having employers' groups acting as their surrogate bargaining agents?

A good way to proceed at this point is to try to compare employers' views on the attractions of collective action to those of acting autonomously and independently of association. To do justice to this idea, we might start by testing for the presence of those motives presumed to draw employers into associational membership compared to those presumed to deter them from ever associating in the first place. Thus, it would be useful for us to know the degree to which their capacity to manage their own labour relations independently has a bearing on whether sampled manufacturing employers ultimately choose to associate or not. Equally, how motivated is our sample of manufacturing employers in wanting to neutralise a strong union presence in the workplace by means of the protections afforded through associability? Indeed, how politically significant is it for the South African business community that the most powerful labour affiliation and the new ruling party in government are in formal alliance with each other? And do such considerations as these have any bearing on an employer's decision to associate in reality? Arguably, given the political and economic uncertainties surrounding transition, employer access to a certain collective provision such as wage moderation, training or industrial peace should also prove decisive for South African employers when having to choose whether to be party to new industry bargaining arrangements or not. Certainly it would seem sensible for us take this opportunity to gauge their views on such matters.

It would also be worth us knowing whether there is an ‘employer offensive’ underway in South Africa similar to that currently experienced in certain parts of North Europe. Querying the degree to which ‘associational disengagement’ remains a serious option for manufacturing employers can give us some understanding as to the strength of feeling within South Africa’s own manufacturing community towards this ‘hot topic’. Moreover, how significant is the whole issue of labour flexibility for this same community and does it colour their views on associability and centralised bargaining to the extent of actually deterring them from associational membership and involvement with the bargaining council system? In short, to what extent do manufacturers consider industry bargaining to be a help rather than a hindrance in restructuring the workplace as presupposed from wider ‘European’ debates? Similarly, is the controversy within Europe over what constitutes the most appropriate bargaining level one that sampled employers are likely to recognise in a South African context? Similarly, and given the way that encompassing agreements (through legal extension) and their exemption (via ‘hardship clauses’) have figured so prominently in public policy debates on industry bargaining generally, it is vital to test for their popularity with South African manufacturers. In short, we need to verify whether these same issues resonate with our sample of South African manufacturing employers as much as they appear to do with their counterparts in the Northern Hemisphere.

But it is equally important for us to substantiate whether well-chronicled collective action problems permeate throughout our sample of South African manufacturers as much as they appear to do elsewhere. It is certainly worth discovering how strongly tempted to free-ride they are through, say, remaining a ‘non-party’ within an industry bargaining unit. Equally, it is worth us knowing how tolerant of others’ free-riding tendencies they are prepared to be, especially when being party to agreements themselves. Similarly, it is worth canvassing their views on the equally controversial



issue of non-compliance with agreements. More precisely, it would be good for us to know whether sampled employers see mounting advantage in choosing to bypass the authority of employers' associations. Hopefully, answers to these questions will tell us how problematic or not employers find free riding on the back of industry agreements to be compared to defections from the central bargain. How they see such matters also tells us how they view a bargaining council's right to self-regulate and 'police' their industry, sector or region on important labour market matters and the right of employers' associations to govern their members. Finding answers to such questions forms the nub of this research agenda and acts as the design blueprint for both sets of fieldwork that follow. Investigating the propensity of South African employers to associate, become party to industry bargaining and comply with whatever is then jointly agreed goes some considerable way to telling us how disposed they are towards the bargaining council system generally.

#### **8.4 Field work**

Field studies were conducted over the course of two short trips to South Africa covering a four year period from the mid –1990s onwards and organised at different times from Cape Town, Johannesburg and Pretoria. Some limited but invaluable administrative resources and facility were provided by Pretoria Technikon on the first occasion (under an international treaty arrangement with my university employer) but, most notably, by the Sociology of Work Unit (SWOP) at the University of Witwatersrand, Johannesburg for both trips. As will be seen, however, the help, advice and facilities afforded most generously by colleagues in this research centre proved invaluable in ensuring that the fieldwork remained reasonably robust throughout. The first study took place in the summer of 1996, lasting six weeks whilst the second occurred in late Autumn 1999, extending to two months, thanks to the award of a small bursary from the Industrial

Relations Department of the LSE that covered basic costs of study. A postal survey was conducted on each occasion with arrangements made for completed questionnaires to be forwarded on to me in the United Kingdom. In addition, a supplementary interview schedule was arranged and carried out over the course of an intensive two-week period following the posting of the second survey. Its primary purpose was to gain update information from key informants in the field as to the reaction of employer constituencies to employment relations reform introduced four years previously.

In short, both studies were carried out in a highly concentrated fashion over an extremely compressed time period. Reduced opportunities to work overseas in the field, the absence of a supportive and familiar research infrastructure compounded by various cultural and language difficulties handicapped efforts at sustaining a standard of fieldwork more than this researcher would have ideally liked. Nonetheless, and despite unpreventable empirical imperfections, two short trips were undertaken that have proved to be ultimately research-productive in terms of the scope of this thesis. In short, the fieldwork has still managed to generate statistically reliable field results from two national surveys underpinned by qualitative findings from an interview schedule that captures the views of some key observers of South African industry bargaining and its reform. A fuller account of these methodological shortcomings is held over for discussion later.

For now, it is important to state that there was little or no opportunity to pilot either survey instruments or interview schedules for their robustness prior to implementation, given the obvious limitations on time. Nevertheless, some common-sense precautions were taken to ensure that sufficient credence could be placed on their use in the field, in terms of face-validity and reliability. All-importantly, this took the form of receiving useful feedback and taking sound guidance from both the Director (Webster) and

Deputy Director (Macun) of SWOP, one of the most highly reputable research centres in the country and one of the few in the country that had been specifically funded to conduct industrial relations research. Fortunately, for this researcher, both of these senior academics were highly experienced researchers in the field, advisors to the incoming government and union movement, highly encouraging of my work and, most importantly, extremely familiar with the bargaining system and recent historical developments. Following their timely intervention, revisions were made to the wording of specific questionnaire items in order to reflect 'local' nuances of meaning and avoid ambiguities of interpretation. Confirmation was also provided for the structure and the relevance of most items for a South African audience. On advice, some items were removed for their lack of resonance with South African employers. A similar exercise was undertaken for the follow-up survey, but, on this occasion, extended to an even wider audience of academics, employers and their representatives attending a national conference in Cape Town and others subsequently interviewed later in the industrial belt of Johannesburg and Pretoria. In short, the absence of piloting these surveys in the field was compensated for to some limited extent through the taking of 'insider' advice and guidance that further informed the design of these survey instruments in ways intended to improve their credibility with respondents.

### ***sample frame***

Sampling for each survey was drawn from lists of companies first supplied to SWOP at Wits University and generously made available to this researcher subsequently. Both samples had been originally compiled by the Bureau of Market Research (BMR), a research arm of the University of South Africa (UNISA), in preparation for nationwide survey work conducted by SWOP researchers under the auspices of the International Labour Office (ILO) with a view to providing background information for its own review of South Africa's labour market (Standing *et al.* 1996: 330). This study, known

as the 'South African Labour Flexibility Survey' (SALFS for short) compares favourably with similar national surveys conducted in twenty other countries around the world and looks into the development of various employment and labour flexibility practices within the South African workplace (Standing 1997b: 1-2). The fieldwork actually took place over two rounds with the first (SALFS1) conducted in 1995 and the second (SALFS2) in 1996 (Macun 1997: 1-2; Stryker *et al.* 2001: 58-9). The British WIRS series was an acknowledged influence on their survey methodology to the extent of both questionnaires being devised in ways that sought a combination of factual and attitudinal responses from, primarily, managerial respondents.

The sample range for each round of this national survey was drawn from an industrial register maintained and regularly updated by the BMR which 'comprises a universe of approximately fourteen thousand establishments from all the main divisions of the Standard Industrial Classification (SIC) and all the main regions of the country' (Macun *et al.* 1997: 25). Thus, firms sampled from this register were intended to cover the main manufacturing sectors in the country - primarily metal goods and engineering, textiles and clothing, food, beverage and tobacco, chemicals, minerals and plastics, wood, paper and printing. Likewise, those metropolitan areas renowned for their high density of manufacturing concerns (most notably Johannesburg, Cape Town and Durban but also Pretoria, Port Elizabeth, Uitenhage and East London) were also targeted. Sampling *size* for the first round (SALFS1) amounted to some five hundred firms compared to one of four hundred and fifty for the second (SALFS2) (Macun 1997: 2). The original intention had been for researchers to merge both sets of data in ways that permitted longitudinal analyses to be undertaken through matching serial numbers to firms. In the event, this proved impossible to carry out and was compounded by the need to add new firms to the original sample given the demise of firms surveyed in the first round and the refusal of others to partake in the second. In effect this meant that any comparisons to be drawn

between both surveys can only be aggregated and made in the round rather than, as is more methodologically desirable, through tracking changes occurring to a single cohort of firms over time (Macun 1997: 2; Standing 1997b: 2). In short, these two national surveys amount to cross-sectional studies of manufacturing firms and thus preclude the possibility of conducting any kind of longitudinal analysis due to methodological shortcomings that proved difficult to control for.

### ***sampling strategy***

As a consequence of the above, my own survey work inherits the same strengths and weaknesses as the original SALFS fieldwork by reference to *probability sampling*. On the one hand, access to a highly regarded manufacturers' register has enabled this investigator to undertake national survey work on two separate occasions in an all-important sector of the newly exposed part of the economy in terms of export, employment and union growth as well as overall contribution to Gross National Product. In other words this sector, as one of two bedrocks of the economy (the other being mining), has been deliberately chosen for survey purposes for its strategic value from a nation-building perspective and for providing a good test bed from which to assess the overall sustainability of South Africa's experimentation with centralised bargaining and, at one remove, social corporatism. On the other hand, statistical methodology is constrained and analytical power reduced through reliance on two 'convenience', as opposed to 'random', samples drawn from the same sampling frame of firms (Bryman and Cramer 1999:104-5). Although such a sampling process makes for little difference in terms of their relative representativeness within populations, nevertheless, it impacts considerably on the degree to which statistically-sound comparative analysis between these two surveys remains valid.

The above refers to the generic nature of cross-sectional studies compared to those designed to be longitudinal. Thus, the sorts of statistical test and procedure permitted under the former are invariably of a more limited kind than those permitted in the case of the latter. Because both these survey samples are best regarded as being different from each other for statistical purposes under cross-sectional analysis, the ability to track changes in employer attitudes towards associability over time becomes more limited as a consequence. This is because we are measuring differences of view *between* two distinct samples at two different points in time rather than the same random sample *through* time. As a result, the comparisons to be made and the conclusions to be drawn regarding *changes* in employers' views are required to be more modest in turn. Nonetheless, cross-sectional analysis from both surveys can cast considerable light on what might be changing from one time period to the next when it comes to a manufacturing employer's experience of centralised bargaining reform either side of such a crucial transitional period. Unfortunately, the nature of both the sampling frame to be used and the process to be undertaken precludes this being done in more dynamic and transformational terms than would ideally prove to be the case. These sampling limitations aside, both surveys are still perfectly capable of measuring manufacturing employers' views towards their associability and, when cross-referenced against each other, of helping to explain any changes to them from one period to the next. This is because the necessary precautions have been taken to ensure that such comparisons can be made at both points in time for the population of employers from which both samples were drawn. Namely, the survey structure remained constant across both surveys and a large core of questions remained unchanged from one survey to the next (Millward et al 1998: 153).

### ***response rates***

For both surveys, self-administered questionnaires were addressed and posted to the most senior manager within the company deemed responsible for policies in the area of Human Resource Management and Employment Relations in late 1995 and 1999 respectively. Completed returns were arranged on each occasion to be collected in

South Africa and forwarded for analysis to the UK in early 1996 and 2000 respectively. The number of respondents submitting completed questionnaires in the first survey round amounted to some hundred and seven out of a total distribution of some five hundred of which the first four hundred and fifty had been successfully canvassed as part of the first SALFS survey. The remainder were randomly selected from renowned company registers. Thus, the number of completed returns (where  $n=107$ ) amounted to a 21 per cent response rate overall and not accounting for some twelve returned uncompleted due to non-delivery (either through closure, relocation or wrongly addressed). Reducing the sample population accordingly raises the response rate to 22 per cent in total. It appears from canvassing the views of various senior academics 'on the ground' that this level of response represents a fairly respectable one for company surveys of this type that are conducted on a national basis across the main industrial regions of South Africa. More disappointing, however, is the response from those manufacturing employers sampled in the second round of this postal survey. Here, the numbers returning completed questionnaires amounted to some one hundred and twenty six in total ( $n=126$ ). However, this amount of completed returns only accounts for some fourteen per cent of the total number of nine hundred originally canvassed by post as derived from the full list of companies used in the second SALFS survey and as sourced by the BMR from their original register at UNISA. However, it is also worth noting that, on this second occasion, some ninety eight questionnaires were returned unopened for the same combination of reasons as above and accounting for some twelve per cent of the total sample of 900 companies originally surveyed. Discounting these returns from the original sample population produces an effective response rate of some 16 per cent in total.

Whilst details of the structural composition of respondents for each completed sample is held over until the next chapter, the following are worth noting for now. First, about

twice as many respondents report themselves to be members of an employer's organisation as do not whilst just over half believe themselves to be party to agreements reached by bargaining councils for each of these two surveys. Meanwhile, just under a third of respondents in both surveys consider themselves to be either wholly or partly foreign-owned. Likewise, over a fifth of respondents identify themselves to be on the large size in each instance, using a workforce threshold of a thousand or more. In contrast, a similar proportion identify themselves on both occasions as being in the small to medium-sized category, using a threshold of less than a hundred employed per establishment. Meanwhile, less than one in ten companies report itself to be 'union free' in the first survey compared to a slightly improved ratio of one in eight for the second whilst a majority union presence is acknowledged by roughly two out of every five surveyed on either occasion. Finally, the vast majority of respondents for both surveys consider themselves to be facing increasingly hostile competitive environments. Having reviewed the sampling strategy underpinning the survey work and the level of response this provoked on both occasions, we now turn our attention to the design of each questionnaire in turn prior to their distribution across each sample range.

### ***survey instruments***

A perennial challenge for those conducting surveys is to devise instruments that make concepts underpinning the research topic operational within the chosen field of study. The central task becomes one of ensuring that the composition of individual questionnaire items preserves the integrity of the basic ideas under scrutiny yet remains meaningful to the target audience (Millward *et al.* 1998: 146). For example, within this study, 'associability' may hold different meanings and signify different levels of importance for different employers. Clearly, the complexity of thinking behind most concepts and variables like centralised bargaining or free-riding cannot simply be encapsulated in just the one single questionnaire item. Commonly, researchers in the



field can often only realise such a concept through asking potential respondents a *cluster* of specific questions designed to elicit their views on each particular aspect of it. This survey work is no different.

Both postal surveys have been structured along similar lines with each being organised classically into two sections (see appendix 1 for examples of each). The first concentrates on certain structural characteristics of targeted employing units that are considered useful when generating descriptive statistical analysis. The preference in this instance is for items that can categorise respondent employing units by reference to key characteristics as follows:

- *associational membership,*
- *workforce size,*
- *foreign ownership,*
- *unionisation and recognition,*
- *workforce morale*
- *amount of competition.*

The presumption is that such characteristics also help to explain variations in responses to individual items that might reasonably be anticipated in advance, given the reading of an existing literature on both associability and the South African bargaining system and the heterogeneous nature of the population in general (*after* Millward *et.al.* 1998: 148-9). Within the first survey, these items number twenty three in total and fall under the heading of ‘company data’, being structured to provide data on the *current workforce*, on *industrial relations arrangements* (including involvement with associations and bargaining councils) and on *company performance* (including workplace morale). Following analysis of the results from this first survey, the opportunity was taken to

reduce their number to seventeen but without loss of any key characteristics as identified above. The purpose in foreshortening the number of those items eliciting relevant company data was to improve the robustness of the second survey instrument in the follow-up study.

The second part of both surveys is devoted to seeking attitudinal responses from manufacturing employers towards a number of issues surrounding membership of employers' associations and engagement with bargaining councils. More specifically, this final component of the questionnaire is structured in such a way as to try and identify the general orientation of responding manufacturing employers towards the authority of both bargaining councils and employers' organisations. As a consequence, items have been produced with future exploratory analysis in mind. Once again, ideas emanating from a critical literature reviewed in the preceding chapters have greatly informed the phrasing of all questionnaire items for both surveys. It is the configuration of this attitudinal content within the survey that we now focus upon. Accordingly, the remaining twenty items of this forty-three-item questionnaire were specifically deployed in this first survey round as a means of testing five discrete dimensions that were *hypothetically* assumed to be significant in determining an individual employer's attitude towards associability and bargaining centralisation as embodied in the bargaining council system. Brief descriptions of each are provided in the next chapter prior to testing for their reliability.

In short, seeking confirmation for the existence of these five hypothetical dimensions has greatly informed the design of this first questionnaire. Unfortunately, as it transpired, these 'a priori' factors held little resonance with our sample of employing respondents when tested for in the field other than for the first one (a more detailed account follows in the 'results' chapter to follow). Nonetheless, ten of the original

twenty items were found to be statistically robust and could form the focus for further exploratory investigations the second time round. Furthermore, additional (frequency) findings from this first survey pointed to the sense of retaining a small number of items for a second survey, most notably concerning free-riding behaviour and resort to the use of legal exemptions ('hardship clauses'). This meant that remaining items were no longer considered to be essential for inclusion in this second survey instrument, given the need to incorporate within it replacement items that better reflected some of the newer public debates to have emerged in the interim and as discussed in the preceding chapter. These seven lost items had addressed issues regarding the capacity of the bargaining council system to enhance workplace flexibility, productivity and training as well as in moderating labour market behaviours ('market control') and in handling anticipated 'crises of expectation' following on from the ending of apartheid.

Now, the opportunity was taken on this second occasion to augment the original thirteen 'core' questionnaire items with additional ones that reflected the emergence of newer debates circulating within the wider South African business community (and beyond) primarily over the sense in persisting with a two-tiered bargaining system. Again, various pieces of advice from academics in the field, public policy documents and journal publications helped inform this part of the exercise (*after* Millward *et al.* 1998: 154). This meant that employers' views were now sought regarding the contribution that bargaining councils could make towards restructuring industry, reducing workplace conflict and co-ordinating employers sectorally as well as on the role of legally extended agreements. In addition, cognisance is now given to the question as to how effectively bargaining council agreements reflect the interests of smaller firms as opposed to larger ones and of rural employers compared to those of their urban counterparts. The result is that, for this second round of the survey, twenty-four items in total were deployed within the follow-up instrument as a way of testing whether there

are more contemporary reverberations surrounding South African employer associability as have been reported within business, governmental and some academic circles (see preceding chapter for details). Nonetheless, the primary purpose remains that of either confirming or disconfirming the presence of these same 'de facto' factors that once again are assumed to be influencing the thinking of those employers choosing to reflect upon their associability and disposition towards collective action. Whatever the outcome, contextualised findings from both instruments, and their broader interpretation, are intended to inform policy discussion over any future associability and centralised bargaining reform. The more qualitative aspects of this fieldwork are also intended to assist in this endeavour and we now turn our attention to the structure and purpose of those interviews conducted in the course of the second field trip.

### ***interview schedule***

The slightly extended length of the second field trip compared to the first allowed for the possibility of conducting interviews in addition to organising a second postal survey. To this end, a number of interviews were arranged over the course of a month between mid-November and December 1999. As with the corresponding surveys, the purpose behind this more qualitative study was to ascertain from interviewees their perceptions as to how employers were feeling towards collective action generally and the bargaining council system specifically and whether these views were undergoing any changes in response to perceived transformations in employment relations and against a backdrop of broader racial, political and economic transition. As a consequence, '*purposive interviewing*' was undertaken with a view to identifying three distinct types of informant that, in combination, were thought capable of shedding light on what manufacturing employers might be currently experiencing in the wake of centralised bargaining reform and employment relations regime change (*after* Neuman 1997 cited in Saunders *et al.* 2000: 174). Thus, pre-selection criteria for cases was based on

whether informants were knowledgeable, authoritative and intimate observers of the bargaining council system, directly engaged as individual employer representatives in bargaining council proceedings or took responsibility for representing employer interests in bargaining councils in their capacity as officials in employers' associations.

### *interview sample*

Given the nature of this fieldwork and limitations on time, any pre-selection of cases proved impossible, especially given the additional handicap of identifying in advance sound representatives of these various populations and the smallness of the sample in question. Thus, '*snowball sampling*' was the method deployed to identify cases across all three interview categories (Saunders *et al.* 2000: 175). An initial contact was made with one or two cases in each category who were then asked to identify further cases in their own and other categories (when appropriate) and so on. In this way, the interview schedule evolved over the course of the month, primarily on the basis of personal recommendation. Details of the schedule and of those interviewed and their status are provided in appendix 2. As a result, seventeen interviews were conducted in total with each no less than an hour in length and many considerably in excess of this. Of the total interviewed, four were corporate-level HR Directors of large business concerns, two being South African subsidiaries of larger European-based conglomerates and the other two South African companies (one involved wholly in mining extraction) with extensive operations abroad. Only one of the four directors represented a company not currently 'party' to any industry bargaining agreements. The remaining three were each 'leading lights' within their respective bargaining councils as well as being 'party' to the employer peak body – Business South Africa (BSA), now Business Unity South Africa (BUSA). In addition, interviews with five officials of employers' associations were arranged, all but one (from the Chamber of Mines) with direct responsibility for negotiating across the bargaining council table. Of these five, two headed regional

employer groups in sectors (Clothing and Building) where the break-up of associations and the termination of councils proved to be a constant threat. This left two officials as convenors of negotiating teams in extremely high profile national employer bodies, one of which is held to be the lead group within the whole metal manufacturing sector (steel and allied industries) and the other the most significant industry to centralise its bargaining arrangements nationally since the implementation of the new dispensation covering bargaining centralisation (Chemical and pharmaceutical industries). Together, these officials head up associations that, in one way or another, represent the interests of significant numbers of manufacturing employers across the whole country.

Building on this, interviews took place with a number of individuals who were also thought to be extremely familiar with issues surrounding the operation of bargaining councils from the employer's perspective whilst not directly responsible for their running. First, there are a couple of legal advisors who had been closely associated with Business South Africa (BSA) at a time when it represented the lead voice of organised business in joint talks with the labour movement over the shape of the new legal dispensation in 1995. Whilst the first interviewee, as one of its executive officers, had been a highly active member of the BSA's negotiating team, the other had remained an important 'behind-the-scenes' advisor to it. There next followed a series of four interviews. The first two were with informants who had held important official positions in the lead government ministry and leaving two others who were currently in charge of high-profile non-governmental bodies.

First, this meant conducting interviews with the Director of the Collective Bargaining section of the Department of Labour with a responsibility for advocating and developing public policy in this area. Likewise, the opportunity was also taken to interview the past Director of Communications in this same Department as someone

who had previously been head of research at COSATU and was also held to be a renowned and frequently cited commentator on Labour Relations matters. Similarly, the Executive Director of NEDLAC was also thought to be someone extremely well placed to comment upon the employers' response to state encouragement of social dialogue and industry bargaining and other aspects of employment relations reform. Finally, the opportunity was also taken to interview the head of the National Association of Bargaining Councils, primarily a training and advisory body for bargaining council convenors and employer participants and who also had considerable experience in heading up bargaining council negotiations for a regional employers' association. This left time for a final round of interviews with four academic commentators, all acknowledged to be authorities in their field and well capable of providing useful insights into the meaning and significance of centralised bargaining (and other) reform from an individual employer's and organised business perspective.

Of course, such reliance on snowball sampling has led to some skewness as regards the final composition of the interview sample that could not be compensated for given the shortage of time available for arranging interviews. There was insufficient time and means to identify alternative cases capable of articulating contrasting viewpoints to those interviewed. Certainly, there appears to be a *primie face* case for supposing bias in favour of employers and their officials holding likeminded views favourable to the retention of the bargaining council system, albeit one reformed. In the event, this proved not always to be the case. Indeed, as can be seen from subsequent interview notes, some representatives of organised business remain healthily sceptical as to the virtues of collective action and centralised bargaining. However, it must be said that most interviewees revealed themselves to be 'critical loyalists' rather than outright opponents of current public policy and institutional arrangements. Perhaps a more serious omission from the interview sample is the absence of any union view on employers' and their

officials' attitudes towards associability and bargaining councils. Failure to interview union representatives on bargaining council proceedings is a shortcoming in the interview methodology that is readily acknowledged and only excusable on grounds of restrictions on time availability. Certainly, the decision not to seek interviews with union officials was taken at the time on the grounds that opening up one more line of inquiry could prove resource-draining and a distraction from the central purpose of garnering the views of employers and those close to them. Methodological decisions in the field are often driven by similar considerations of risk-management and aversion in a context of paucity in research resources and invariably entail making compromises and trade-offs of this nature at the expense of validity (Strauss and Whitefield 1998: 13-14).

#### ***interview methods***

Given the purpose behind this more qualitative dimension to the research and given the type of attributes possessed by most informants in this particular sample, the decision was deliberately taken to conduct all interviews using a virtually unstructured format. Thus, all interviews were held informally with a view to exploring at some depth a number of predetermined themes and issues, rather than work through a checklist of pre-ordained questions, associated with an overall interview agenda around employment relations and (centralised) bargaining reform and employers' reaction to it. Accordingly, interviewees were encouraged to talk openly and freely about 'events, behaviours and beliefs' in response to occasional prompts (open-ended questions and statements) linked to this interview agenda (Saunders et al. 2000: 244). As a result, interviewee's perceptions predominantly structured the course of most of these non-standardised interviews although interventions were made when necessary in order to ensure that discussions remained relevant to the topic at hand (Whipp 1998: 54).



The justification for conducting such 'informant interviews' in this instance is three-fold (Healey and Rawlinson 1994). First, the exploratory (investigative) nature of this part of the study lends itself to such a technique given the aim of first discovering what might be happening 'on the ground' and what additional insights this might provide as a consequence. Second, this type of interview can even prove useful in helping to confirm or discount findings first obtained through survey work, as in this case (Wass and Wells 1994 cited in Saunders *et al.* 2000: 246). Finally, the background, authority and experience of informants can be highly relevant in respect of their interviewing behaviour. Such interviewees can be sophisticated and 'political' performers under interview conditions when required to be and well versed in handling and manipulating the interview situation in ways that mask their true feelings and views on any matter under discussion. The danger in relying on a more structured approach to interviewing is that such a controlling format might well inhibit unguarded and insightful views and only engender more considered and neutral responses from informants.

Free-flowing narrative and discourse arising from unstructured but thematic exchanges are likely to be more revealing in terms of what interviewees may truly be thinking. In short, 'fitness for purpose' influenced the final decision to avoid any standardised interviewing. A more fluid and informant-led approach to interviewing was thought to be a more appropriate method in light of the particular circumstances and given the characteristics of this particular interview sample. Similar reasoning explains the choice of method in logging the data gained through interview. In order to encourage openness and flow from informants, the decision was deliberately taken not to record interviews on tape but rather to note-take contemporaneously followed by more rigorous and fuller note-taking immediately following the interview. Once again, there are trade-offs associated with such a practice in terms of accuracy. However, it is the firm conviction of this researcher that the paramount need remained that of encouraging highly

experienced and politically-savvy interviewees to 'open up' on organisationally sensitive issues rather than recording blow by blow accounts of proceedings. Most informants were made aware of their role as spokespeople for their constituencies and could censor their responses to suit the interview conditions they faced.

### ***interview themes***

In order to ensure some consistency across this highly compressed and unstructured interview schedule, an interview agenda was established in advance of the schedule that consisted of a number of themes and issues pursued in the course of each and every interview. Accordingly, views were sought from interview subjects as regards two discrete but linked aspects of employer collective action: changing attitudes and behaviours of employers concerning their associability and any recent trends and developments observed within the bargaining council system itself and the employers' role in these. Thus, interviewees were first asked to identify the significance of the post apartheid bargaining reforms from an employer perspective, their general acceptability and commitment to them (as embodied in the labour Relations Act, 1995) and the perceived level of engagement with them. Equally, subjects were also invited to comment upon how they felt bargaining councils had been evolving subsequent to the introduction of revised arrangements. Pursuit of this theme is tied in with a number of issues thought to be of increasing importance regarding a changing bargaining agenda for employers that is also beginning to impact on the very bargaining scope of councils themselves. These employer concerns relate to such issues as wage setting, industry restructuring and employment and the role of enterprise bargaining in securing productivity and flexibility improvements. Encouraging discussion of these topics is intended to be a way of soliciting the views of those interviewed regarding the prospects of bargaining councils generally. Having now explained and justified the *modus operandi* used to collect this data, we can, now at last, turn our attention towards the

presentation of key findings, their analysis and interpretation and, finally, their overall significance for us from a public policy viewpoint.

## **Chapter 9. South African Manufacturers' views on associability and bargaining reform**

### **9.1 Introduction**

Both this chapter and the next review findings from manufacturing firms sampled through two cross-sectional studies conducted in 1996 (where  $n=107$ ) and 2000 (where  $n=126$ ). Results from both cross-sectional surveys reflect employers' contemporary views regarding their participation in employer associations and engagement with bargaining councils. Findings are also presented by reference to well chronicled collective action problems and to an apartheid legacy that has the business community fractured along racial, sectoral and even ideological 'fault-lines' (Nattrass 1998:21). Nowadays, employers can choose between one of four options regarding their associability: to become 'party' to industry agreements through associational membership; to register with a bargaining council as a free-riding 'non-party' that still chooses to comply with agreements; to restructure its business in ways that avoids the necessity to register in the first place; to simply evade any kind of registration completely. These options hold special resonance when considering the long-term durability of bargaining councils. One rationale has employers inherently resisting the collective discipline of employers' associations that sit on bargaining councils and so effectively undermining both. Such reasoning flows from Olsonian arguments that see individual employers inherently retaining their independence of action as the best means of safeguarding their interests and of optimising their flexibility and thus choosing to defect from any central bargain as a consequence ( *after* Olson 1965). This presupposes an employer preference for avoiding or evading 'association' in the first place (Silvia 1996) and for non-participation in bargaining council negotiations.

The onset of a revised central bargaining system provides us with an ideal opportunity to test the robustness of such Olsonian predictions within a South African context. This has been done through fieldwork that explores manufacturing employers' general *disposition* towards *associability* through becoming 'party' to bargaining council proceedings when offered the alternative of either *free-riding* (as a 'non-party') or of directly *defecting* (through avoidance, even evasion). Field studies were conducted over this four year period with the express purpose of assessing *employer endorsement* of the bargaining council system through examining their associability. But also this work has been undertaken with a view to capturing any transitional changes in employer outlook that might have occurred between the two point-in-time surveys. Presentation of findings for both surveys is organised along the following lines across the next two chapters. First, there is a description of both sets of sampled employers by reference to their *structural characteristics*. This is followed by an analysis of their *approval rating* for various features of associability across both studies by reference to *descriptive statistics* (that is, frequency and cross-tabulation data) in order to evaluate the weight of opinion towards selected items and cross-referenced against selected company characteristics. Attention is drawn to any commonalities and differences that exist between the two sampled groups and to what might help explain such comparisons.

Next, having assessed their support (or otherwise) for key aspects of single-table employer bargaining, we examine what particular drivers might lie behind an individual employer's decisions to act solidaristically or not. This part of the analysis draws heavily on the use of *exploratory factor analysis* to identify key constructs that might be influencing the thinking of sampled respondents. Finally, *significance testing* is used to discover whether there have been any fundamental changes to such thinking in line with the broader economic, political and racial transitions described in earlier chapters.

However, we need to be cautious in what we conclude from these findings. Although

respondent firms in both studies are drawn from the same universal population on both occasions, nevertheless, the two samples still need to be treated as being distinct from each other when making comparisons between sample populations. For this reason they are best regarded as cross-sectional rather than longitudinal findings.

## **9.2 Structural characteristics of sampled firms**

Responding firms were compared across both national surveys in order to see how similar (or not) they were to each other by reference to structural characteristics commonly acknowledged to be significant in fieldwork of this nature. Not only are these ‘classificatory variables’ valuable in descriptive statistics but they can also act as important influences on findings arising from more sophisticated analysis of the data set (Millward *et al.* 2000: 149). Any significant shift in the structural composition of firms between the two surveys could potentially weaken any subsequent comparative analysis.

**Table 1: Frequency Scores for Structural Descriptors of Sampled Firms**

<b>Descriptor</b>	<b>Survey 1 nos. (%)</b>		<b>Survey 2 nos. (%)</b>	
<b>Workforce size</b>	(n = 106)		(n = 126)	
SME (499 and less)	72	(68)	82	(65)
large (500 or more)	34	(32)	44	(35)
<b>Foreign ownership</b>	(n = 105)		(n = 126)	
wholly/partly	31	(30)	44	(35)
not at all	74	(70)	82	(65)
<b>Union density</b>	(n = 106)		(n = 126)	
more than half	68	(64)	76	(60)
less than half	29	(27)	30	(24)
none	9	(9)	20	(16)
<b>IR climate/ morale</b>	(n = 105)		(n = 126)	
average or less than average	30	(29)	67	(53)
better than average	75	(71)	59	(47)
<b>Degree of competition</b>	(n = 107)		(n = 126)	
increased some / a lot	74	(69)	75	(60)
little or no increase	33	(31)	51	(40)

**Table 1** above sets out frequency scores for both samples across a number of structural variables ranging from workforce size through to (self-reported) competitiveness and including degree of foreign ownership, union presence and IR climate (also self-reported). For both surveys, roughly a third or more of those sampled firms are deemed to be large (that is, 500 or more) for the purposes of this exercise.

Overall, the SME population of firms appears to be well represented with two thirds or more of them falling within this category for both surveys compared to the third of larger firms constituting the remainder. Similarly, a clear majority of firms sampled across both surveys appear capitalised from within the country leaving a third or less of responding manufacturers with some element of inward investment originating from

outside the country. Also, extremely high levels of union presence are strong features of both surveys with well under a fifth of manufacturers reporting themselves union-free.

In comparing survey characteristics, there appears to be no significant change in the size ratio of firms across both samples - a descriptor commonly held to be important in explaining variations in industrial relations practice and policy across firms. A similar pattern of findings occurs when it comes to foreign ownership and membership density. In each case there appear to be slight increases second time around in the proportion of firms wholly or partly foreign-owned, or with out a strong union presence -but none such as to be noteworthy. On the other hand, perceived changes in the degree of competition faced and in the state of morale prevalent within the workplace appear more delineated when comparing responses across both surveys – but in contrasting ways. Whilst the intensification of competition appears to have eased, the state of morale appears to have worsened with over half of those sample in the second survey reporting the IR climate to be at best average if not worse compared to under a third first time round. Otherwise, there is nothing particularly striking to note as regards the remaining descriptors. In sum, the sample composition is sufficiently similar in most (but not all) key respects across both surveys for them to be comparable with each other.

### **9.3 The associability of sampled firms**

A number of items were deployed across both surveys with the purpose of determining the overall *approval rating* within each sample for associability and related features commonly cited as being significant for South African employers when deciding whether to act collectively though membership of an association. For our purposes, ‘approval’ translates into ‘commitment’ and thereby ‘engagement’ with the centralised bargaining system whereas ‘disapproval’ lapses into ‘defection’ leading to



‘disengagement’ from the bargaining council process. This part of the analysis entails measuring and comparing the weight of opinion for both samples towards each facet in turn. To this end, frequency scores on responding firms are presented in table 2 overleaf on selected items covering five particular aspects of their associability as follows.

### ***associational membership***

On this showing, at least two out of three manufacturers belong to an employers’ association for each sample, with twice as many reporting themselves in membership as not. Indeed, if anything, slightly more of the second sample appear to be in membership (69 per cent) compared to the first (66 per cent) with a correspondingly inverse difference reported for non-membership (31 compared to 34 per cent). On this evidence, the incidence of membership appears to have held up surprisingly well over the interim four years between surveys given emerging debates within the South African business community over such matters (as previously discussed in chapter 7). Meanwhile, just over three-quarters (77 per cent) of all those that belong to associations with seats in bargaining councils in 1996 were sufficiently satisfied for this arrangement to continue compared to under one in ten not so content (where  $n = 64$ ). Intriguingly, of those not in membership, more than one in four were seriously contemplating taking out membership leaving a fifth to be won over (where  $n = 43$ ).

Moreover, of those reporting themselves without representation on a bargaining council ( $n = 51$ ) two in five would have approved of this happening in the first survey whilst under a third (29 per cent) remained opposed, leaving a similar number as yet undecided. In comparison, the new millennium saw just over half (53 per cent) of responding firms in the second sample ( $n = 126$ ) registering themselves as being ‘party’ to bargaining council proceedings with a substantial minority (one in eight) classifying themselves as ‘non-party’. Alarming, just over a third of sampled firms either

appeared not to know or understand their precise legal standing or preferred evasion as to their true status. This aside, it seems that the majority of manufacturers within both samples are 'associated' and 'party' to centralised bargaining arrangements and, prima facie, sufficiently content for such arrangements to continue. It seems from this headcount that strong disapproval of associability remains a minority view for the time being although similar numbers have yet to make their minds up either way.

***compliance (with associational decisions)***

When asked for their views on the principle of complying with decisions made by associations, exactly half of all responding firms (whether 'associated' or not) across both surveys reported themselves in favour of employers abiding by what their associations told them to do whether they liked it or not. However, this is not the whole story by any means. Whereas just under a fifth of those sampled first time round thought 'non-compliance' unproblematic for them, this view appears to have increased to just under a third of those sampled five years later. The explanation for this near two-fold increase appears to lie with those unsure either way. Comparing frequency scores for this category across both samples shows there to have been the same proportionate decrease from the first to the second survey. In short, there seems to have been a hardening of views towards this item in favour of tolerating non-compliance that is indicative of an increasing polarisation of positions around this sensitive issue. This difference of view further suggests that whilst a majority of responding firms remain reasonably sympathetic towards the notion of associability this is less clear-cut when it comes to abiding by the terms of any centralised agreement and to accepting the governance (authority) of an employers' association when acting as the their mandated bargaining agent.

### *free-riding*

Further evidence of a more circumspect view on associability comes from looking at the responses of sampled firms to two items that examine the same aspects of associability across both surveys. When asked how tempting free-riding appeared to be for those sampled first time round, slightly fewer considered the idea appealing than not with just under one in three acknowledging its allure compared to the less than two in five who did not. However, this harsh view of free-riding appeared to have softened slightly for the second survey. Thus, slightly more of those sampled on this occasion approved as disapproved of themselves free-riding in contrast to the first survey when the reverse applied. It seems that the passage of time might have rendered the prospect of abstaining from associability more tempting. The question next arises as to how tolerant of other (rival) firms defecting from the central bargain they might also prove to be. As the relevant item in table 2 illustrates, disapproval of others free-riding becomes less ambiguous and strengthens over time. Whereas half of those first sampled can tolerate the free-riding in others this falls to a ratio of just over two in five (44 per cent) second time round. In contrast, the proportion of those critical of others free-riding rises from one in three for the first sample to two in five for the second. Comparing samples suggests intolerance towards the free-riding of others growing markedly from survey to survey in contrast to more ambivalent views regarding their own free-riding behaviour. This inconsistency is seen in the growing proportion of sampled firms condoning their own free-riding in contrast to the mounting criticism of others for doing the same.

Nonetheless, around a third of those manufacturers sampled in 2000 prefer to stay true to the ideal of the central bargain as evidenced by their dislike of themselves and others free-riding. This proportion rises to one in two in respect of sticking to agreements and is maintained, survey to survey. On the other hand, there appears to be some growth in the numbers of sampled manufacturers prepared either to cherry-pick the gains derived

from the collective action of others or not to comply with any agreed terms they dislike (or both). Approval for such behaviour ranges from over a half to a third of those sampled in either survey depending on the relevant item as specified in the above table. What is also worth noting is the extent to which manufacturers' views towards employer alliances generally are mediated by the inclusion of legal exemption and extension into the centralised bargaining system.

**Table 2: Approval (frequency) scores for selected ‘associability items’**

<b>Item</b>	<b>Survey 1</b>		<b>Survey 2</b>	
	<b>nos.</b>	<b>(%)</b>	<b>nos.</b>	<b>(%)</b>
<b>Associational membership</b>				
Does your organisation already belong to an employers’ organisation?	(n = 106)		(n = 124)	
yes	70	(66)	86	(69)
no	36	(34)	38	(31)
<b>Compliance with agreements</b>				
All members of EAs should be prepared to abide by decisions made on their behalf whether they like them or not	(n = 107)		(n = 126)	
agree/ strongly agree	54	(50)	64	(50)
disagree/ strongly disagree	19	(18)	40	(32)
neither	34	(32)	22	(18)
<b>Free-riding (self and others)</b>				
It is tempting to avoid membership of an employers’ organisation because of the competitive advantage enjoyed by those remaining non-members.	(n = 106)		(n = 126)	
agree/ strongly agree	33	(31)	47	(37)
disagree/ strongly disagree	39	(37)	44	(35)
neither	34	(32)	35	(28)
There is nothing wrong with non-members deriving the same gains as members from the efforts of employers’ organisations dealing with unions	(n = 107)		(n = 126)	
agree/strongly agree	54	(50)	56	(44)
disagree/ strongly disagree	23	(22)	41	(33)
neither	30	(28)	29	(23)
<b>Legal exemption</b>				
The possibility of gaining exemption from industry agreements is a decisive factor when deciding to commit to an employers’ organisation ( <b>survey 1</b> )	(n = 106)			
Being allowed exemptions from agreements is important when deciding whether to belong to a body that sits in a bargaining council ( <b>survey 2</b> )	(n = 126)			
agree/ strongly agree	49	(46)	62	(49)
disagree/ strongly disagree	15	(14)	27	(22)
neither	42	(40)	37	(29)
<b>Legal extension</b>				
Legally extending industry agreements to non-parties is a welcome part of the bargaining council process	(n = 126)			
agree/ strongly agree	n/a		58	(46)
disagree/ strongly disagree	n/a		32	(25)
neither	n/a		36	(29)

### ***legal exemption and extension***

Of those asked in the first survey for their views towards the possibility of gaining exemption from agreements, less than one in two (46 per cent) thought it 'decisive' in determining membership of an association that sits in a bargaining council compared to more than one in ten (14 per cent) who regard it as being negligible. However, the wording of this item was altered deliberately for the second survey in order to reflect the evolving nature of the debate. Nonetheless, both of these contrasting positions had grown proportionately stronger second time around due to an increased firming up of views compared to the first study with just under a half considering exemption 'important' compared to just over a fifth regarding it as inconsequential. Clearly, over twice as many manufacturers considered 'hardship clauses' to be a significant feature of the system as did not, for both studies. However, once we incorporate the proportion of those unconvinced either way into the analysis then we see that the proportion of those firmly wedded to the provision of hardship clauses fell to just less than half. Equally, a similar proportion (46 per cent) believed that legally extending agreements to non-party employers should also become an integral feature of centralised bargaining. This same proportion was near double that for those indifferent to the idea (25 per cent). Results from both surveys suggest that for the (slight) majority of manufacturers neither legal exemption from, nor extension of, industry agreements are fundamental to their views on associability and collective action.

### **9.4 Cross-tabulations: company descriptors and associability items**

Whereas more manufacturers across both samples report themselves more in favour of, than opposed to, compliance, legal exemption and extension and slightly more favourably disposed to free-riding than not, we have, as yet, little understanding as to the part played by the structural characteristics of manufacturing firms in shaping their

pattern of response to individual ‘approval’ items. To what extent do *associational membership, workforce size, overseas ownership and levels of unionisation* (etc.) have a bearing on whether individual firms in either sample find themselves fundamentally approving or disapproving of these same aspects of associability? Cross-tabulations can help answer this question for in the form of **tables 3(a) to (e)**. Since these company characteristics are considered to be independent variables for the purposes of this cross-tabulation exercise and, as such, positioned alongside the table whilst selected items on aspects of associability, as dependent ones, are placed along the top of the table, comparative analysis across both surveys is conducted by reference to column as well as row percentages as appropriate (Bryman and Cramer 1999: 167-8). Analysis and presentation of results is restricted to only those cross-tabulations that bear comparison and thus deserving of our attention.

#### **9.4.1. Compliance with the association**

A careful scrutiny of the cross-tabulated data set out below in **tables 3 (a)** tells us that respondents’ views towards *associational governance* is influenced in part by whether they are members of an association themselves (*associational membership*), are wholly or partly owned by an overseas concern (*foreign-owned*) and by whether workforce morale is currently high or low (*company climate*). Overall, it also seems to be the case that the relative weightings of most categories of firm have changed little from survey to survey.

**Table 3(a): Cross-tabulated Approval Scores for ‘Membership Compliance’ (both surveys)**

**“All members of employers’ organisations should abide by decisions made on their behalf, whether they like them or not.”**

Characteristic		Survey 1 (Q38)				Survey 2 (Q32)			
		SA/A	SD/D	Neither		SA/A	SD/D	Neither	
Associational membership (n <sub>1</sub> =105 and n <sub>2</sub> =126)	yes	37	21	12	(n=76)	48	24	14	(n=86)
	no	15 (n=52)	13 (n=34)	7 (n=19)	(n=35)	16 (n=64)	16 (n=40)	8 (n=22)	(n=40)
foreign ownership (n <sub>1</sub> =104 and n <sub>2</sub> =126)	wholly/ partly	13	14	4	(n=31)	24	14	6	(n=44)
	not at all	40 (n=53)	20 (n=34)	13 (n=17)	(n=73)	40 (n=64)	26 (n=40)	16 (n=22)	(n=82)
company climate (n <sub>1</sub> =104 and n <sub>2</sub> =126)	average and below	13	8	9	(n=30)	29	23	15	(n=67)
	above average	40 (n=53)	25 (n=33)	9 (n=18)	(n=74)	35 (n=64)	17 (n=40)	7 (n=22)	(n=59)

**SA/A** Strongly Agree/Agree

**SD/D** Strongly Disagree/Disagree

#### *associational membership*

As might be expected, there is a considerable difference of opinion between members and non-members of employers’ associations when it comes to accepting the authority of an employer’s organisation and to virtually the same extent across both surveys.

Thus, in both instances, nearly twice as many members acknowledged a duty to observe associational rule as did not. In contrast, non-members showed themselves to be much more ambivalent when it came to observing the authority of an association. These findings suggest two things to us. First, the proportion of those in membership prepared to follow the lead of their association has changed little over the course of the two surveys as has the proportion of non-members who see little wrong in ignoring the determinations of their own association. Second, less than a third of associated members are prepared to breach an agreement if and when necessary whilst approximately one in



four non-members surprisingly sees virtue in the governance of an employer association, even though not in membership themselves.

#### *overseas ownership*

Whether there is some overseas investment in a responding firm also contributes to how conformance to an association's authority is to be viewed. Whereas in the first survey those manufacturers with an element of foreign ownership were just as likely to concede to the wishes of an association as not, 'home-grown' respondents appeared twice as willing to commit to an employer's association. However, this pattern of observance changes slightly come the second survey. Here, over half of those firms with some element of foreign ownership felt compelled to abide by the collective decision of an association compared to a third not so well predisposed. This indicates a growing intolerance towards associations from this category of manufacturer across both surveys. Meanwhile, those manufacturers without any overseas investors have moved in the opposite direction with a growing proportion unwilling to abide by the decisions of associations. Whereas the majority accepted the delegated authority of an association first time round this fell to under half on the next occasion, with a third demonstrably opposed to the very idea.

#### *company morale*

Of all those manufacturers conceding to the authority of an association, three-quarters were from manufacturers reporting workplace morale to be reasonably high. However, this proportion fell to just over half by the time of the second survey. Meanwhile, the reverse is the case for those reporting morale to be relatively poor and governance from an association unwelcome. For this category, the proportion doubled from survey to survey and from being a minority to a majority of those rejecting associational governance. Interestingly, this suggests a growing convergence of views between those

manufacturers with differing levels of morale such that associational authority becomes more acceptable than not and to more or less the same degree across both surveys.

#### 9.4.2 Free-riding (by self)

Whether firms admitted in both surveys to the temptation of not belonging to an association seemed markedly influenced by whether they were already in membership or not, small or large in size, foreign-owned or not and experiencing high or low workplace morale. Moreover, there seem to be some interesting shifts in the pattern of response *within* categories from survey to survey that reveal some attitudinal changes towards the appeal of free-riding over time. Generally, it seems that the competitive advantage derived from free-riding non-membership has become slightly more appealing for some categories more than others as illustrated by the following table.

**TABLE 3 (b): Cross-tabulated Approval Scores for ‘Free-riding’ [self] (both surveys).**

**“It is tempting to avoid membership of an employers’ organisation because of the competitive advantage enjoyed by those who remain non-members.”**

Characteristic		Survey 1 (Q40)				Survey 2 (Q34)			
		SA/A	SD/D	Neither		SA/A	SD/D	Neither	
associational membership (n <sub>1</sub> =105 and n <sub>2</sub> =126)	yes	18	29	23	(n=70)	29	36	21	(n=86)
	no	14 (n=32)	10 (n=39)	11 (n=34)	(n=35)	18 (n=47)	8 (n=44)	14 (n=35)	(n=40)
workforce size (n <sub>1</sub> =105 and n <sub>2</sub> =126)	SME (below 500)	24	25	22	(n=71)	27	32	23	(n=82)
	large (500 plus)	8 (n=32)	14 (n=39)	12 (n=34)	(n=34)	20 (n=47)	12 (n=44)	12 (n=35)	(n=44)
foreign ownership (n <sub>1</sub> =104 and n <sub>2</sub> =126)	wholly/partly	7	15	8	(n=30)	15	16	13	(n=44)
	not at all	26 (n=33)	23 (n=38)	25 (n=33)	(n=74)	32 (n=47)	28 (n=44)	22 (n=35)	(n=82)
company climate (n <sub>1</sub> =104 and n <sub>2</sub> =126)	average and below	12	11	7	(n=30)	30	21	16	(n=67)
	above average	20 (n=32)	28 (n=39)	26 (n=33)	(n=74)	17 (n=47)	23 (n=44)	19 (n=35)	(n=59)

### *associational membership*

Reassuringly, the number of associational members admitting to being tempted into free-riding in this way remained a minority for both surveys with two in five reporting themselves resistant and around a third not yet convinced either way. The opposite applies in the case of non-members where a substantial minority were well aware of the advantages accruing to them in not taking out membership, from survey to survey. However, this still left a fifth to under a third of non-associated firms across both surveys for whom this particular free-riding advantage appears not to be a prime motivator behind their non-membership and thereby begs the question as to what is. Of equal interest is the fact that those members acknowledging themselves vulnerable to the allure of free-riding increased from a fifth to a third second time round whilst the proportion of non-members similarly seduced also increased but less noticeably. This suggests that the notion of free-riding is becoming less abhorrent to associated manufacturers over time and ever more appealing to an increasing rump of non-members.

### *workforce size*

In comparing the impact of workforce size on the pattern of responses across both surveys, there appears to have been a slight shift of position for the larger firm in comparison to the smaller one regarding the appeal of non-membership. Whereas in the first survey a majority of larger firms reported themselves as being resistant to the allure of non-membership they had become the minority by the time of the second survey. Meanwhile, the proportion of small firms reporting themselves drawn to non-membership also increased from under a third to close to nearly two in five. The

advantages of non-membership appear to be increasingly tempting to both size categories but none more so than the larger firm.

#### *foreign ownership*

Whereas 'domestic' manufacturers appear to be slightly more tempted than not across both surveys, the picture is less consistent for those sampled firms with some element of foreign ownership to them. Although twice as many of these 'foreign' firms reported themselves repelled as attracted to the temptations associated with non-membership in 1996, they were more or less equally divided four years later. Once again, the appeal of non-membership is strong for both categories but becoming increasingly so for overseas firms.

#### *company climate*

Whereas well over a third of those tempted towards non-membership were manufacturers experiencing relatively low morale at the time of the first survey, this proportion increased to just under two thirds for the second surveyed sample. Likewise, having accounted for more than one in four of those firms not drawn to the attractions of non-membership first time round, this same category of manufacturer now represented just under half of all such firms sampled on the second occasion. Clearly, those firms with relatively low morale felt increasingly drawn to the free-riding benefits of non-membership than those where the shopfloor climate was reportedly better.

#### **9.4.3 Free-riding (by others)**

In testing for the tolerance of sampled firms towards the free-riding disposition of assumed rivals, it seems that, once again, *associational membership*, *workforce size*, *foreign ownership* and *company climate* can all have a bearing on the outcome as illustrated in **table 3 (c)**. Once again, an analysis of changed response patterns *within*

categories reveals some changes in attitudes. This time, however, rather than observing an increased attraction towards free-riding there appears to be a growing intolerance towards the free-riding behaviour of non-members across certain categories of manufacturer as demonstrated below.

**TABLE 3 (c): Cross-tabulated Approval scores for 'Free-riding' [by others] (both surveys).**

**"There is nothing wrong with non-members benefiting the same as members from the efforts of employers' organisations dealing with unions."**

Characteristic		Survey 1 (Q33)				Survey 2 (Q26)			
		SA/A	SD/D	Neither		SA/A	SD/D	Neither	
associational membership (n <sub>1</sub> =105 and n <sub>2</sub> =126)	yes	36	16	18	(n=70)	34	34	18	(n=86)
	no	17 (n=53)	7 (n=23)	12 (n=30)	(n=36)	22 (n=56)	7 (n=41)	11 (n=29)	(n=40)
workforce size (n <sub>1</sub> =106 and n <sub>2</sub> =126)	SME (below 500)	36	15	21	(n=72)	38	27	17	(n=86)
	large (500 plus)	17 (n=53)	8 (n=23)	9 (n=30)	(n=34)	18 (n=56)	14 (n=41)	12 (n=29)	(n=40)
foreign ownership (n <sub>1</sub> =105 and n <sub>2</sub> =126)	wholly/ partly	17	5	9	(n=31)	21	15	8	(n=44)
	not at all	36 (n=53)	17 (n=22)	21 (n=30)	(n=74)	35 (n=56)	26 (n=41)	21 (n=29)	(n=82)
company climate (n <sub>1</sub> =105 and n <sub>2</sub> =126)	average and below	15	4	11	(n=30)	34	17	16	(n=67)
	above average	37 (n=52)	19 (n=23)	19 (n=30)	(n=75)	22 (n=56)	24 (n=41)	13 (n=29)	(n=59)

#### *associational membership*

Associated manufacturers were twice as likely to be content for non-members to gain from the associability of member firms as to be intolerant first time round. Significantly, this perspective had changed come the second survey. Now, as many members approved as disapproved of non-members deriving the same gains from associability and had also increased their proportion of all those (in membership or not) clearly opposed to the idea.

### *workforce size*

Similar to the above, both larger and smaller firms have begun to harden attitudes as regards the idea of non-members gaining the same from associability as members. Here, the proportion of firms in either category expressing disquiet rises from marginally less than one in four to one in three, survey to survey.

### *foreign ownership*

Interestingly, there is a slightly contradictory shift in attitude between domestically- and foreign-owned firms, from survey to survey. On the one hand, 'domestic' firms appear slightly more tolerant proportionate to those not so disposed when comparing the patterns of response as set out in **table 3 (c)**. In contrast, the proportion of those firms with some element of overseas investment in them that consider it wrong for non-members to benefit from associability the same as members has more than doubled over the course of the two surveys.

### *company climate*

More marked has been the change in attitude towards the free-riding of others between those firms where shopfloor morale is relatively low compared to those where it is deemed to be relatively high. For the latter category, there is some evidence of a growing impatience with the idea of non-members benefiting the same from associability as members. Whereas half of such firms sampled in the first survey were prepared to tolerate this situation, this proportion fell to just over a third for the second sample with a comparable rise in the proportion not so favourably disposed towards non-members. Likewise, there appears to be a doubling in the proportion of firms operating in a poorer climate that have become less forbearing of non-members.

In sum, it seems that whilst members are becoming less tolerant of the idea of non-members deriving a comparable competitive advantage from associability as they themselves so too are overseas companies. On the other hand, this reduced tolerance towards non-members also appears to apply to all categories of workforce size and shopfloor morale, although more so for the larger firm and, rather surprisingly, for those companies with good workplace morale.

#### 9.4.4 Legal exemption

When asked how decisive the provision for exemption from industry agreements might prove to be for them in deciding upon their associability, the different categories of sampled firms appear to respond in similar fashion survey to survey other than for *workforce size, level of unionisation and company climate*, as set out in **table 3 (d)**.

Thus, proportionately, slightly more members than non-members value the provision of hardship clauses in the centralised bargaining system within both surveys. Curiously, however, a greater proportion of those in membership consider exemption less highly prized compared to the numbers of those without membership who take the same view.

**TABLE 3(d): Cross-tabulated Approval Scores for ‘Exemption’ (both surveys).**

**“Gaining exemption from industry-wide agreements is decisive in deciding to belong to an employer’s organisation that sits in a bargaining council.”**

Characteristic		Survey 1 (Q34)				Survey 2 (Q18)			
workforce size (n <sub>1</sub> =105 and n <sub>2</sub> =126)	SME (below 500)	29	10	32	(n=71)	40	16	26	(n=82)
	large (500 plus)	20 (n=49)	4 (n=14)	10 (n=42)	(n=34)	22 (n=62)	11 (n=27)	11 (n=37)	(n=44)
unionisation (n <sub>1</sub> =105 and n <sub>2</sub> =126)	less than half	15	7	15	(n=37)	28	7	15	(n=50)
	half or more	34 (n=49)	8 (n=15)	26 (n=41)	(n=68)	34 (n=62)	20 (n=27)	22 (n=37)	(n=76)
company climate (n <sub>1</sub> =104 and n <sub>2</sub> =126)	average and below	16	3	10	(n=29)	29	16	22	(n=67)
	above average	33 (n=49)	11 (n=14)	31 (n=41)	(n=75)	33 (n=62)	11 (n=27)	15 (n=37)	(n=59)

### *workforce size*

Here, there appears to have been a slight shifting of views between the smaller and larger firm, survey to survey. The proportion of SMEs registering exemption to be important to them increased slightly from two fifths to a half whilst that for the larger firm fell slightly from three in five to about evens. Moreover, that proportion of respondents showing themselves less tied to legal exemption had also increased slightly for both categories. It appears that a consolidation of views has taken place between surveys with roughly twice as many attached to exemption as not, irrespective of the workforce size category.

### *unionisation*

Similarly, contrasting changes of mind appear to have occurred between those manufacturers facing a strong union presence compared to those without. Whilst just on half of the former approved of exemption first time round, this proportion fell to well below half at the second time of asking. Meanwhile the opposite applied in the case of those experiencing low unionisation. The proportion of such manufacturers who also valued legal exemption increased from two in five to over half (56 per cent). The reason more of these manufacturers in the second survey should be more favourably inclined towards legal exemption compared to those more heavily unionised is not apparent.

### *company climate*

Again, contradictory trends reveal themselves when comparing those firms in which the workplace climate is above average as opposed to just average or below. Whereas less than half the former thought exemption important to them in the first survey this proportion moved to a clear majority by the time of the second survey whereas the



opposite seems to have occurred for the latter. Why firms with relatively lower shopfloor morale are proportionately less enamoured of legal exemption than those experiencing better workplace relationships is not obvious.

All told, it seems that if there have been any changes of heart towards the importance of legal exemption on the part of responding manufacturers from one survey to the next it has involved that category of firm which is smaller in size and has a weak union presence but where workplace morale also tends to be poor. What shifts of view there have been would appear to acknowledge legal exemption's growing importance to the manufacturing community but not to any particularly marked extent.

#### **9.4.5 Legal extension**

One final measure of associability and collective action that is worthwhile disaggregating by type of responding firm is that of legally extending agreements to non-parties (as in the second survey only). As the results in **table 3 (e)** suggest, such structural characteristics as *associational membership, workforce size and level of unionisation* help to explain the overall weight of opinion for and against making industry agreements encompassing or not.

**TABLE 3(e): Cross-tabulated Approval Scores for ‘Legal Extension’ (both surveys).**

**“Legally extending industry agreements to non-parties is a welcome part of the bargaining council process.” (Q37)**

Characteristic			Survey 2 (Q37)			
			SA/A	SD/D	Neither	
1. associational membership (n = 126)	yes		47	18	21	(n=86)
	no		11	14	15	(n=40)
			(n=58)	(n=32)	(n=36)	
2. workforce size (n = 126)	SME (below 500)		33	22	27	(n=82)
	large (500 plus)		25	10	9	(n=44)
			(n=58)	(n=32)	(n=36)	
3. unionisation (n = 126)	less than half		18	17	15	(n=50)
	half or more		40	15	21	(n=76)
			(n=58)	(n=32)	(n=36)	

#### *associational membership*

Not surprisingly, there is a clear difference of view between members and non-members of associations towards legally extending agreements. Whilst over half of responding firms in membership wanted extension, only one in four non-members wanted the same with a third of them opposed outright to the idea compared to just one in five members of an association. Thus, approval for and against the legal extension of industry or regional agreements is likely predicated on whether manufacturers are in membership or not.

#### *workforce size*

Similarly, the larger the firm the more likely it is to favour, rather than oppose, legal extension as can be seen from the table above. Here, well over half of the larger firm population endorses the idea of legal extension compared to the quarter or so who do not. Thus, the larger firm is twice as likely to condone the practice as to oppose it. Then

again, legal extension seems to find favour with four in ten smaller firms compared to the one in four critical of the practice and the one in three unsure either way. It seems that opinion points clearly towards an overall approval of legal extension although, not surprisingly, smaller enterprises more likely harbour reservations regarding its appropriateness than larger ones.

### *unionisation*

Whereas those firms with a weak union presence (or none at all) appear to be or more or less evenly split over the issue of legally extending agreements to non-parties, this ambiguity is much less apparent amongst that population of heavily unionised firms. Here, over half of their number saw extension as a welcome feature of the system compared to the one in five not so enamoured and the one in four uncertain either way. It would seem that as union density increases so legal extension of agreements becomes more inviting than not.

In sum, responding manufacturing firms that approve of legally extending agreements to non-party employers are more likely either to be in associational membership already, relatively large in terms of workers employed or heavily unionised or some combination of these three.

### *summary*

Selective cross-tabulated analysis highlights the following. When it comes to a hardening or shifting of attitudes by respondents from one sample population to the next over various aspects of their associability then some structural characteristics seem to be more significant than others. Levels of approval or disapproval for the five associability items identified above are slightly more divergent between sample populations according to whether individual responding firms are already members of an association or not, manage relatively large or small numbers of workers and whether workplace

morale is relatively high or low. Other company characteristics that also feature in this respect are levels of unionisation and the amount of inward investment from overseas.

From the cross-tabulated evidence on *associational membership* as presented above, it seems that manufacturers in membership are more sanguine towards the bargaining authority of an association than those choosing to spurn membership. Conversely, it also seems that the temptation to free-ride has become more of a consideration for both categories. Meanwhile, associated members were more likely to be intolerant of the free-riding of others compared to non-members and that such intolerance has increased from survey to survey. Predictably, the evidence points to those companies who are not in membership showing less approval for the principle of legal extension than those manufacturers already in membership.

With regard to *workforce size*, the free-riding advantages of non-membership appear to be increasingly attractive to both size categories but slightly more so for larger compared to smaller manufacturers. By contrast, both size categories revealed a growing intolerance towards the free-riding of others. Meanwhile, attitudes towards legal exemption appear to have firmed up over time. SMEs have become increasingly attracted to the idea of legal exemption compared to larger manufacturing concerns whose views, if anything, have mellowed survey to survey. Whilst both categories endorse the idea of legal extension, it is the larger manufacturer who, proportionately, seems more favourably disposed than the smaller one.

As regards *company climate*, clearly more manufacturers accepted, rather than rejected, the bargaining authority of an employers' association across both surveys, irrespective of the state of workplace morale. However, those manufacturers reporting their morale to be reasonably high became less enamoured of employer associations in the second

survey whereas the opposite was the case for those manufacturers reporting themselves facing a poorer climate. Moreover, more of the latter category also admitted to being tempted to free-ride compared to those in the former. Nonetheless, both categories reported themselves as becoming increasingly less tolerant of others free-riding. Finally, it appears that the availability of legal exemption was of growing importance to those manufacturers experiencing reasonably good shopfloor morale but decreasingly so for those less fortunate.

As to *foreign ownership*, whilst the granting of authority to an association has grown proportionately for those manufacturers with some element of foreign ownership from survey to survey, 'domestic' manufacturers have seemingly become even less accepting of the need for such compliance. Meanwhile, the idea of not associating and benefiting from any subsequent free-riding benefits has become increasingly attractive for both categories of ownership but increasingly more so for those companies with some element of overseas stakeholding. As with other categories, however, the latter also exhibited an increasing intolerance of other firms doing the same compared to their 'domestic' counterparts. As regards *unionisation*, increasingly less of those manufacturers with a strong union presence consider the availability of legal exemption to be a deciding factor for them when pondering on associability. In contrast, legal exemption has taken on a growing importance for those manufacturers with low levels of unionisation, survey to survey. As is to be expected, manufacturers that are strongly unionised see greater merit in having legal extension than those less heavily unionised or even union-free. From the above we can see that whatever changes of opinion have occurred across surveys have been neither dramatic nor surprising given the public policy debates that have sprung up subsequent to the introduction of bargaining reform in the mid 1990s. This cross-tabulated analysis largely confirms this for us.

## 9.5 Approval ratings for selected items (both surveys)

Next, sampled manufacturers were also invited to respond to selected items thought to illustrate the more positive aspects for employers of having a centralised bargaining system. However, as can be seen from **table 4** below, the criteria by which they might commonly evaluate whether bargaining councils are worth retaining appear to have changed from the time of the first survey conducted in 1996 to that carried out in 2000. Amendments to items were made explicitly out of a need to acknowledge changes in thinking over what exactly constitutes *efficacy* for employers in choosing to engage with the bargaining council system. These modifications simply reflect changes in the terms of broader debates over the value or otherwise of centralised bargaining for employers. For instance, given the uncertainties surrounding a formal transference of political power in 1994 and the introduction of a new legal dispensation for employment relations in the following year, efforts were made with first survey to seek out the views of South African manufacturing employers on whether they thought bargaining councils capable of helping them to manage these transitions. In contrast, the second survey deployed a number of items that invited respondents to pass judgement on the continuing appeal of the bargaining council system following the consolidation of political democracy, the liberalisation of the economy and the bedding in of new and revised new employment relations institutions. As a consequence, frequency scores for relevant items are presented separately for each survey but comparisons are drawn across both, when appropriate, in order to aid evaluation of approval ratings for selected aspects of associability and bargaining councils.

From the following table we can see that when it comes to managing heightened worker expectations arising from their political emancipation, nearly twice as many responding

firms in 1996 thought bargaining councils had a role to play as did not. However, the largest proportion (just over two fifths) remained to be convinced either way. Overall then, bargaining councils were not anticipated to be significant institutions in helping handle any 'crisis of expectation' arising from the formal removal of apartheid labour policies. Conversely, by the time of the second survey in 2000, exactly two thirds of sampled respondents considered agreements emanating from bargaining councils to be a source of industrial peace across the manufacturing sector compared to just one in four choosing to differ. Yet again, a similarly favourable view was shown towards industry agreements and its help to the individual manufacturer in its management of workers with fewer than two in five of the sample seeing such agreements as impediments to good management compared to the majority (55 per cent) who viewed it much more positively. Moreover, the first survey also shows a majority regarding bargaining councils as useful in providing labour market stability through their incorporation of unions into their proceedings. Once again, just less than two out of every three of responding firms sampled (59 per cent) thought bargaining councils productive in helping to curb labour market excesses. This also means that less than one in ten of this same sample thought otherwise, leaving a third non-committal. Taken together, these two items suggest that the majority of sampled manufacturers uphold a commonplace view of bargaining councils as the means by which individual employers might strengthen both their influence over *labour markets* and the degree of *management control* they choose to exercise.

In looking at the state of relations between individual firms and employers' associations, there were slightly more in the first sample (38 per cent) that demurred from putting their complete trust in an association and allowing it a free hand than the third or so of manufacturers apparently willing to do so. In contrast, by the time of the second survey, there were a clear majority prepared to give some measured vote of

confidence in favour of their association based on the latter's overall performance to date. Here, nearly one in two (48 per cent) of responding firms adjudged employers' associations to be sufficiently protective of their interests compared to the quarter or more who thought otherwise and the remaining quarter still undecided.

Conversely, responding manufacturers came across as much more forthright when asked their views on the possible contribution that bargaining councils could make beyond the furtherance of their own interests alone. Thus, only a quarter of those responding in the first survey thought bargaining councils could help improve overall economic competitiveness and productivity compared to the two fifths or more unconvinced or even the third agnostic. Nonetheless, proportionately, there were more respondents in the second survey believing bargaining councils capable of helping to restructure their industry generally although some three out of five respondents had either outright misgivings or remained, at the least, sceptical. Conversely, when asked to reveal their preferences regarding both bargaining scope and level, respondents in this same survey gave a sizeable endorsement to the notion of industry bargaining. First, just under two fifths (39 per cent) of them thought industry bargaining more important than enterprise bargaining whilst just over half of them (52 per cent) approved in principal of industry agreements setting the framework for further negotiations at the local level. Only a quarter of respondents appear to disagree with this more favourable view of industry bargaining although a comparable minority are unmoved either way by these particular facets of the centralised bargaining system. It seems from these findings that a majority of sampled manufacturers see little utility in bargaining councils beyond perhaps industry and/or the enterprise level.



**Table 4: Frequency Scores for Selective Items in Surveys 1 and 2**

**Survey 1 (n= 107)**

<b>Items</b>	<b>nos.</b>	<b>(%)</b>
It is good for companies to have representatives working with union counterparts to moderate 'over-competitive' labour practices (n = 107)		
agree/strongly agree	63	(59)
disagree / strongly disagree	8	(7)
neither	36	(34)
Employers' organisations can do a good job in getting agreements from bargaining councils on the provision vocational training helpful to business		
agree/ strongly agree	77	(72)
disagree / strongly disagree	11	(10)
neither	19	(18)
Agreements reached in bargaining councils provide the best means of managing 'the crisis of expectation' post apartheid		
agree/ strongly agree	41	(38)
disagree/ strongly disagree	21	(20)
neither	45	(42)
It makes sense for companies to trust their employer representatives and give them a free hand to negotiate on their behalf		
agree/ strongly agree	36	(34)
disagree/ strongly disagree	41	(38)
neither	30	(28)
Agreements reached in bargaining councils will make a significant contribution to improvements in the economy's overall 'productivity performance'		
agree/ strongly agree	26	(24)
disagree/ strongly disagree	45	(42)
neither	36	(34)

## **Survey 2 (n= 126)**

<b>Items</b>	<b>nos.</b>	<b>(%)</b>
--------------	-------------	------------

Industry agreements reduce industrial conflict and provide valued stability within my industry

agree/ strongly agree	75	(60)
disagree/ strongly disagree	29	(23)
neither	22	(17)

Employers' organisations in my industry do not protect my company's interests within the bargaining council process or equivalent

agree/ strongly agree	36	(28)
disagree/ strongly disagree	60	(48)
neither	30	(24)

I can see the bargaining council process helping to restructure the whole of my industry in the future

agree/ strongly agree	48	(38)
disagree/ strongly disagree	34	(27)
neither	44	(35)

Generally, industry agreements help, rather than hinder, my company's management of its workers

agree/ strongly agree	69	(55)
disagree/ strongly disagree	23	(18)
neither	34	(27)

The changing world of work makes bargaining much more important at industry than at company/workplace level

agree/ strongly agree	49	(39)
disagree/ strongly disagree	28	(22)
neither	49	(39)

The content of industry agreements sets the framework for more useful negotiations to occur at the enterprise level

agree/ strongly agree	65	(52)
disagree/ strongly disagree	30	(24)
neither	31	(24)

Finally, one special attribute of bargaining councils that gains the highest approval

rating from manufacturers concerns the provision of vocational training. Just under

three-quarters of those responding to this item in the first survey considered employers'

organisations to be doing a good job in obtaining agreements around industry training with just one in ten remaining critical of their associations in this regard. Certainly, this is one ‘collective good’ that attracts the least criticism and the highest approval rating from employers. Overall, it appears from the frequency scores recorded for selected items across both surveys that a majority of responding firms reported themselves to be reasonably satisfied with the ‘performance’ of their bargaining councils and employers’ associations. Indeed, even in these more turbulent times, a significant minority remain convinced that centralised agreements have something more to offer beyond market regulation in the form of a better management of workplaces, industries and the economy. Once again, however, we need to disaggregate some of these findings by reference to key characteristics of sampled respondents all the better to understand how these descriptors might be influencing their responses to some of these items. Once more, selected cross-tabulations can help to unravel this part of the story for us. Yet again, only the more significant cross-tabulations are chosen for commentary but, this time, analysis is conducted by reference to each survey in turn as in **tables 5 and 6** below.

## **9.6 Cross-tabulated analysis for Survey 1**

To remind ourselves, individual items have been selected from both surveys on the presumption that they too embody important aspects of associability in addition to those discussed above. As can be extrapolated from the results below, there is no striking categorisation of sampled firms that crucially explains approval or disapproval for selected items as in tables below. What impact there is on the pattern of responses is modest in scale. Indeed, categorising responding firms by reference to membership, workforce size and company climate reveals little by way of impact on the pattern of

response to the various 'approval' items discussed previously. The following presentation of findings confirms this.

**TABLE 5: CROSS-TABULATIONS FOR SELECTED ITEMS (SURVEY 1)**

1. **'Moderation' Item:** "It is good for companies to have representatives working with union counterparts to moderate 'over-competitive' practices." (**Question 26**)

characteristic		strongly agree/Agree	strongly disagree/disagree	neither	
associational membership (n= 106)	yes	41	5	24	(n=70)
	no	21 (n=62)	3 (n=8)	12 (n=36)	(n=36)
foreign ownership (n = 105)	wholly/partly	22	1	8	(n=31)
	not at all	40 (n=62)	7 (n=8)	27 (n=35)	(n=74)

#### *'moderation' item*

Surprisingly, associational membership seems to play little part in explaining the belief felt by a majority of respondents that employers' organisations can helpfully moderate labour market competition. The pattern of response between members and non-members for this item is striking in its similarity. Presumably, non-members perceive virtue in associability as much as members in this particular regard. Thus, reasons for non-membership must be found elsewhere. Likewise, neither workforce size, level of unionisation nor company climate appears to have had any marked effect on this particular item. However, this is far from the case when it comes to foreign ownership. Here, where there is some element of overseas investment in the company then there is a slightly improved probability of that firm believing in an association having a moderating influence on labour markets compared to those firms without overseas shareholders.

*'training' item*

Similarly, associational membership or workforce size appears to have little bearing on the overwhelming approval from manufacturers for employer organisations reaching agreements with unions on industry-wide training provision. The same can be said for levels of unionisation and company climate but not for foreign-ownership. Here, a higher ratio of companies with overseas investment approve as disapprove of employer organisations' efforts to negotiate over industry-wide training compared to that for domestically-owned firms.

2. **'Training' Item:** "Employers' organisations can do a good job in getting agreements from bargaining councils on the provision of vocational training that is helpful to business."  
(Question 30)

characteristic		strongly agree/agree	strongly disagree/disagree	neither	
associational membership (n = 106)	yes	54	5	11	(n=70)
	no	23 (n=77)	6 (n=11)	7 (n=18)	(n=36)
workforce size (n = 106)	SME (Below 500)	50	9	13	(n=72)
	large (500 plus)	26 (n=76)	2 (n=11)	6 (n=19)	(n=34)
foreign ownership (n = 105)	wholly/partly	25	2	4	(n=31)
	not at all	50 (n=75)	9 (n=11)	15 (n=19)	(n=74)

3. **‘Crisis’ Item:** “Agreements reached in bargaining councils provide the best means of managing ‘the crisis of expectation’ post apartheid.” **(Question 32)**

characteristic		strongly agree/agree	strongly disagree/disagree	neither	
associational membership (n = 106)	yes	29	12	29	(n=70)
	no	12 (n=41)	9 (n=21)	15 (n=44)	(n=36)
workforce size (n = 106)	SME (Below 500)	26	10	36	(n=72)
	large (500 plus)	15 (n=41)	11 (n=21)	8 (n=44)	(n=34)
company climate (n = 105)	average & below	15	4	11	(n=30)
	above average	26 (n=41)	7 (n=11)	32 (n=43)	(n=75)

*‘crisis’ item*

A slightly higher ratio of associated members believe in the role of representation in helping to appease the expectations of emancipated workers post liberation compared to non-members who, proportionately, remain more sceptical than those in membership. Moreover, half of all smaller firms canvassed remained to be convinced as to the capabilities of business representatives in crisis-handling compared to the quarter of larger ones sharing the same conviction. Meanwhile, the proportion of the latter recognising the utility of bargaining councils in this respect was slighter greater than that for smaller concerns. Moreover, half of those manufacturers recording lower levels of morale in the workplace considered bargaining councils useful in dampening down expectations compared to the third of those reporting themselves experiencing relatively high morale.

4. **'Trust' Item:** "It makes sense for companies to trust their employer representatives and give them a free hand to negotiate on their behalf." (**Question 27**)

characteristic		strongly agree/agree	strongly disagree/disagree	neither	
associational membership (n = 106)	yes	25	27	18	(n=70)
	no	11 (n=36)	14 (n=41)	11 (n=29)	(n=36)
unionisation (n = 106)	below half	16	16	6	(n=38)
	half or more	20 (n=36)	25 (n=41)	23 (n=29)	(n=68)
company climate (n = 105)	average & below	8	14	8	(n=30)
	above average	27 (n=35)	26 (n=40)	22 (n=30)	(n=75)

*'trust' item*

In regard to granting an employers' association carte blanche as bargaining representatives there were some surprising results. First, firms belonging to associations were nearly as likely to agree as to disagree to the suggestion as were non members (but just slightly less so). Second, this same pattern of response more or less applies to SMEs as to their larger manufacturing counterparts. Third, those manufacturers with low levels of unionisation were equally divided as to the merits of fully delegating bargaining authority to their representatives unlike their more highly unionised counterparts of whom more were clearly prepared to withhold approval than not. Finally, those companies citing reasonably good morale in the workplace are also evenly divided compared to those not so fortunate who appear to distrust associations nearly twice as much as they trust them.

5. **‘Productivity’ Item:** “Agreements reached in bargaining councils will make a significant contribution to improvements in the economy’s overall productivity.”  
(Question 39)

characteristic		strongly agree/agree	strongly disagree/disagree	neither	
workforce size (n = 106)	SME (Below 500)	16	33	23	(n=72)
	large (500 plus)	10 (n=26)	11 (n=44)	13 (n=36)	(n=34)
foreign ownership (n = 105)	wholly/partly	6	9	16	(n=31)
	not at all	19 (n=25)	35 (n=44)	20 (n=36)	(n=74)
unionisation (n = 106)	below half	7	18	13	(n=38)
	half or more	19 (n=26)	26 (n=44)	23 (n=36)	(n=68)

#### *‘productivity’ item*

Workforce size appears to impact on how firms view the bargaining council system’s contribution to overall productivity. It seems that twice as many of the SME population believe bargaining councils incapable of contributing to any productivity agenda as are convinced of the possibility. In contrast, the larger firm population is more evenly divided on this issue. Meanwhile, over half of those manufacturing concerns with some element of overseas ownership are unsure either way compared to under half of the domestic firm population who remain agnostic. Finally, manufacturing firms with low levels of unionisation remain proportionately more sceptical of a bargaining council’s ability to contribute to overall productivity than those manufacturers that are heavily unionised.

#### *summary*

Manufacturers who are also *members* of employer groups are slightly more swayed than *non-members* as to the merits of representation in handling the potential crisis of expectation arising from the emancipation of black workers post apartheid. Similarly,



manufacturers with *larger workforces* also appear to be more convinced of the part to be played by employer representatives in the post apartheid era than their *smaller firm* counter-parts. Smaller-scale manufacturers are also more prone to scepticism than larger-scale ones when it comes to the perceived contribution that bargaining councils can make to any national productivity agenda. Meanwhile, *foreign ownership* also appears to have a disproportionate impact on the way sampled manufacturers' respond to selected 'approval' items in the first survey.

First, proportionately more manufacturers with some element of overseas investment believe their representatives capable of doing a reasonably good job in moderating market competition compared to their domestic equivalents. Second, they also appear more favourably disposed towards employer organisations negotiating on their behalf over industry-wide training. In addition, *highly unionised* manufacturers seem more appreciative of the contribution bargaining council agreements can make towards improved productivity than those with *low levels of unionisation* despite being less trusting when it comes to giving their representatives a *free hand*. Finally, of all those manufacturers thinking bargaining councils useful in helping to manage worker expectations post liberation proportionately more were from those reporting relatively low rather than high workplace morale. Then again, this same category of employer was also less inclined to give employer representatives a free hand in their dealings with organised labour. Overall, however, the most striking, and perhaps surprising, feature of these cross-tabulations is the lack of impact that *most* of these categories of manufacturer have had on *most* of these selected items – especially regarding the moderating influence of employer representatives and the amount of trust and autonomy to be afforded them.

## 9.7 Cross-tabulated analysis for Survey 2

Responses to items in this second survey appear to have been influenced to variable degrees by some, but not all, descriptors. Company characteristics to do with *associational membership*, *workforce size*, *foreign ownership* and level of *unionisation* are the only ones to feature significantly in any cross-tabulated analysis of ‘approval’ items in the second survey. Thus, only response patterns to some items are influenced to varying degrees in ways best illustrated by the table below.

**TABLE 6: CROSS-TABULATIONS FOR SELECTED ITEMS (SURVEY 2)**

1. **‘Stability’ Item:** “Industry agreements reduce industrial conflict and provide valued stability within my industry.” (Question 19)

characteristic		strongly agree/agree	strongly disagree/disagree	neither	
associational membership	yes	57	16	13	(n=86)
	no	18 (n=75)	13 (n=29)	22 (n=35)	(n=40)
workforce size	SME (Below 500)	50	16	16	(n=82)
	large (500 plus)	25 (n=75)	13 (n=29)	6 (n=22)	(n=44)
foreign ownership	wholly/partly	30	7	7	(n=44)
	not at all	45 (n=75)	22 (n=29)	15 (n=22)	(n=82)

### *‘workplace stability’ item*

When asked whether they felt industry agreements reduced workplace conflict and provided workplace stability, proportionately more associated firms concurred with this view than those unassociated (two thirds compared to under a half respectively).

Similarly, a proportionately higher number of manufacturing firms with inward investors also recognised the value of industry agreements in this regard compared to

those concerns lacking any overseas investment. In short, acknowledging how bargaining councils can reduce industrial conflict is partly contingent on whether they are in membership or not and are (even partly) foreign-owned or not.

2. **‘Interest Protection’ Item:** “Employers’ organisations in my industry do not protect my company’s interests within the bargaining council process.” (Question 21)

characteristic		strongly agree/agree	strongly disagree/disagree	neither	
associational membership	yes	19	52	15	(n=86)
	no	17 (n=36)	8 (n=60)	15 (n=30)	(n=40)
workforce size	SME (Below 500)	20	43	19	(n=82)
	large (500 plus)	16 (n=36)	17 (n=60)	11 (n=30)	(n=44)
foreign ownership	wholly/partly	8	27	9	(n=44)
	not at all	28 (n=36)	33 (n=60)	21 (n=22)	(n=82)

*‘interest’ protection’ item*

Associational membership, workforce size and foreign ownership all appear to impact on the extent to which sampled manufacturers see employer organisations doing a decent job in promoting their interests within the bargaining council system. Significant differences of view arise from respondents being in membership or not. Whilst three in five of all associated manufacturers are prepared to pass favourable judgement on their associations this falls to just one in five of those out of membership. This perceived failing on the part of associations may go some way to explaining the reluctance of non-members to associate. Workforce size has a comparable effect in that at least twice as many smaller manufacturers believe employer associations look after their interests when sitting in bargaining councils as do not. By contrast, larger employers are more or less evenly divided over the issue. On this evidence, smaller manufacturers have more

confidence in associability than larger ones when it comes to protecting manufacturers' interests. Likewise, three in five of those having overseas ownership believe employer associations capable of representing their interests effectively compared to the less than one in five who do not. Contrastingly, only two in five 'domestic' manufacturers believe their interests sufficiently well represented through association compared to the third that remain sceptical.

3. **'Restructuring' Item:** "I can see the bargaining council process helping to restructure the whole of my industry in the future." (Question 28)

characteristic		strongly agree/agree	strongly disagree/disagree	neither	
associational membership	yes	34	24	28	(n=86)
	no	14 (n=48)	10 (n=34)	16 (n=44)	(n=40)
workforce size	SME (Below 500)	29	25	28	(n=82)
	large (500 plus)	19 (n=48)	8 (n=33)	16 (n=44)	(n=43)
foreign ownership	wholly/partly	19	10	15	(n=44)
	not at all	29 (n=48)	24 (n=34)	29 (n=44)	(n=82)
unionisation	below half	17	17	16	(n=50)
	half or more	31 (n=48)	17 (n=34)	28 (n=44)	(n=76)
company climate	average or below	21	17	29	(n=67)
	above average	27 (n=48)	17 (n=34)	15 (n=44)	(n=59)

*'restructuring' item*

The number of larger manufacturers who think bargaining councils useful in helping to restructure industry is more than double those thinking otherwise. This is considerably more than the proportion of smaller manufacturers holding to the same view. Moreover, nearly double the numbers of manufacturers that are highly unionised see bargaining

councils helping to restructure industry as do not whereas this difference of view is more evenly shared between those firms facing low unionisation levels.

4. **‘Utility’ Item:** “Generally, industry agreements help, rather than hinder, my company’s management of its workers.” (Question 33)

characteristic		strongly agree/agree	strongly disagree/disagree	neither	
associational	yes	51	13	22	(n=86)
membership	no	18	10	12	(n=40)
		(n=69)	(n=23)	(n=34)	

*‘utility’ item*

When asked to acknowledge the utility of the bargaining council system in general, three in five of those responding manufacturers in associational membership thought councils helpful rather than obstructive compared to a smaller proportion of non-members (forty five per cent) holding to the same opinion. Interestingly, a further thirty percent of the latter felt unable to pass any kind of judgement as did a quarter of all associated manufacturers. Nonetheless, Based on this evidence, a good many manufacturers are prepared to pass favourable judgement on bargaining councils when prompted, whether associated or not. Perhaps even more significant is the fact that these cross-tabulations fail to identify any other structural characteristics that have such a marked bearing on how manufacturers respond to this all-important ‘approval’ item concerning the overall effectiveness of the bargaining councils

5. **'Importance' Item:** "The changing world of work makes bargaining much more important at industry than at company/workplace level." (Question 31)

characteristic		strongly agree/agree	strongly disagree/disagree	neither	
associational membership	yes	35	30	21	(n=86)
	no	14 (n=49)	19 (n=49)	7 (n=28)	(n=40)
foreign ownership	wholly/partly	15	19	10	(n=44)
	not at all	34 (n=49)	30 (n=49)	18 (n=28)	(n=82)
company climate	average or below	20	30	17	(n=67)
	above average	29 (n=49)	19 (n=49)	11 (n=28)	(n=59)

*'importance' item*

The distinction between members and non-members of associations is even more marked when seeking their views on the importance of centralised bargaining relative to that at the enterprise level. Of those in membership, slightly more recognise the importance of industry bargaining than do not. The opposite is the case for those not in membership, only more so. This counter view explains why sampled manufacturers, regardless of membership status, were as likely to recognise the greater importance of centralised over domestic bargaining as the other way round. A similar situation applies when to foreign ownership. Whilst slightly more of those without any foreign capitalisation recognised the relative importance of industry over enterprise bargaining the same could not be said for those firms with overseas investors. Within this category, a fair number held workplace bargaining to be of relatively greater import than centralised bargaining. Once again, there appears to be as much approval for enterprise as industry bargaining generally but, when disaggregated, there is a slight bias towards the former from those manufacturers with overseas partners. Meanwhile,

firms reporting relatively high morale appear more likely to favour industry over enterprise bargaining than not on this evidence whereas, intriguingly, those registering relatively low workplace morale more likely believe enterprise bargaining to be the more significant.

6. **‘Framework’ Item:** “The content of industry agreements sets the framework for more useful negotiations to occur at the enterprise level.” (Question 39)

Characteristic		Strongly Agree/Agree	Strongly Disagree/Disagree	Neither	
associational membership	yes	42	22	22	(n=86)
	no	23 (n=65)	8 (n=30)	9 (n=31)	(n=40)
foreign ownership	wholly/partly	26	7	11	(n=44)
	not at all	39 (n=65)	23 (n=30)	20 (n=31)	(n=82)
unionisation	below half	21	13	16	(n=50)
	half or more	44 (n=65)	17 (n=30)	15 (n=31)	(n=76)

#### *‘framework’ item*

Only foreign-ownership and unionisation seem to have any bearing on the extent to which manufacturers recognise the coordinating capacity of industry-wide agreements generally. Thus, those manufacturers attracting foreign investors are more likely to believe industry agreements useful in setting the agenda for more localised bargaining compared to those without any such inward investment on the basis of the cross-tabulated comparisons above. Similarly, whereas three in five strongly unionised manufacturers saw benefit in industry agreements setting the agenda for enterprise bargaining this ratio fell to two in five for more weakly unionised firms. On this evidence, manufacturers facing strong workplace organisation and handling overseas investors are more likely drawn to the agenda-setting potential of industry bargaining than domestically-owned firms with weak unionisation.

### *summary*

Overall approval for associability and centralised bargaining is derived from the favourable responses of sampled manufacturers to selected items in the second survey. These specifically addressed the effectiveness of employers associations by way of interest representation and of industry bargaining by reference to conflict management, industry restructuring, agenda-setting and all-round utility and importance. Without doubt, the most important characteristic that propels manufacturers to take a positive view towards employer associations and bargaining councils is the very fact of associational membership itself. Certainly, those in membership tend to hold associability and centralised bargaining in higher regard than those not in membership especially when it comes to associations safeguarding the interests of manufacturers and to industry settlements in being generally useful and important and in keeping the (industrial) peace. Associational membership aside, only foreign ownership seems to have impacted positively on sampled employer attitudes towards these institutions as does the fact that a manufacturer has a relatively large workforce or that the workplace is highly unionised.

Thus, having overseas shareholders involved seemingly makes manufacturers better disposed towards associations as protectors of their interests than those without any foreign investment in the company. Similarly, they tend to appreciate the value of industry agreements in providing some sense of order more than do 'domestic' counterparts. On the other hand, they appear less sanguine as regards the importance of industry compared to enterprise bargaining but recognise how such agreements can usefully set an industry-wide bargaining agenda for local negotiators. Meanwhile, although smaller manufacturers believe more than larger ones that associability makes a decent fist of representing their interests, the opposite is the case when it comes to



industry agreements helping to restructure the sector. Finally, manufacturers who are highly unionised are more likely to recognise the potential for centralised bargaining restructuring industry compared to those with relatively low levels of unionisation as well as being more likely to value the coordinating potential of industry agreements.

Having now established there to be a substantial minority (even occasionally a majority) of sampled manufacturers who unambiguously approve of taking collective action with the remainder divided fairly evenly between outright opposition and agnosticism, the question arises as to whether there is anything other than *structural characteristics* that might help explain the various positions adopted towards associability. Might there be some deep-lying concepts in play that inform their thinking and, if so, are they the same within and across our sample populations? In other words are they universal or might they change over time in light of broader transitional changes? The next chapter addresses these fundamental questions through undertaking an exploratory analysis of the survey data in order to establish what might be happening to associability in the minds of employers and whether this might be changing.

## **Chapter 10: What matters to employers when thinking about their associability**

### **10.1 Introduction**

Having reviewed the general orientation exhibited by our sample of South African manufacturers towards employers' organisations and bargaining councils the focus of this chapter now switches to the deep-seated thinking that underpins this outlook and whether it might have changed from survey to survey in line with any broader transformations under way. Various statistical tests have been deployed to this end and their analysis is organised in the following way. We start with reliability measurements undertaken to test the validity of various hypothesised ('a priori') constructs previously deduced from the work of others in the field and précised in preceding chapters (after Cronbach and Meehl 1955 cited in Bryman and Cramer 1999: 68). Examining the reliability scores for these presumed components has led on to an exploratory factor analysis on the interrelationships between items from the first survey. Interpretation of extracted factors leads to the same exercise being repeated for the second survey and then comparing findings from both.

This comparative exercise allows us to reflect upon whether there have been any alterations to the factor structure from one time period to the next and whether any of the broader themes and issues raised earlier in the thesis can help to explain any changed thinking on associability. Finally, independent-samples t-tests are conducted for the purpose of identifying any measurable differences between the mean scores of the two samples. Detecting any significant differences in this way confirms changes in the strength and direction of feelings towards these constructs from sample to sample. Significant variations in mean scores for factors may very well indicate a growing

sensitivity by South African manufacturers to a transforming employment relations environment. Knowing what preoccupies South African employers in thinking about associability and collective action and how this might be changing has important policy implications for the future. Reflecting on findings from a public policy perspective is best left over for discussion in the concluding chapter.

## 10.2 ‘A priori’ factor analysis

Various individual items were selected from the first survey to form a number of components assumed on the basis of past work to explain the underlying thinking of employers towards associability and collective action. To this end, twenty items were specifically deployed as a means of testing five discrete constructs assumed by the author to be significant in determining an individual employer's position regarding membership of an employers’ association and its engagement with bargaining council processes – both deemed to be a significant feature of state-sponsored institutional reform. Reliability scaling was then introduced to determine how well items might ‘hang together’ to form these underlying ‘a priori’ constructs. Brief descriptions of each now follow.

- **‘Aptness’** reflects on the appropriateness of market rivals combining together and forsaking their ‘bargaining autonomy when confronting a powerful opposition in the form of an alliance between strong government and powerful unions.
- Equally, **‘utility’** addresses the overall competence of a delegated bargaining system in producing highly prized ‘public goods’ such as training and improved productivity.

- **‘Discretion’** reflects upon the extent to which a bargaining council system still provides for independence of action and flexible implementation of agreements for participants.
- Meanwhile, **‘compliance’** explores the extent to which employers are prepared to conform to the authority of an employers’ association, and grant them a free hand (when bargaining) provided industry (or regional) agreements can be offset ‘locally’.
- Finally, **‘abstention’** from associating considers the degree to which the free-riding of others is tolerated by individual employers when members of an association but is attractive to them when not.

### *reliability testing*

Alpha coefficients were first calculated for every hypothetical dimension so as to ensure that each construct was robust and showed high levels of internal reliability. All items used a five-point Likert –style score (ie: 1= strongly disagree; 2 = disagree; 3 = neither agree nor disagree; 4 = agree; 5 = strongly agree). Descriptions and identification of these items and their frequency counts for each of the ‘a priori’ factors are available upon request. Using SPSS 12.0 and Cronbach’s alpha scaling, reliability scores were obtained for each of the hypothetical dimensions. Given that an acceptable minimum alpha score for data analysis of this nature is normally 0.6, then these results prove disappointing. Only the ‘utility’ factor (with a score of 0.64) has some resonance with respondents whilst that of ‘aptness’ (at 0.58) may hold some significance at the margin but this is less than certain. Incontrovertibly, however, the other three dimensions fail to exhibit appropriate levels of internal reliability and, as such, do not tap a clear construct in respondents’ minds that consistently informs their views on association-belonging or

multi-employer bargaining. Clearly, a rational and abstracted account of what underpins employers' views on the state's revision of the bargaining institution cannot be based on these 'a priori' factors.

The question now arises as to whether, in the absence of any 'a priori' dimensions at work in helping to influence individual employer attitudes towards bargaining councils, there exist 'de facto' constructs that are capable of capturing employers' underlying views on these fledgling bargaining reforms. To determine whether this might be the case, a preliminary factor analysis was carried out on the original twenty attitudinal items. Exactly half were then retained for further analysis, having been identified as best capturing employers' views in the most unambiguous and parsimonious way.

### **10.3 Factor Analysis for Survey 1**

The results from the factor analysis (principal component with varimax rotation) are shown in **table 7** overleaf. It is commonly held that scores for individual items greater than 0.4 significantly attach to each other to form a 'de facto' construct. As can be seen, the analysis yielded three well-delineated and clearly interpretable factors that, together, explain just less than fifty eight per cent of the variance in the sampled items. When scaled, all three factors exhibited acceptable levels of reliability. Each factor is now reviewed in turn.

#### ***'Autonomous Capacity'***

The first factor includes four items and is labelled 'autonomous capacity' and, when scaled, registers an alpha score of 0.69. This factor could be said to capture employer perceptions concerning their competency in handling their own employment relations (given its centrality to company well-being), the potential for lost autonomy and a

perceived need for productivity to improve. Crucially, it refers to a company's evaluation of its ability to manage its own employment relations without reference to 'outside' help and its preference for autonomy of action given changes to circumstance. This dimension encapsulates insights that employers have concerning their ability to 'cope' with the newer demands placed on them post apartheid in maintaining workplace stability and in improving productivity performance. Consideration of this factor leads employers into assessing how *self-reliant* they can afford to be in a world of uncertainty, of unpredictability and of continuous change. This underlying concept ties in quite closely with Sisson's (1989) notion of *management control* being a key driver behind any employer's decision to associate and take collective action. Where the self-perception is that such competence is missing from the organisation, then the capacity of associability to act as a proxy in this respect can become decisive for such manufacturers.

### ***'Conditional Association'***

The second factor, with an alpha score of 0.54, comprises three items and is labelled 'conditional association' on account of the employer's interest in exchanging membership loyalty for some limited autonomy of action. The factor addresses concerns that some, but not all, employers have over the operation of a centralised bargaining system and relates specifically to the degree of *flexibility* permitted to those interpreting and implementing such centralised agreements. This dimension appears to tap a deep-seated worry that sectoral agreements produce rigidities in the way they are to be made operational locally without taking sufficient account of 'domestic' circumstances. Interestingly, however, it seems that such 'footloose' employer behaviour is still expected to conform within the spirit of industry agreements for those who are parties to them. At root is the notion that 'association' equates to an exchange relationship

between members and their organisation. In return for flexibility over the actual implementation of industry agreements, an employer considers foregoing autonomy of action. It is only on this basis that legitimacy is extended from the individual member to an association and its bargaining council. Employers' organisations and their bargaining councils are expected to exercise restraint and to respect individual employers (and their particular circumstances) when effecting industry-wide agreements. It is in this sense that 'association' becomes *conditional* or *negotiated*. In some ways, this is reminiscent of a 'live and let live' relationship between local management and union workplace organisations as originally identified for an older British context (*after* Dunn, 1990). Here, the suggestion is that some employers are prepared to tolerate associational membership so long as these organisations, and the bargaining council processes and outcomes with which they are identified, are not excessively invasive.

**Table 7: Factor Analysis Results for Survey 1**

<i>ITEM</i>	<i>FACTOR 1</i>	<i>FACTOR 2</i>	<i>FACTOR 3</i>
1. My company has the confidence and 'know how' to manage its industrial relations without the need to be represented by an employers' organisation	.78	.21	-.14
2. These days, company industrial relations matters are too important to be left in the hands of employers' organisations and bargaining councils	.77	.00	.00
3. Too much autonomy is lost to a company through membership of an employers' organisation and its subsequent representation on a bargaining council	.67	-.21	-.23
4. My company fails to see how agreements reached in bargaining councils can lead to significant improvements in our 'productivity performance'	.60	-.23	.00
5. Any agreement reached in a bargaining council still provides enough leeway for the employer to implement it flexibly within the company	-.17	.75	.00
6. The way that bargaining councils and workplace forums operate in practice still leaves a company sufficient scope for managing its employment affairs as it sees fit	-.00	.69	.25
7. All members of employers' organisations should be prepared to abide by decisions made on their behalf whether they like them or not	.00	.66	-.23
8. It is natural for an employer to want to join an employers' organisation so as to protect its interests against a powerful union movement	.00	-.00	.83
9. It makes sense for a company to belong to an employers' organisation when a government strongly supports unions	-.00	.39	.72
10. It is unnatural for companies to collaborate with business rivals within an employers' organisation over employment matters effecting market competitiveness	.40	.12	-.59

**% variance explained****25.9%****17.4%****14.3%****Eigen values****2.21****1.80****1.74****Alpha scores****.68****.54****.58****Extraction Method: Principal Component Analysis****Rotation Method: Varimax with Kaiser Normalization****Component Scores (5 iterations)**



### ***‘External Threat’***

The third factor also comprises three reliable items (registering an alpha score of 0.58) and is labelled ‘external threat’. In some respects, this third factor is the least surprising given the political transition from racial authoritarianism under apartheid to democratic pluralism under a Government of National Unity. Employers have experienced the ascendancy to power of a liberationist ruling party in strong alliance with a previously politically mobilised labour movement who are both wedded to a transformation project that is intended to radically overhaul the existing labour relations regime. In these circumstances, we should not expect other than that employers recognise the virtues of ‘association’ as a means of defensively protecting themselves against potentially threatening elements. This factor, then, taps some notion as to the desirability (or otherwise) of *collective protection* for individual firms. That this dimension exists proves that such apprehension figures large in employer calculations regarding the merits or otherwise of ‘association’. At heart, to participate in centralised bargaining via ‘association’ is a *political* decision for the employer as much as anything. Employer perceptions’ concerning the value of such self-serving political protectionism underscores more pragmatic assessments as to the economic gains that accrue from ‘association’ and industry bargaining. At the very least, political considerations appear to weigh as heavy as economic ones for employers deliberating whether to associate or not within the immediate aftermath of the apartheid era.

One interpretation of this factor structure is to see employers as having to resolve an inherent dilemma for themselves. Their preference is to stay independent when managing labour in ways consistent with their ‘free market’ outlook. Equally, they also perceive themselves to be under imminent threat from a powerful ‘political’ alliance between the state and organised labour. This establishes a tension at work within the minds of employers over the utility value of ‘association’. One compromise for

consideration is to accept a type of associational membership (and so 'delegate' bargaining) that also tolerates a certain limited freedom of action through a number of caveats and conditions that are in place within the system. For reasons of political exigency, such employers are prepared to contemplate becoming '*reluctant collectivists*'. Thus, a political calculus may well override narrower economic considerations provided that the 'economic exchange' within the associational relationship remains sufficiently worthwhile.

### ***further reflections***

For employers, the certainty of how to respond to apartheid-inspired labour policies has been replaced by some uncertainty as to how to interpret post-apartheid institutional reform especially when the product of a strong 'Tripartite Alliance' between the new ruling party and a powerful labour movement. Given the potential for anomie in transitional industrial relations circumstances (Flanders and Fox, 1970), there would be little surprise were a population of employers to display somewhat chaotic patterns of response when revealing 'normless' attitudes towards employers' organisations and bargaining councils. Unearthing a structured pattern of rationales that underpin such responses could prove somewhat elusive. Certainly, the disappointment over reliability scores for hypothetical constructs seems to justify these prior misgivings. However, factor analysis of a subset of items reveals something to the contrary. The three discrete factors to emerge from the analysis are shown to have some bearing on how respondents structure their feelings towards the establishment of bargaining councils and attendant associational membership.

Accordingly, employers who have confidence in managing their own labour relations, believe centralised bargaining too restrictive on their discretionary powers and remain unconvinced that association is a necessary response to a powerful state and labour

movement, are least likely to participate in industry bargaining. In contrast, those firms lacking self-assurance and resources when handling labour relations but consider industry or regional-wide bargaining to be no barrier to their autonomy of action and ‘association’ to be a strong antidote to powerful actors might well believe any support for bargaining councils to be worthwhile. Together, these ‘de facto’ dimensions confirm the presence of universal but distinct concepts that help inform the views of South African manufacturers facing decisions over their ‘association’ and participation in bargaining councils. With some confidence, we can say that such underlying constructs still play their part in determining the propensity to associate rather than to free-ride even when there is a potential for anomie to frustrate their very formation. But the above observations now give rise to another question for consideration. How powerfully do employers within this particular sample identify with each of our factors?

### ***Frequency Analysis of Factors for Survey 1***

Responding firms are now re-arranged into those displaying high identification with a factor and those with low identification as in **table 8**. This is obtained through the simple device of comparing the individual respondent’s mean score for that factor with the middle value on the original Likert scale. So, registering a mean score at or above 3.00 denotes a strong presence of that factor in the respondent’s mind whilst a mean score below this value indicates a weaker presence. The results are generated by means of an SPSS 12.0 frequency table, as below, that enables direct comparison to be made between the numbers of firms where such a factor is held to be prevalent against those where it is less so. Overall, it appears that the issue of a company’s competency in handling its own labour relations and of a revived state and labour movement in combination potentially undermining employer interests strikes a cord with more or less three-quarters of the responding firms (depending on which factor).

**Table 8.** **‘high’ v ‘low factor’ firms in Survey 1 (n=107)**

	<b>auton. capacity (%)</b>	<b>condit. association (%)</b>	<b>ext. threat (%)</b>
<b>‘high’ firms</b>	76 (71)	65 (62)	87 (81)
<b>‘low’ firms</b>	31 (29)	41 (38)	20 (19)
<b>mean</b>	<b>3.27</b>	<b>3.10</b>	<b>3.42</b>

Seemingly, the ideas that lie behind autonomous capacity are in marked contrast to those attached to external threat. However, when taken together, the large proportion of our sample of South African manufacturers who identify with both gives some credence to the earlier claim of employers being ‘reluctant collectivists’. Meanwhile, just under two thirds of responding firms recognise ‘conditional’ membership to be of serious consideration when deliberating upon associability. Clearly, these factors have become important points of reference for the majority of surveyed manufacturers and thereby directly influence their propensity to associate or free-ride.

### ***summary***

A representative sample of South African manufacturing manufacturers was asked for their views on a number of matters to do with centralized bargaining reform. Factor analysis shows certain fundamental convictions to have a strong bearing on an employer’s predisposition towards associability, including their preparedness to participate in the revised bargaining system. Belief that institutional support helps manage one’s own labour relations better, belief that there is still enough flexibility within the reformed bargaining system to make participation worthwhile and belief that ‘association’ is the best protection from an empowered state in alliance with powerful unions will all play their part. Combining these factors leads to perceptions by

employers of their associations and bargaining councils as *political devices* as much as economic agencies. An employer response to this broader political agenda will crucially determine the viability of sectoral bargaining and its institutional resilience over time. Critically, the feasibility of South Africa's neo-corporatist experiment taking root rests upon the bulk of employers choosing to 'associate' rather than to free-ride or defect from the central bargain. This is best seen as much a political as an economic decision within the immediate post-apartheid era.

More generally, these findings confirm a major tenet of the European literature on employer associability. When deciding whether to associate, employers are pulled simultaneously in opposite directions. Their natural preference for individualism and autonomy of action conflicts with their instinctive need for *collective security* when confronted by potentially hostile actors in the system. This tension becomes more prevalent within the context of institute-building and legislative reform that constitutes part of a broader 'normalisation' project. However, exceptionally for South Africa, the 'triple transition' of political democratisation, economic liberalisation and social inclusion (*after* Webster and Omar 2003) not only mirrors but further polarises this inherent dilemma for employers mulling over the merits of association and multi-employer bargaining. In this particular sense, the 'developmental' context of South Africa renders employers' experiences qualitatively different from those of European counter-parts.

This thesis now argues that the propensity to associate and engage in centralised bargaining within a transforming South African context is the product of three very specific constructs that hold meaning for employers when deliberating over the extent of their involvement in the state's neo-corporatist experiment with an 'articulated' system of bargaining. *Political* as much as *economic* aspects appear to occupy their thoughts in

this immediate post-apartheid era, if not more so. However it may well be that as problems of workplace political instability recede in the minds of employers so we might expect 'globalisation effects' to dominate employer thinking following economic liberalisation. The crucial question for further consideration is whether these same constructs will continue to inform manufacturers' views towards associability and centralised bargaining or whether more parochial flexibility issues predominate. In short, will there be greater or lesser numbers of manufacturers prepared to be '*reluctant collectivists*'? This is the purpose behind repeating this same factor analysis for the second survey.

Thus, seeking answers to these questions structures the presentation of findings in the follow-up study. We re-visit the same employer constructs that have been found to inform their attitudes towards associability and centralised bargaining in this first survey. We do so as a means of testing their robustness in the face of a transitional context that now promotes the economic domain over the political one. More specifically, questions are directed at unearthing views on whether bargaining councils continue to hold utility for participating employers or whether the central focus for managing labour relations has now shifted more towards the individual firm as the 'flexibility' agenda comes to the fore (*after* Bezuidenhout, 2000: 9-11). Hopefully, subsequent findings will help to clarify whether the European model, as exemplified by 'democratic' or 'bargained' corporatism, still holds sufficient utility for South African employers or whether a more decentralised and deregulated 'Anglo-Saxon' version will become the more powerful *ideal* in the face of a growing international economic liberalisation. Whichever orientation predominates will help decide the institutional fate of South Africa's attempt at social corporatism and its advocacy of coordinated bargaining.

## 10.4 Factor Analysis Results for Survey 2

The precaution had been taken with the second survey to incorporate the same ten items that attached to each other first time round to form the three components discussed above. Exactly the same methods of factor extraction were deployed on the second occasion as the first (that is, principal component with varimax rotation). The results are shown in **table 9** overleaf and, as previously, scores for individual items greater than 0.4 were held to attach to each other in ways that constituted ‘de facto’ components. Once more, the analysis has generated three highly differentiated and comprehensible factors that, in total, were able to account for some fifty seven per cent of the variance in the sampled items and similar to that for first survey. Yet again, robust scores were achieved for all three factors, when scaled for their reliability. These three rationales were quite similar in composition to those extracted from the first set of data and their presence here reaffirms a certain continuity of employer thinking from one time period to the next. Nonetheless, there are also some distinctly changed features to this second *factor structure* that indicate some modification to their thinking as well. The second and third factors, as set down in the table below, comprise of just two items apiece (with alpha scores of 0.69 and 0.54 respectively) and, as previously, are best categorised under the rubric ‘*external threat*’ and ‘*autonomous capacity*’. However, one or two individual items appear to have detached themselves from the two original components and re-attached themselves to the first factor such that ‘*conditional association*’ is reconstructed into something much bigger, more complex and intertwined. These modified rationales underpinning attitude formation towards associability and collective action are now updated in turn.

### *refinements to the factor structure*

Previously '**external threat**' incorporated the notion of employers deliberating upon the usefulness of associability and collective action in functioning as a source of '*market control*' along with the '*neutralisation*' of union organisation both in the workplace and the political domain more generally (see chapter 6, pp.3-5). Now this revised construct comprising of just two items has crystallised into something that focuses more narrowly on the power of the labour movement within both the economic and political realm. Accordingly, our sample of manufacturers still seem preoccupied with the role of associability and collective action in acting as a practical counterweight to the threat posed by unions both on the shopfloor and in formal political alliance with the ruling party and Government through the 'Tripartite Alliance'. It is these aspects of the apartheid legacy that continue to absorb the thinking of manufacturers six years on from the political emancipation of their workforces. *Collective security* within a labour market context is still held to be an option to be taken seriously by manufacturers.

Something similar seems to have occurred to '**autonomous capacity**'. Here, the feasibility of handling one's own employment relations internally without recourse to any outside assistance or collective action still seems to preoccupy the thoughts of this second sample of manufacturers. Likewise, the question as to whether local labour issues and their management can so easily be delegated to employer associations continues to bother them. Judging whether one has the means to manage employment relations outside of associability and whether important labour relations matters can so readily be left to outside associations to handle continue to play on the minds of our sample of manufacturers second time round. Thus, the prospect, or otherwise, of enhancing *management control* through *associability* seems to be an abiding consideration for South African manufacturers when contemplating whether to act collectively or not (see chapter 6, pp. 7-8). However, the dilemmas surrounding



employer and associational *competency* and *efficacy* (see chapter 6, pp 2-3) are apparently no longer to be yoked to other agendas around an employer's freedom of action and productivity performance as has been the case previously. These concerns have now become absorbed into a much broader and inclusive focus of interest for employers regarding their discretionary powers in the workplace generally and which is discussed next. Meanwhile, the spotlight on this construct has narrowed to a straight choice facing sampled manufacturers between managing workplace labour relations oneself and deferring to the authority of an association as the best means of retaining *control*.

**Table 9: Factor Analysis Results for Survey 2**

<i>ITEM</i>	<i>FACTOR 1</i>	<i>FACTOR 2</i>	<i>FACTOR 3</i>
1. Agreements reached in a bargaining council still provides enough leeway for the employer to implement it flexibly within the company (Factor 2 in T1)	<b>.71</b>	-.01	.08
2. My company fails to see how agreements reached in bargaining councils can lead to significant improvements in our 'productivity performance' (Factor 1 in T1)	<b>-.70</b>	-.11	.29
3. The way that bargaining councils (or similar) operate in practice still leaves a company sufficient scope for managing its industrial relations affairs as it sees fit (Factor 2 in T1)	<b>.68</b>	.37	-.02
4. Too much autonomy is lost to a company through membership of an employers' organisation and its subsequent representation on a bargaining council (Factor 1 in T1)	<b>-.65</b>	-.29	.21
5. All members of employers' organisations should be prepared to abide by decisions made on their behalf whether they like them or not (Factor 2 in T1)	<b>.59</b>	.12	-.04
6. It is unnatural for companies to collaborate with business rivals within an employers' organisation over employment matters effecting market competitiveness (Factor 3 in T1)	<b>-.43</b>	-.23	.34
7. It makes sense for a company to belong to an employers' organisation when a government strongly supports unions (Factor 3 in T1)	.01	<b>.84</b>	-.03
8. It is natural for an employer to want to join an employers' organisation so as to protect its interests against a powerful union movement (Factor 3 in T1)	.16	<b>.81</b>	-.05
9. My company has the confidence & 'know-how' to manage its labour relations without the need to be represented by employers' organisations (Factor 1 in T1)	.08	-.22	<b>.82</b>
10. These days, company industrial relations matters are too important to be left in the hands of employers' organisations and bargaining councils. (Factor 1 in T1)	-.26	.17	<b>.75</b>

**% variance explained**

**31%**

**14 %**

**12%**

**Eigen values**

**3.13**

**1.40**

**1.20**

**Alpha scores**

**.74**

**.69**

**.54**

**Extraction Method: Principal Component Analysis**

**Rotation Method: Varimax with Kaiser Normalization**

**Component Scores (5 iterations)**

**'flexible association'**

Re-labelling 'conditional association' as above is intentional and is meant to convey a

change to the agenda for manufacturers from the time of the first survey. Then, concern

mostly focused on the balance to be struck between members and their associations as to how much leeway was to be granted to those employers falling under the jurisdiction of bargaining councils when it came to enforcing their agreements. Crucially what mattered to sampled manufacturers at the time of the first survey was the amount of discretion to be afforded employers in the way industry agreements were to be implemented in the reality. Now, however, this concern has expanded into an interest on the part of manufacturers in whether associability and collective action might either inhibit or facilitate their pursuit of productivity gains in the workplace and their ability to compete generally. It is this broader flexibility agenda that has come to the fore more recently in South Africa as evidenced by the presence of this construct in this latter survey, now comprising of six items. Even so, a certain freedom of choice (and action) within an associability framework still remains a core component of any manufacturing employer's rationalising of the matter, albeit one now more explicitly contextualised around the idea of labour flexibility than previously. Individual approval for associability is still on the proviso that a certain *freedom of action* is tolerated but one that now also guarantees *flexibility* and *competitiveness*

### ***Frequency Analysis of Factors for Survey 2***

Once again, responding manufacturers are sorted into two categories denoting either high or low affinity with a particular factor. Results have been generated in exactly the same way as that described earlier for survey 1. The relevant frequency table is presented below and is to be used in conjunction with table 8 for the purposes of direct comparison. Contrasting the mean scores for each factor by survey reveals some significant changes in the extent to which respondents identify with components as follows.

**Table 10: ‘high’ v ‘low factor’ firms in Survey 2 (n=126)**

	<b>‘flexible assoc (%)</b>	<b>auton. capacity (%)</b>	<b>ext. threat (%)</b>
<b>‘high’ firms</b>	91 (72)	92 (73)	106 (84)
<b>‘low’ firms</b>	25 (28)	24 (27)	20 (16)
<b>mean</b>	<b>3.31</b>	<b>3.43</b>	<b>3.20</b>

First, there appears to be mounting appreciation of ideas underpinning ‘flexible association’ as evidenced by the mean score for this factor rising from **3.10** to **3.31** from survey to survey. This finding chimes with observations made earlier as regards the changing composition of this particular construct. Second, employer interest in the issue of ‘autonomous capacity’ also appears to have grown, but less noticeably, given that the mean score for this component is now **3.43** compared to that of **3.27** first time round. Third, and seemingly in direct contrast to the other two factors, identification with ‘external threat’ is beginning to fade a little with the mean score for this construct falling from **3.42** to **3.20**. It suggests that as the *threat* from the other actors recedes over time so more parochial concerns around *control* of one’s own workforce and a certain *freedom of action* begin to loom much larger in the minds of this second sample of manufacturers. Undertaking a comparison of ‘high’ versus ‘low’ firms only confirms the validity of this evidence. The proportion of responding firms who more readily identify themselves with the notion of a more *liberal* associability has increased markedly from under two-thirds to three-quarters whilst those for the other two factors have, if anything, marginally increased, but certainly not lessened.

The deeper significance of all this is threefold. First, as with the previous survey, these factors continue to hold large sway in the minds of most sampled manufacturers when deciding whether to associate and actively engage with the bargaining council system or not. Thus, they remain key determinants in an individual manufacturer’s propensity to

either associate or free-ride. Second, *security* through collective action can still be the spur to associability for a majority of manufacturing employers. Fear of a dominant state and labour movement and concern over one's own managerial competence still act as powerful pragmatic drivers for many of these employers when contemplating whether to become or remain '*reluctant collectivists*' as was discovered first time round. But, thirdly, this pragmatism has now expanded into a growing concern over how much discretion is to be afforded to associated employers and what effect this might have on their ability to enhance productivity and so compete in final product markets.

### ***summary***

An exploratory factor analysis for both surveys reveals three clearly distinguishable factors that apparently come to the fore whenever manufacturers are asked to review their position on associability and collective action. Although these 'de facto' constructs may have changed slightly in terms of their composition from one survey to the next, nevertheless, their defining characteristics are still sufficiently discernible for us to conclude the following. Certain immutable considerations are to be born in mind by South African employers when deliberating on whether to associate and partake in multi-employer bargaining. These thoughts relate to whether unions and the state pose some kind of *threat* to the way manufacturers might choose to handle labour relations, whether the *capacity* to self-manage one's own employment relationships is somewhat problematic for them and whether South African *associability* is sufficiently *flexible* to allow employers some manoeuvrability in the way they can operate within a bargaining council system. Their presence confirms assumptions made earlier in chapter six as regards the supposed motivations behind employers belonging to associations and signing up to multi-employer bargaining.

Certainly, the prospects of anomie taking hold within the business community more generally would appear to have further receded with the march of time and especially given the re-occurrence of this structured pattern of thinking about associability. Yet, exploratory analysis of items from the first survey characterises any rationalisation over associability and collective action as one that is both *politically* and *economically* framed. Although this is still fundamentally the case for the second survey, nonetheless, there now seems to be a more pronounced *economic agenda* in the foreground that is beginning to preoccupy manufacturing employers ever more. Further confirmation of this comes from comparing the frequency scores for factors across both surveys. Whilst a clear majority of employers continue to admit that a desire for *protection* and *security* influences their decision-making so too are a growing proportion of them drawn to consider the labour market *effectiveness* of multi-employer bargaining when deliberating whether to associate or disassociate. Changes to aggregate mean scores for these three factors also demonstrates a shifting orientation away from reacting to what organised labour and government might be contemplating and more towards reflecting on what needs managing from within the organisation.

Even though associability and collective action remain *political* devices for employers as previously, a more explicit *economic calculus* has begun to move from the shadows and take centre stage. Nevertheless, it still seems that *self-defence* through associability can be the spur for many manufacturing employers choosing to act collectively. Finally, comparing exploratory results between surveys also suggests to us that any propensity to associate is a likely rejoinder to either perceived *internal shortcomings* or *external threats*. If anything, it is now the former slightly more than the latter that is beginning to occupy the thinking of the South African manufacturing community, according to these findings. Thus, rational choice over associability will more often than not be one conditioned by a self-serving instinct for survival. As we might expect, *pragmatic*

*instrumentality*, not *principled solidarity*, more likely informs employer choice for the majority of both sample populations. But this begs the question as to whether this characterisation of associability and how it might be changing can be explained by any of the broader political (*democratisation*) and economic (*liberalisation*) transformations chronicled in earlier chapters. In seeking answers to this question, we now turn our attention to a particular statistical technique for comparing mean differences between the responses of sample groups to these factors commonly referred to as an *independent-samples t-test*.

### **10.5 Significance testing (independent-sample t-tests)**

Given the slight modifications to thinking on associability that have taken place from survey to survey, the question next arises as to whether these marked differences hold any statistical significance for us and, if so, what interpretation is to be placed on such findings. To this end, an independent-samples t-test was conducted whereby the total mean scores for each factor were compared from one survey to the next in order to ascertain whether any discernible differences between them were statistically robust. To remind ourselves, each survey is based on a separate random sample, albeit drawn from the same population of manufacturers such that the composition of one has no effect on the other and therefore remains independent for the purpose of this analysis.

Significance testing in this way allows us to determine whether any changes in the strength of feeling towards a particular construct can simply be put down to chance or to what has transpired in the interim period between surveys. In short, this test tells us whether we are right in assuming any such variance in mean scores is likely due to a specific 'time effect' or simply to the randomness of both sample frames. For the passage of time to account for these mean differences between factors requires the *t*

statistic to be larger than smaller with a probability less than 0.05. Once again, we look at each factor in turn before interpreting these results in the round.

### ***autonomous capacity***

An independent-samples t-test was conducted to compare the ‘autonomous capacity’ scores for sampled manufacturers in surveys1 and 2. As can be deduced from the results below, there was no significant difference for those in survey 1 ( $m=3.27$ ,  $SD=.746$ ) and those in survey 2 ( $m=3.43$ ,  $SD=.623$ ;  $t(231)=-1.824$ ,  $p=.07$ ). In short, there is no ‘time effect’ that can help explain the increased identification that sampled manufacturers have signalled for this particular factor.

**Table 11: Independent-sample t-test score for ‘autonomous capacity’**

Group Statistics					
ID of company		N	Mean	Std. Deviation	Std. Error Mean
factor1	t1	107	3.2702	.74622	.07214
	t2	126	3.4339	.62292	.05549

		Levene's Test for Equality of Variances		t-test for Equality of Means						
		F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	95% Confidence Interval of the Difference	
									Lower	Upper
<b>auton. capacit</b>	Equal variances assumed	1.811	.180	-1.824	231	.069	-.164	.090	-.34	.013
	Equal variances not assumed			-1.798	207.1	.074	-.164	.091	-.34	.016

Thus, we are unable to declare with statistical certainty that the reason autonomous capacity resonates slightly more with manufacturers on this second occasion has something to do with changes to circumstance occurring in between field trips that



subsequently trigger alterations in perception. Differences between mean scores may simply be arbitrary and not due to any contextual forces at work over the lapse of time.

### *flexible association*

The opposite appears to be the case for 'flexible association' to that for *autonomous capacity*. Here, we can infer that as developments have unfurled in the period between surveys so perspectives have altered in such ways as to make the idea of individual employer 'space' within the confines of associability resonate more strongly for those sampled at the end of the decade rather than in the immediate aftermath following the political emancipation of workers.

**Table 12. Independent-sample t-test score for 'flexible association'**

Group Statistics					
ID of company		N	Mean	Std. Deviation	Std. Error Mean
factor2	t1	107	3.0997	.75543	.07303
	t2	126	3.3075	.70083	.06243

**Independent Samples Test**

		Levene's Test for Equality of Variances		t-test for Equality of Means						
		F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	95% Confidence Interval of the Difference	
									Lower	Upper
<b>Flex. Assoc.</b>	Equal variances assumed	2.503	.115	-2.177	231	.031	-.20785	.09549	-.39600	-.01970
	Equal variances not assumed			-2.163	218.563	.032	-.20785	.09608	-.39722	-.01849

As can be inferred from the table above, there was a statistically significant difference for those manufacturers in survey 1 ( $m=3.10$ ,  $SD=.755$ ) and those in survey 2 ( $m=3.31$ ,

$SD=.701$ ;  $t(231)=-2.117, p=.03$ ) when it comes to comparing mean scores for 'flexible association'. In short, there is a 'time effect' in play that marks the growing interest that sampled manufacturers have displayed towards the issue of how much discretion is to be afforded to them in interpreting flexibly what associations want to see happen and whatever emanates from bargaining councils.

### ***external threat***

The conclusion to be drawn for this factor is once again different compared to the previous two. Whereas differing levels of interest for 'external threat' are also statistically significant for us, the actual direction this changed level of interest takes is opposite to that for *flexible association*. In short, whilst interest in the concept of flexible association appears to be waxing, so that in external threat seems to be waning. The mean scores and  $t$  values set out below confirm the statistical robustness of this contention. As can be detected from the table below, there was a statistically significant difference for those manufacturers in survey 1 ( $m=3.42, SD=.751$ ) and those in survey 2 ( $m=3.20, SD=.771$ ;  $t(231)=2.185, p=.03$ ) when their mean scores were compared for the 'external threat' factor. Any lessening of interest in this component is not simply a chance occurrence but one shaped by time itself. It seems that whatever changes to circumstance have arisen in the time between surveys has caused a slight weakening in the degree of identification that sampled manufacturers have with the twin threats posed to their interests by strong government and labour.

**Table 13. Independent-sample t-test score for 'external threat'**

Group Statistics										
ID of company		N	Mean	Std. Deviation		Std. Error Mean				
factor3	t1	107	3.4174	.75109		.07261				
	t2	126	3.1984	.77193		.06877				

Independent Samples Test										
		Levene's Test for Equality of Variances		t-test for Equality of Means						
		F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	95% Confidence Interval of the Difference	
									Lower	Upper
Ext. threat	Equal variances assumed	.107	.744	2.185	231	.030	.21903	.10023	.02155	.41652
	Equal variances not assumed			2.190	226.743	.030	.21903	.10001	.02197	.41610

### summary

We now have some statistical verification for the differences in feeling that both sets of sampled manufacturers display towards two of the three factors underpinning associability. Whereas the notion of being in a looser form of association is one that resonates more strongly with sampled manufacturers second time round, the opposite applies in the case of any perceived threat to interests from government and organised labour. Here, there is some slight fading of interest in this factor from sampled manufacturers as measured by the difference in aggregated means scores. Moreover, it seems likely that *contingency* rather than randomness is a more likely source of difference for both sets of orientations. In other words, what South African manufacturers have both experienced, observed and formed views on throughout this transitional period has a direct bearing on what continues to inform their thinking (and how deeply) on their own associability. As the contextualised landscape in which manufacturers operate has changed so has their *structured thinking* on associability.

Thus, South Africa's *transformational context*, rather than mere statistical chance, better explains any altered thinking on associability. Further evidence for this comes from what informants have also felt able to report under interview (see Appendix 3 for their details). We not only turn our attention to this other source for further corroboration but also to provide possible reasons for these contextualised changes to employer perspectives.

## 10.6 Informants' accounts of changes to the bargaining landscape

One explanation that accounts for changes to perception relates to 'a new government-sponsored political direction' that wants to see South Africa develop into a high wage/high performance economy (De Plessis, interview notes 23/11/99). Whilst employers collectively accept the need for 'social exchange' and their contribution to it in times of transition, nonetheless recent years have witnessed 'a subtle shift in emphasis..... away from contributing to democratic processes and towards tackling globalisation issues'. According to De Plessis, this has become especially true for 'corporate employers' who see their role as being one that is increasingly 'instrumental' and 'economic'. They are assumed to want a return to 'looking after business and shareholder interests' given the 'global impact' on business following South Africa's re-entry into the world trade arena:

**"Business just wants to get back to business now that the democratisation project has become developed.....the globalisation agenda is seen by the average employer to be a more legitimate terrain to get involved with than (any) democratisation agenda" (De Plessis).**

For De Plessis in his capacity as a past legal advisor and negotiator for Business South Africa, such employers continue to believe that 'social compromise' still has its place in the wider scheme of things but should not be allowed to impede their own agenda in 'competitive wage-setting' by being 'over-prescriptive' and by 'duplicating enterprise

agreements so that everything has to be negotiated twice over'. It can be deduced from the above that as employers move further away from the point at which political power was transferred to the incoming liberation government the more they perceive the economic agenda moving centre stage and the political one to the sidelines. In contrast to that concluded from the first survey, this means that belonging to employer associations and actively engaging in bargaining council proceedings has now become more of an economically-couched decision for manufacturers rather than as some counter against political uncertainty. Associability is at least as much an *economic act* as it is a *political rejoinder*, if not more so, in the view of many of them.

Even so, this is not always the case as exemplified by the formation of the Chemical Industries Bargaining Council in 1997. It is readily conceded by the likes of such senior HR practitioners as Randall (SASOL and the Chemical & Allied Industries Association) and Abbot (Alpha Cement and chief negotiator for the CAIA) that the introduction of centralised bargaining into the petro-chemical and allied products sector was the direct consequence of sustained 'political pressure' from both the Ministry of Labour and major campaigning unions along with the implementation of the Labour Relations Act itself (interview notes 1/12/99 and 8/12/99 respectively). Under the weight of this political momentum 'employers felt that they had no other choice but to give it a go' (Randall *ibid*). For Abbott, however, the hope remains for such delegated bargaining to produce framework agreements that address 'restructuring and globalisation agendas' otherwise she envisages 'enterprise bargaining (eventually) superseding sectoral processes' if there is no movement away from narrow pay rate fixing as is presently the case. Meanwhile, Unwin, as Corporate HR Director at Anglo-Gold (an all-important 'flagship' conglomerate within South Africa), has levelled exactly the same criticism at the other five big Mining Houses in the Chamber of Mines for pursuing a 'narrow rate-fixing' policy rather than broadening it out to cover the need for both restructuring and a

‘social plan’. Here, Unwin is referring to various change programmes currently under local negotiation with the National Union of Mineworkers (NUM) that are designed to manage a ‘technology transition’ by taking a skills ‘high road’ to fewer but better paid jobs on the back of substantial ‘retrenchment programmes’. These ‘employability outcomes’ also require there to be a negotiated welfare plan that provides for ‘training and education, housing, career planning and joint planning of new businesses’ by way of recompense. Should the employer caucus attempt to undermine these developments then Anglo-Gold would seriously consider withdrawing from any future central bargain covering this vital economic sector (interview notes 29/11/99).

On the other hand, when pressed, these same employer representatives all concede that some combination of pragmatic political and market considerations continue to play their part in forcing their companies not to forego bargaining council processes as exemplified by the following.

**“there is some virtue in delegated bargaining whereby skirmishing and warfare is conducted elsewhere outside of the companies” (Abbott, *ibid*)**

Meanwhile, Anglo-Gold recognise that abandoning the Chamber and going it alone may prove to be a risky strategy given the NUM’s preference for keeping the other ‘Houses’ in line. Anglo-Gold’s departure from the Chamber of Mines may only fragment the central bargain and lead to ‘rupture and instability’ such that mining competitors so undercut Anglo-Gold on unit labour costs that it jeopardises its ‘high performance/ high pay’ HR strategy (Unwin, interview notes 29/11/99). Indeed, Seimens (SA) - as a leading party employer that is also ‘familiar with the German system’ - has also expressed approval for its Metal Trades bargaining council in delivering on a useful form of pay moderation.....

**“that has taken the volatility out of pay bargaining and produced a more stable environment for the whole industry”**

Moreover, Siemens even regards sectoral agreements as being helpful in ‘managing local retrenchments better’ and in generally restructuring the whole industry through providing ‘certainty and stability in labour costs’ along with a welcome peace dividend (Doyle, interview notes 6/12/99).

The importance of centralised agreements in invoking the orderly management of industry restructuring is not lost on the officials of bargaining councils themselves. For example, the Industrial Relations Director of the most important manufacturing employers’ federation (SIFSA) reports having witnessed ‘serious attempts’ in recent years at:

**“restructuring the (bargaining) relationship away from one previously characterised as being adversarial/low trust to a joint problem-solving / high trust one”.**

At its heart lies a ‘two-tier bargaining system’ with framework agreements setting ‘useful parameters’ for local talks on working hours, skills development, productivity and flexibility. However, there is also an ‘industry restructuring package’ that provides substantial funding of health, education and housing projects. Once more, however the driver to reforming the bargaining scope appears to be the same as that reported by other informants:

**“the joint global experience of intensified competition, threat to business survival and severe retrenchments has forced the parties together to evolve restructuring strategies and social plans within a centralised bargaining forum”.** (Carson *ibid*).

All this withstanding, it is readily conceded within SIFSA circles that such efforts have met with mixed results given that some employers’ associations (like vehicle manufacture) are much more ‘progressive’ than others (for example, vehicle

manufacture). Interestingly, it is also acknowledged that what 'enlightenment' exists is due in no small part to the personal conversion of the main union's (NUMSA) chief negotiator to its merits (Carson, interview notes 1/12/99).

Unfortunately, attempts at coordinating restructuring through centralised agreements hold little relevance for other sectors of the economy that are more harshly exposed the opening of the economy and the removal of tariff protection as in the clothing and construction industries. Indeed, if anything, these sectors are becoming less organised and associated according to such Directors of Regional Employer Associations as Lauser (Clothing) and De Kock (Building and Construction)). Indeed, the former tells of an 'employer flight' from association and party bargaining and into outsourcing and homeworking such that a newly realised national bargaining council process is being seriously compromised as a result (interview notes 9/12/99). She further suggests two explanations for this seemingly unstoppable trend.

**"First, unit labour costs are seventy five per cent of total unit costs so flexing (sic) the workforce is extremely cost-saving. Second....the unsustainable burden of fixed labour cost overheads on the small employer is much too much....that is, pension, health and housing subsidies".**

De Kock expresses similar sentiments in describing the sector as 'weak and fragile' and considers future prospects for employer 'single-table bargaining' in the sector to be 'bleak' with 'break-ups and closures (of regional bargaining councils) imminent'. Indeed, he considers delegated bargaining to have become less, not more, attractive given the increased burden placed on associated employers in the form of more generous welfare provision, a more onerous disputes resolution procedure, the introduction of severance pay and an inadequate policing of agreements. However, he also believes that 'industry bargaining will never completely disappear', explaining that such resilience is partly due to a lack of exposure to foreign competition (unlike clothing) and the need for smaller building firms to avoid wage spiralling through pay



rate-fixing (17/11/99). Interestingly for us however, both representatives of these employer associations (TCMA and MBA respectively) also acknowledge the presence of 'powerful industrial union(s)' (Lauser 9/12/99) and the desire of both larger and smaller manufacturers for labour market stability (De Kock 17/11/99) to be key determinants in ensuring the durability of associability in whatever form and however weakened. For them, their respective constituencies appear divided as to how best to respond to a changed economic order and the market turbulence this has created. Whilst some (mostly 'party') employers see bargaining council determinations as providers of stability, other ('non-party') employers hold them to be excessively restrictive on to their competitiveness and undermining of their survivability. Meanwhile, there is a difference of view between 'party' employers as to whether the bargaining scope should remain rooted in rate-fixing or broaden out to include industry restructuring and social (welfare) planning.

An additional motivation for 'party' employers sticking with single-table bargaining relates to their ability to 'influence outcomes' which also explains why 'large firms dominate proceedings', according to the head of the National Association of Bargaining Councils (NABC) – a voluntary federation of 'party' employers established in 1994 to campaign for and advise on standard-setting and rule-making for the bargaining council system generally. For Stapelberg, the prospect of having to bargain locally is also sufficient motivation for many of his members to stick with multi-employer bargaining even when others are 'distancing themselves from the process'. Indeed, the belief is that many 'non-party' employers perceive the 'bargaining council system to be an antidote to plant bargaining' and, by inference, to whipsawing tactics deployed by unions and to workplace militancy (interview notes 18/11/99).

## ***summary***

The observations of our sample of employer representatives bear close testimony to what the exploratory data has previously managed to uncover for us. Namely, although political factors regarding (both industrial and workplace) union strength and governmental pressure play their part in influencing employer thinking on associability, it is increasingly economic and competitive market considerations that are beginning to feature more prominently. As reported by these close observers of the bargaining council scene, new internal debates and tensions appear to be opening up within these various employer constituencies as to the best way forward in terms of an appropriate bargaining locus (industry versus enterprise agreements) and of bargaining scope (broad industry restructuring versus narrow rate-fixing). Furthermore, these witnesses are at pains to identify for us a growing dichotomy within their constituencies between those perceiving associability still capable of affording employers some element of *security* and *flexibility* and those less enamoured who regard it as a source of market rigidity and an impediment to competitiveness. Moreover, it seems to these 'insiders' that the apparent nature of the sector, vulnerability to overseas competition and evidence of 'non-party' free-riding and defection makes any individual decision on associability an extremely contingent one given what troubles both 'party' and 'non-party' employers alike. Nonetheless, their representatives confirm for us under interview that pursuit of labour market protection and workplace control continues to be of universal concern to employers in whatever sector they should find themselves and with whatever bargaining status.

## **10.7 Concluding thoughts on empirical findings**

Empirical investigation into the associability of South African manufacturers was undertaken in the course of two field trips in 1996 and 1999 respectively. Key findings

have been presented and discussed in chapters nine and ten and their significance for us can be summarised as follows. *First*, comparative descriptive data (in the form of frequency and cross-tabulated analysis) has been produced on the back of two surveys that assess *approval ratings* for various aspects of associability and the bargaining council system and how and why these might be changing over time. *Second*, comparative exploratory data (in the form of factor analysis) has been generated that reveals the *structured thinking* underpinning contemporary views on associability for both samples, how strongly respondent firms feel towards each specific component and whether there is any change to its composition. In this we are helped by the use of significance testing that identifies for us how orientations towards these constructs might be altering. *Finally*, testimony from key informants representing various employer constituencies is drawn on as a way of verifying what the survey data suggests is happening to employer thinking on associability as well providing some *contextual* reasons as to why.

### ***descriptive findings***

Analysis of frequency scores for items allows conclusions to be drawn regarding the level of support that employer associations and bargaining councils attract from each sample of manufacturers. Overall, it seems that more respondents were more favourably disposed than not to most features of associability that are itemised within and across both surveys. However this encouraging level of approval for collective action is to be tempered by the fact that a fair minority of manufacturers remained indifferent or, as yet, undecided from 'approval' item to 'approval' item. Nonetheless, when asked to assess the *functionality* of employers associations and the *efficacy* of bargaining councils generally, there was no discernible groundswell of disapproval recorded for manufacturers but, if anything, a guarded endorsement from just under half of them. The same could be said as regards certain controversial aspects of associability and

centralised bargaining such as the legal exemption and extension of agreements.

Unpredictably and against expectation, neither the possibility of employers being exempted from agreements, nor legally obliged to comply with them proved decisive in deciding whether to associate for a majority in each sample. Moreover, this overall approval rating for associability appears to have changed little from one survey to the next although there is some evidence to suggest that the temptation to free-ride on the back of members and/or not comply with agreements might be on the increase whilst disapproval in others free-riding continues to grow from survey to survey.

These findings were next disaggregated by reference to various categories of manufacturer such as associational membership, workforce size, foreign ownership, unionisation and workplace morale. Overwhelmingly, approval for the work of employer associations and bargaining councils seemed more likely tied to actual membership of an association itself ahead of any other variable. Nonetheless, other than for associational membership, no other categorisation had such a marked impact on the way sampled manufacturers chose to view associability in general. That said, appreciation for what employers' associations and bargaining councils are attempting to do and for what they have achieved to date seems, on the evidence, to be more forthcoming from those manufacturers who have relatively large workforces, are recipients of some overseas investment, are highly unionised or where workplace morale is thought reasonably high.

In sum, this descriptive data indicates there to be bedrock support for belonging to associations and delegating at least some bargaining authority to them. However, this is a far cry from being a ringing endorsement for the bargaining council system, whichever survey we look at. Indeed, there is a substantial number who, at worst, remain stubbornly resistant to any idea of collective action or, at best, indifferent to the

issue. It is this group that matters to us most given that their eventual support or outright opposition may prove crucial to any enduring success that these bargaining reforms might enjoy. In short, it is the eventual decisions of these uncommitted employers that will determine whether or not *critical associability* is achievable, centralised bargaining sustainable and organised employment relations more than aspirational in such a crucial sector of the South African economy as manufacturing. This evidence suggests that any future public policy discussions around further reform of bargaining and employment relations need to take account of these approval ratings for associability. There seems to be little room for complacency from policy makers towards this issue, given the fractured character of the views expressed here by this representative sample of a key business constituency. A better understanding of what preoccupies employers when thinking about their associability might help us in this endeavour.

### ***exploratory findings***

Factor analysis reveals employer thinking on associability in South Africa to be highly structured rather than anomic as might have been anticipated in the first flush of political liberation and given the ‘triple transition’ that followed. This *structure* takes the form of three clearly delineated and explicable factors that address issues for employers around their perceived *competency* in handling employer relations matters, the degree of local *autonomy* felt possible under the bargaining council system and their sense of *vulnerability* in the face of a strong state allied to a powerful labour movement. Results from this exploratory analysis allow us to assert with some confidence that these three factors are sufficiently robust as to account for how individual firms respond to the respective items that test for their orientation to associational membership and, by proxy, single-table employer bargaining. Moreover, this configuration of rationales has not changed radically, survey to survey. They remain durable, distinctive and recognisable as time passes but not without some change to their composition such that

this preoccupation with *self-capacity*, *flexible associability* and *power status* has become even more crystallised over the interim for many South African manufacturing employers, whether in membership or not.

However, significance testing also tells us the following. How *strongly* manufacturing employers might feel towards each component of the factor structure is beginning to change despite the level of identification with all three remaining generally high overall, survey to survey. Thus, manufacturers seemingly want to focus significantly more than previously on how much *discretion* is left to them when acting collectively and significantly less on perceived *power disparities* between themselves and other actors. The inference here is that whilst employer thinking on associability continues to be influenced by both *political* and *economic* considerations as before, it is the latter rather than the former that appear to weigh slightly heavier with South African manufacturers at the second time of asking. It seems that the passing of time since the ‘resistance years’ and the downfall of apartheid only makes this switch in emphasis more, not less, likely. These findings are of even greater significance for us once we recall that over twice as many respondents are in associational membership as not for both surveys. Any future adjustments to thinking on associability are far from being the preserve of those not yet in membership based on these findings. In fact, if there are changes currently underway as to how strongly manufacturers feel about associability then they are ones very much shared between members and non-members alike.

To conclude, this empirical work suggests to us that there is a *critical level of associability* in place within the South African manufacturing community that has not fared badly but held up reasonably well through the lapse of time. There is also evidence to suggest that three very specific constructs help determine the propensity of South African manufacturers to associate and remain party to industry or regional

bargaining. However, as political uncertainties fade and economic ones mount for employers in the post apartheid era, so too has the strength and direction of feeling towards these factors begun to alter. Increasingly, employers are beginning to identify more strongly with issues around their capacity to achieve market competitiveness and flexibility and less so with those relating to the potential threat to interests that government and labour might pose. It is the 'push-pull' dynamic of these conflicting political and economic rationales that lies at the heart of the dilemma for employers pondering their associability and explains their characterisation as '*reluctant collectivists*'. Authoritative testimony from those well placed to comment describes the way these broader economic and political transformations are beginning to subtly alter how manufacturers view their own associability and the linked bargaining council institution. Their account helpfully corroborates findings from the survey data that tells of how these very same tensions play on the minds of manufacturing employers when revealing a preference to associate or not. All of this evidence is to suggest that associability cannot be taken for granted by those custodians of public policy who also wish to see South Africa's experimentation with social corporatism prosper. Policy needs to be developed that bolsters associability assuming a state preference for multi-employer bargaining to be coordinated and employment relations organised. The question remains as to what policy interventions might be appropriate for South Africa. This remains the focus of the concluding chapter.

## **Chapter 11. South African employer associability: implications for state policy-makers?**

### **11.1 Introduction**

With this final chapter, we identify conclusions to be drawn from this thesis that can hopefully inform public policy debates in the *new* South Africa regarding possible reform of its central bargaining institution. The particular focus is on the role to be played by employer associability in preventing significant rates of defection from any central bargain and how the propensity for employers to act collectively might be strengthened through re-prioritising state policy. We first revisit what bargaining reform was supposedly meant to achieve in transformational terms, what has actually transpired according to the evidence and what policy implications this holds for us accordingly. To help us with this, we also call on the views of experienced observers of the bargaining scene, well capable of passing comment upon issues that remain as problematical as ever and are yet to be resolved. Taking stock provides us with a vantage point from which to identify suitable policy guidance, reinforcement and development that could help to consolidate employer associability in South Africa.

Reconciliation between fierce political and military opponents brought apartheid rule to an official end in the mid-1990s and ushered in an era of full political emancipation. A universal franchise was established and elections freely held for the first time. This ‘negotiated revolution’ (Adam and Moodley 1993: 59-70) culminated in the appointment of a Government of National Unity (GNU) that spearheaded the dismantling of remaining apartheid structures. Apartheid labour relations was one such legacy considered ripe for reform given its perceived centrality to nation-building projects aimed at racial, economic and political transformation. From the outset,



reforming employment relations institutions was viewed as integral to ongoing economic adjustment and democratic consolidation, especially given their past importance in shaping both the country's colonial and post-colonial development. In this same spirit of political compromise, 'peak' representatives for both organised labour and capital were mandated by the state to broker a settlement over what should constitute this *new* employment relations. The upshot is a revised legal dispensation that establishes an institutional framework through which South African employment relations is meant to become transformed at *all* levels. What characterises this new labour relations regime is best summarised as follows.

## **11.2 State policy and employment relations reform**

This political bargain, as embodied in the legislation, reveals a certain policy direction towards employment relations reform. Its general orientation is both the product of preferences espoused by negotiating reformers and of constraints acknowledged to be 'path-dependent' given their proximity to new political realities and recent labour history. As such, it reconciles those wanting their employment relations and bargaining institutions to be highly market-sensitive, deregulated and decentralised with those preferring to see some state oversight of employment relations along with bargaining centralisation. Thus, the preference is for a type of 'bargained', or 'democratic' corporatism that both unifies and normalises a warped employment relations regime previously characterised as being racially segregationist and socially divisive. The policy intent has been clear from the outset: the transformation of employment relations from one rooted in racial and class discord and workplace adversarialism to one built on social harmony and collaboration. Henceforth for policy-makers, social contestation, rather than social contestation, is to be the hallmark of South Africa's newly re-institutionalised employment relations system. The reasoning is transparent. Instilling these social norms chimes with grander aspirations for civic society to be more egalitarian. A strong democracy is assured through the presence of strong voluntarist

institutions that promote ‘voice’ as the means by which the balance between *equity* and *efficiency* is to be struck.

In the quest for structures that could match these aspirations, policy thinking was partially informed by European notions of social partnership, centralised bargaining and workplace codetermination as evidenced by the introduction of new and revised institutions that symbolised encapsulate these neo-corporatist features. Indeed, as conceded by the then Executive Director of NEDLAC, state reformers were always ‘highly conscious of the European model’ with government especially appreciative of the way it chimes with how the ANC, COSATU and the SACP learnt to function when in opposition (Dexter, interview notes 15/11/99). Accordingly, multi-tiered institutions have been put in place in the form of NEDLAC chambers, bargaining councils and workplace forums that supposedly make bargaining articulated. Such sought-after articulation amounts to a policy aspiration by which employment relations is to become organised and the economy coordinated. It is a policy, however, that has never been fully stated or codified according to the Director of one of the country’s leading academic research centres.

**“Neither ‘articulation’ nor ‘coordination’ is deliberately a built-in design feature of the three-tier system - they are not explicitly spelt out anywhere but only to be inferred”. (Webster, interview notes 20/11/99).**

Nevertheless, for Baskin in commenting as a past Director of Communications at the Ministry of Labour, the expectation is always that sectoral bargaining agendas and processes will become ‘more sophisticated and complex in ways that take into account a changing world order’ (interview notes 7/12/99). Correspondingly, multi-employer bargaining is thought pivotal to the maturation of South Africa’s model of social corporatism. This is because it acts as an all-important linchpin in the articulation of these corporatist structures. Framework agreements reached within bargaining councils

covering sectors, industries or regions are meant to influence the bargaining agenda for those negotiating at the enterprise level but not before negotiators at this intermediate level supposedly take note of any accords, compacts and social plans arising from any social dialogue taking place within NEDLAC. The inference is that bargaining council negotiators, acting as surrogates for both workers and employers within designated sectors, can hopefully expedite labour market coordination, both vertically and horizontally. Certainly, policy reformers appear relaxed about centralised bargaining continuing in its revised form given their past experience of Industrial Councils (Webster *ibid*). Unfortunately, the reality indicates something different from what was first anticipated given what has actually evolved and how the parties have responded subsequently.

### **11.3 Problems with centralised bargaining**

There are a number of problems that have surfaced recently and to which certain well-placed academic commentators and government officials can attest following reform of the centralised bargaining system through the Labour Relations Act (1995). *First*, social partners in the NEDLAC process rarely act in ways that generate concordats and accords useful to bargaining council negotiators. In part, this is because participants in the NEDLAC chamber still perceive social dialogue to be ‘a contested terrain’ – not least by ‘strong business interests’ who fail to see the benefits of NEDLAC proceedings and a labour leadership that is prone to ‘by-pass the NEDLAC process’ when politically convenient for them to do so. There seems to be only a token commitment from the social partners to produce ‘accords and social plans’ that can help shape directly the content of industry bargaining (Dexter, interview notes 15/11/99). *Second*, and as with apartheid, bargaining council coverage remains uneven across and within industries and regions, being commonplace in some sectors and negligible in others. But it also seems

that for those industries that are either 'import-sensitive' or export-orientated' issues around trade liberalisation have impacted on industry bargaining directly (for example, clothing and vehicle manufacture) leading to noticeable pay moderation (Van Der Walt, interview notes 17/11/99).

*Third*, too many bargaining council negotiators prefer to stick to a 'limited bargaining agenda' due to the amount of mutual distrust and antagonism still present in the workplace.

**"the parties have tended to stick to narrow economic bargaining too much"**  
(Baskin, interview notes 7/12/99)

For Webster, this amounts to an abuse of the process as intended with too many union and employer negotiators seeing bargaining council proceedings as a means of 'short-term narrow wage-fixing rather than as part of a social dialogue process' (interview notes 20/11/99). As a consequence, there is reluctance on the part of negotiators to use framework bargaining as the means by which to restructure industries and inform negotiations at the level of the enterprise. There appears not to have been any significant 'paradigmatic shift in thinking' away from a traditional sectoral bargaining agenda to a more 'progressive' one other than for 'isolated sectors' such as manufacturing and mining (Baskin, *ibid*). That said, he is also quick to acknowledge that some sectoral bargainers are

**"fumbling towards finding out what bargaining claims (sic) are to be handled more suitably at the sectoral level (for example, pensions and medical health)".**

As importantly, there is even some evidence of employers beginning to delay their own pay negotiations so as to take account of 'what comes out of the bargaining council process' (Van Der Walt, interview notes 17/11/99). *Fourth*, there are still too many 'rural' and 'township' SME employers who are as yet unwilling to be formally incorporated into the bargaining council system given their past distrust and avoidance

of authority generally and their formal exclusion from the centralised bargaining system under apartheid rule. Such 'evasion' is most apparent in those sectors like the construction industry where unions remain 'weak' and enforcement of agreements 'negligible' (Baskin, *ibid*).

These reports from observers of the bargaining scene usefully identify for us some defining characteristics of the bargaining council system. Undoubtedly, multi-employer bargaining is an institutional force that commands our attention, certainly in terms of its impact on the formal sector of the economy and not least in terms of potential shadow and pattern bargaining effects. However, its coverage remains uneven across the economy, being stronger in some industries (for example, manufacturing), weaker in others (building and construction) and non-existent elsewhere (agriculture). This means its coordinating capacity is noticeably weakened as a consequence. Problems are further exacerbated by the very conduct of those occupying seats in the bargaining council chamber itself. There appear to be too many occasions when the apartheid legacy of mutual distrust and adversarialism predominate. As a consequence, council negotiators have generally struggled to broaden the bargaining scope away from narrow pay-setting agendas to ones covering broader restructuring and allied welfarist issues (that is, industry accords and social plans). Mutual interests, high trust and consensus-seeking behaviour- prerequisites for this type of integrative bargaining- are not yet traits most readily associated with bargaining council proceedings. However, there are some notable exceptions such as the industrial accords that have been piloted in some key manufacturing sectors and that exemplify the potential for this more organised approach to industry restructuring (see, for example, Hirschsohn *et al.* 2000: 101-32). Nonetheless, for Baskin, an increasingly common occurrence is for both the larger corporate employer and the stronger workplace organisation to:

**“circumvent sectoral agreements altogether through reaching local deals and social pacts around restructuring work, retrenchments and social plans that are either being avoided or not even addressed by bargaining councils”** (interview notes 7/12/99).

This trend epitomises another defining characteristic of South Africa’s revised bargaining system. The new dispensation encourages the continuance of a *dualistic bargaining* system that had already begun to appear under late apartheid. This is for the following sets of reasons. *First*, mandated bargaining is not made compulsory on the parties but remains essentially voluntarist or, rather, bargaining councils can only be formed at their behest and when they also represent the majority of those working in that designated industry. *Second*, the new dispensation equips unions with certain organising rights such that the chances of gaining workplace recognition have improved. Crucial to this thesis, all agreements are now uniformly binding in law regardless of whether reached at firm or industry level. Finally, the right to strike extends equally to actions in support of plant as to industry bargaining including both secondary action and political ‘stayaways’. All of this amounts to due process treating one bargaining level the same as another despite an official preference for the system to become more articulated and agreements more coordinated through centralised bargaining activity. Unintentionally, new legal structures appear only to have exacerbated a dualism in the bargaining institution that first evolved under apartheid and that has now become such a defining feature of the landscape.

#### **11.4 The importance of employer associability and collective action**

A more fundamental problem that this bargaining dualism uncovers is one of employer preference. Voluntarism in South Africa’s bargaining system implies not only that employers can exercise choice over the granting of recognition but also, and crucial to this thesis, they can select the level at which they would prefer the bargaining locus to

be. However forced this element of choice might prove to be in the reality due to the enabling legislation and the relative strength of organised labour, nonetheless it is still the case that an individual employer's own state of preference proves crucial in deciding whether to engage with corporatist structures generally and mandated bargaining in particular. Some may favour industry bargaining taking precedence over enterprise bargaining or vice versa. The aggregate of these individual decisions can either strengthen or weaken a bargaining institution that is so instrumental to the overall articulation of South Africa's experimentation with social corporatism.

If institutional structures remain unhelpful in this respect, then the question arises as to whether more focused public policy initiatives directed at encouraging employer associability and collective action might prove more effective long term. This is to argue in favour of a public policy stance that is prepared to intervene as required in order to maintain a critical level of associability within South Africa's employment relations system. Here, *critical associability* means sufficient numbers of employers favourably disposed to associate together within the governance of an employer's organisation that then partakes in bargaining council proceedings on their behalf. The choices are clear-cut for the individual employer: to be 'party' or 'non-party' to an encompassing system of single-table bargaining or to defect completely from any central bargain through a strategy of *avoidance*, even *evasion* of any form of collective action. There are certainly grounds enough for individual employers to associate as to disassociate making any such decision-making finely balanced depending upon their reading of the situation they face. These explanations can be summarised as follows.

There appear to be three distinct rationales that are thought to explain why employers might choose to combine together in response to particular circumstances. The first two relate to different types of *control* that are commonly thought desirable for employers to

have. First, industry agreements remain sources of *market* control such that wages are removed from the heat of competition either to prevent an unstoppable race to the bottom over pay rates or to frustrate powerful unions deploying whipsawing tactics against individual employers considered vulnerable. Second, collective action is thought capable of enhancing *managerial control* through helping to neutralise union power in the workplace. Finally, associability may be seen as a way of compensating for perceived *competency* and *resource deficits* when it comes to the local management of employment relations. In contrast, the attractions of *free-riding* and *non-compliance* with agreements can weaken the appeal of employer solidarity as can an *employer offensive* against the very notion of centralised bargaining on grounds of the rigidities it brings into workplaces and the flexibilities it denies to those managements seeking competitive advantage. But what of these very same collective action problems materialising in the case of post apartheid South Africa? How wedded is the South African business community to centralised bargaining as embodied in the bargaining council system? Indeed, what are the chances of multi-employer bargaining becoming extensive and cohesive such that South Africa's experimentation with social corporatism becomes robust? In short, what does the evidence tell us and what of the prospects?

### **11.5 The state of employer associability in South Africa**

Contemporary evidence indicates bargaining council coverage extending to just under half of all formal workers, one in four of private sector workers and a healthier three-fifths of all those employed in manufacturing. Although these ratios appear to be fairly respectable compared to those for other parts of the world it also reminds us that there is little room for complacency, come the future. Such misgivings are compounded by growing evidence of employers in certain sectors beginning to deploy restructuring



strategies aimed entirely at evading associability through the ‘casualisation, externalisation and informalisation’ of work (Theron 2004). Such trends raise questions for us as to how resilient the bargaining council system may prove to be over the longer term and whether there is case for more policy intervention. How well associability bears up under pressure from both political and economic transitions becomes highly pertinent for countries like South Africa that are committed to corporatist-type solutions. Do the same collective action problems observed elsewhere apply equally to South Africa and at what risk to the well-being of its centralised bargaining system? In short, are growing numbers of employers becoming averse towards centralised bargaining as in, say, Sweden or Germany? This is the purpose behind my own researches into the associability of manufacturers operating as they do in such a key sector of the South African economy.

Results from the fieldwork are mixed. Survey findings tell us that whilst just under half of those manufacturers canvassed for their views show unwavering support for centralised bargaining, the rest remain either averse, indifferent or, as yet, undecided. Such evidence is neither a ringing endorsement for bargaining councils but nor is it testimony to a frontal assault on South Africa’s centralised bargaining system. To date, there is no mass desire from this sample of manufacturing employers for the total abolition of the bargaining council system. Nonetheless, some clearly prefer to exercise their own exit option but so far constitute a clear minority on the basis of this evidence. Perhaps more worrying are those employers who have yet to commit to the bargaining council system given the wider public interest in maintaining a level of *critical associability* that buttresses the workings of the centralised bargaining system.

How these *abstainers*, *defectors* and *defaulters* (see figure 3, chapter 7) are to be won over to the virtues of associability and to the authority of the bargaining council remains

of fundamental importance to us from a policy standpoint. This question boils down to what policy initiatives might be introduced that can convert our sample of sceptical and agnostic manufacturers to the merits of collective action and employer solidarity. The answer partly lays in what troubles them most when thinking about associability in the first place. My own survey work postulates that there are three well defined factors that all too frequently come into play: employers' perceptions of their own *competency*, of the *flexibility* afforded them under associability and of the *threat* posed by powerful government and strong unions. These constructs seemingly attract and repel employers into and out of associability. However, it is also apparent that an economic rationale around *labour flexibility* is beginning to dominate employer thinking much more than any political one relating to the relative power of the other actors. The earlier testimony of well-placed informants and observers of the bargaining scene provides an additional confirmation. Mindful of these considerations, we next turn our attention to the *policy ramifications* to be drawn from these empirical findings overall.

## **11.6 Policy guidance on employer associability**

Any policy thinking should be predicated on certain suppositions and principles that stem primarily from what these findings signify generally. Essentially, these deductions are intended to guide our thinking as to what might constitute 'good' as opposed to 'bad' policy prioritisation in this area and are to be viewed in this light. This is to infer that any impact assessments and feasibility studies of proposed bargaining reforms should be conducted from the standpoint that expanding associability is a highly desirable *public good*. Holding to this criterion also requires that possible (private) 'costs' to employers should never become the overriding consideration for policy reformers wanting the employment relations system organised.

### ***employer opt-out***

*First*, we need to acknowledge that industry bargaining enjoys such an *institutional presence* within South Africa that it is unlikely to collapse overnight. However, its permanency is not constitutionally safeguarded. The voluntarist nature of the bargaining council system ensures that '*employer flight*' from associability remains an ever-present possibility. There is a body of unassociated manufacturing employers (currently in a minority) who remain to be convinced as to the merits of collective action but who choose to withhold (but not withdraw) their consent for centralised bargaining. It is this constituency that should become the prime focus of our attention. Neglecting this key constituency is not an option for policy-makers interested in embedding centralised bargaining within South Africa's business community. Discouraging an employer opt-out from the bargaining council system becomes the central tenet of policy-making.

### ***employer lock-in***

*Second*, the primary objective, therefore, is to maintain levels of *critical associability* that prevent any further erosion of the bargaining council system. Incentivising employers into association and disincentivising them away from disassociation is one obvious way forward. Thus, the essential purpose behind any policy development is to fortify an *institutional lock-in* of employers through their membership of associations that articulate their interests within a bargaining council chamber. In doing so, there is a better guarantee of the '*shadow of the future*' manifesting itself within the bargaining council system such that the parties regard their bargaining relationship as being long term, interdependent and symbiotic and that their immediate deliberations will always be overshadowed by such considerations (Standing *et al.* 1996: 10; Traxler 2003c: 143).

### ***the balance of advantage***

*Third*, and in consequence of the above, any policy recommendation should always seek to ensure that the *balance of advantage* lies with those employers seen to be favouring associability as against those not so disposed. Impartiality is not helpful in this instance. Maintaining employer choice should no longer be the priority but rather skewing the options in ways that favour associability. This is to imply that state policy should change from a stance of *neutrality* between associated and unassociated employers to one of positive discrimination towards the former when it comes to the way that future policy might be formulated and subsequent legislation drafted. The supposition is that a *policy bias* should prevail in favour of ‘associated’ as opposed to ‘unassociated’ employers when discussing possible reform of the bargaining system. Being even-handed between the two, although instinctively fair and natural, should be resisted for the overall public good.

### ***reviewing policy***

*Fourth*, adopting this same outlook also requires reformers to ponder policy in this area from two distinct vantage points. There is always a case for periodically reviewing the current stock of policy and legislation in order to identify what needs to be conserved and *ring-fenced* and what might benefit from a *make-over* in order to ensure a better fitness for purpose. In contrast, there is also an exercise to be undertaken that identifies gaps in current policy provision that might tip the balance of advantage towards associated employers more patently whilst closing loopholes that only encourage further disassociability from disaffected employers.

### ***bundling***

*Finally*, it might also pay to take note of developments in the area of strategic HRM. Here, contemporary thinking has the notion of HR strategy complimenting business

strategy through achieving a type of ‘best fit’ between the two (for example, Schuler and Jackson 1987). For the likes of Macduffie (1995), this is best achieved through the development of HR-orientated ‘policy bundles’ that can underpin compatibility.

Likewise, we might envisage something similar here whereby a coherent set of policy bundles is used to shore up associability within the wider South African business community. This is to suggest that no one policy prescription proves sufficient other than when tied to others. Indeed, ‘Additive’ benefits supposedly accrue as a consequence (Guest 1997: 271-3). ‘*Bundling*’ also implies that policies have to compliment each other so as to avoid inconsistencies (Wood and de Menezes 1998: 487). Any new initiative can only be approved when shown to reinforce, rather than undermine, the internal coherence of any existing policy set. Thus, impact assessments are required to take account of the potential for incompatibilities to occur.

## **11.6 Policy prioritisation and associability**

The following discussion on policy prioritisation is informed by the need to angle any singular *cost-benefit calculus* towards association and away from disassociation such that the former appears ever more advantageous relative to the latter. The argument is straightforward and the evidence unambiguous. The more powerful both labour and the state appear to be, the more likely are employers drawn to associability. The more organised the bilateral actors become, the more it necessitates them engaging co-operatively with corporatist structures and processes. Current policy should be adjudged by reference to this fundamental goal and future developments assessed for their likely contribution to its attainment. With this objective in mind, state regulation and policy is first reviewed by reference to what is best preserved prior to exploring possible additions to the existing policy canon.

## **policy conservation**

According to Traxler (2003c: 152-3), ‘procedural state regulation’ always provides a better guarantee of employment relations becoming organised. On this basis, five particular facets of South Africa’s current regulatory regime seem particularly worth retaining, especially in light of my own survey findings.

## ***extension***

*First*, making industry agreements *encompassing* through legal extension is considered crucial to the success of any centralised bargaining regime. My own survey work reaffirms the sensitivities surrounding the particular free-riding and non-compliance aspects of being a ‘non-party’ to industry single-table bargaining. This might well explain why extending agreements through Ministerial approval appears to be unproblematic in this case - at least for the majority of those manufacturing employers sampled previously. *Legal extension* has three characteristics that are deemed vital for the sustainability of any centralised bargaining system. It ensures maximum bargaining coverage beyond membership (through the device of the Common Rule). It assuages the fears of ‘party’ employers that their ‘non-party’ rivals might undercut them. Finally, there seems to be an unambiguous positive correlation between a reliance on legal extension and membership density in employer associations – at least for the OECD countries (Traxler 1998). This is because employers appear motivated to associate out of a desire to influence outcomes from any industry bargaining process that they are bound by regardless of membership or not (Traxler 2003c: 152). For these reasons, it seems that legal extension has become a prerequisite for sustainable employer associability in South Africa. However, legislative amendments introduced in 2002 may prove unhelpful in this respect. This is because the law now requires the bargaining parties to represent a majority of not just those falling within the registered scope of the council but also upon its *extension*. In addition, there is also an entitlement for ‘non-

party' employers to make direct representation to the Minister prior to determination. These legislative refinements may require further monitoring for their possibly negative impact on associability.

### ***exemption***

*Second*, it also seems that nowadays 'hardship clauses' are a necessary adjunct to legal extension as a way of keeping potentially disaffected employers on side (see, for example, Bhorat *et al.* 2002: 50-1). Thus, the provision of *legal exemption* from the specific terms of agreements under current legislation continues to prove popular with many of the SME population of manufacturing concerns, according to survey evidence and official policy. Its continuance remains a given but also raises questions as the proper role of bargaining councils in overseeing such applications despite their record of establishing independent panels and of frequently granting exemptions to non-party employers (Stapelberg 1999: 30-2). The possibility of gaining exemption from parts of agreements remains a crucial element of the *flexible associability* that surveyed manufacturers have recently identified as being of growing interest to them.

### ***enforcement***

*Third*, codifying the monitoring and *enforcement* of terms agreed in bargaining councils through the appointment of 'designated agents' under the 1995 Labour Relations Act (s.33) is also held to be supportive of mandated bargaining. However, there may well be a case for further extending the policy despite the articulation of explicit monitoring and enforcement powers introduced under amendment in 2002. As matters presently stand, enforcement *costs* fall wholly on the relevant bargaining council many of whom financially struggle to provide an adequate level of inspection through to enforcement that ensures a critical level of conformance with the terms of agreements. A weak enforcement regime only exacerbates the problem of free-riding and non-compliance.

Once again, from a public policy perspective, matched funding or state subsidy of a bargaining council's enforcement activities may prove beneficial in terms of its deterrence value and the ultimate enhancement of bargaining co-ordination. Certainly, it warrants further investigation as to its feasibility by way of pilot studies. If nothing else, these *enforcement standards* should be kept under constant review to ensure that, at the least, employers are discouraged from disassociability through their non-compliance with agreements.

### ***organising***

*Fourth*, additional state support for multi-employer bargaining can come indirectly through measures that promote *union organising* in the workplace (Traxler 2003c: 142). In South Africa, legal provision for union organising rights, agency shops and the strike weapon can only increase the chances of some element of representation and membership taking hold in more workplaces than would otherwise be the case. These improved circumstances for labour can also have consequences at the sectoral level. The more unions are able to amass workplace membership across designated sectors, the more likely they are to reach cumulative thresholds of representation that pass the legal test for registering bargaining councils. Moreover, my own survey findings suggest to us that a growing union presence in the workplace can only increase the likelihood of associability for those individual employers believing themselves vulnerable and lacking capacity. The more unions and their affiliates prosper the more solidaristic will employers become. Thus, labour laws that are designed to underwrite the *organising capacity* of unions in the workplace can also consolidate, even facilitate, multi-employer bargaining and employer associability, as with South Africa's Labour Relations Act. Indeed, there is a case for union strategists factoring these considerations into their calculations when mounting future mobilisation campaigns. Likewise, no South African government should ever contemplate diluting these organising rights.



Indeed, the same can be said for all the above auxiliary measures aimed at enhancing the organising capacity of unions, their affiliations *and* employer groups.

### ***alliance***

*Finally*, maintaining a political alliance between South Africa's ruling parties (ANC and SACP) and its leading union affiliation (COSATU) can also be viewed as encouraging employers to behave more solidaristically. It seems that this 'Tripartite Alliance' still has the potential to galvanise employers into acting collectively according to survey evidence that suggests a fair proportion of manufacturing employers remaining wary of politically strong labour movements acting in partnership with powerful governments. Never mind that this coalition has come under increasing strain since 1995 as disagreements mount over the direction taken by government on macro-economic policy. There is still considerable benefit to be had in sticking with a collaboration that affords both allies mutual gains in terms of their power status relative to capital.

### **Policy Development**

Strengthening associability and the functioning of bargaining councils involves a number of measures that entail changes to various labour market policies and regulations. The following suggestions for improving the current policy package are made notwithstanding earlier efforts already made by the Department of Labour to address 'misuse and abuse' of the registration process by those bent on emasculating the whole bargaining council system. Recent years have seen a proliferation of 'bogus' trade unions and employer bodies intent on taking up seats in bargaining council chambers with a view to undermining their proper functioning. Now, through further amendments to the Labour Relations Act in 2002, steps have been taken to debar these 'phoney' organisations from bargaining council proceedings through empowering the Registrar of Labour Relations to de-register them. But this intervention alone might not

suffice. Perhaps there is more still to be done through implementing further modifications to the Labour Relations Act.

### ***legislative reform***

As noted previously in chapter seven, employer groups like COFESA have deliberately set out to recruit employers into membership and help them convert protected ‘employees’ into unprotected ‘independent contractors’ with the express purpose of removing them from bargaining council coverage. To foreclose on these legal loopholes might require additional measures along the following lines. As in the European Union, ‘*pro rata*’ protection rights for atypical workers could be grafted onto the legislation. Alternatively, the *registered scope* of bargaining councils could be altered in ways that automatically cover such categories of worker. Another way of strengthening bargaining council jurisdiction would be to introduce *legal tests* similar to those applied in UK common law that are designed to ascertain the employment status of workers. All these suggestions should prove useful in obstructing those employers bent on evading their responsibilities to their workers. However, there is also another problem yet to be resolved. Bodies like COFESA have also sought to secure seats on councils with the outright intention of dismantling them.

As the Act currently stands, there is always leeway for a determined employer group to register as a party with the express purpose of de-registering the bargaining council itself. This ‘exodus’ strategy may prove especially popular with non-party employers disaffected with centralised bargaining arrangements. Provided such firms employ a majority of workers within the ‘registered scope’ of the council then *organised de-registration* must always remain a possibility. The following steps could be taken to render this prospect ever more remote. *First*, for an employers association to become registered as a ‘body corporate’ would require it to have within its constitution a

declaration of intent to become a party that occupies seats in the relevant bargaining council. *Second*, an express condition of registration as a party might require both trade unions and employer associations to undertake ‘*good faith*’ bargaining within the forum of a bargaining council. Such an obligation means that inappropriate bargaining behaviour by any one party could attract the attentions of the Labour Court. *Third*, registration of a bargaining council could automatically require its constitution to adopt a *code of practice* that spells out what bargaining in good faith means within the specific context of the bargaining council forum. ‘Party’ adherence to the code might then be taken into account in any subsequent legal or arbitral proceedings. *Fourth*, should such registered parties subsequently give notice of withdrawal from a bargaining council whereby the latter’s registration itself becomes liable to cancellation, then at that point the Minister of Labour is obliged to mount an inquiry into circumstances and investigate alternatives for preserving its bargaining reach.

### ***training***

But it is not just changes to the legislative framework that could make a difference. For instance, my own survey work reminds us how significantly training resonates with most manufacturing employers. There may well be opportunities to capitalise on this interest through linking associability more explicitly to the structure of the country’s vocational education and training system (VET). Most notably there is a skills levy-grant system that is intended to promote ‘employer provided training’ (EPT) through imposing a ‘targeted payroll tax’. The aim is to encourage companies both to develop a training strategy and framework for themselves as well as contribute to VET overall. Under the system, a compulsory levy is deducted from companies who can subsequently recover the majority cost of the levy upon ‘enactment, recording and submission of certain regulated training-related activities’ (Lee 2002: 4-7). Clearly, the intended beneficiaries of any reductions in the tax burden are those companies acting as

training providers. Further adjustments to this fiscal arrangement could be made such that such 'training' companies could also be rewarded for being members of a registered association and party to a bargaining council that either regulates or negotiates on training provision. Associated employers would then be entitled to receive either a greater discounted levy or increased refund.

### ***social dialogue and productivity coalitions***

It is not just the practices of employers and bargaining councils that should attract scrutiny from policy-makers. There is also the issue of social dialogue and how this peak forum might itself contribute to bargaining centralisation and co-ordination. The labour market chamber of NEDLAC has previously attempted to improve matters through various accords and social plans but with mixed results to date (for example, Dexter interview notes 15/11/99). A fundamental problem has been reluctance on the part of the bilateral partners (primarily BUSA and COSATU representatives) to accept responsibility for ensuring that whatever has been agreed at this level is disseminated to industry negotiators in ways that deeply informs their own negotiations. Conversely, the same can be said of the bilateral parties sitting in bargaining councils. By and large, they too feel little obligation to take note of what has been discussed and agreed within NEDLAC chambers (Baskin, interview notes 7/12/99; Webster, interview notes 20/11/99). However, it might prove worthwhile trying to remedy this anomaly through drawing on a productivity accord that is currently under discussion within NEDLAC.

An opportunity now presents itself for NEDLAC parties to pressure bargaining council negotiators into making a series of *industry accords* in line with whatever eventually emerges from this proposed *productivity coalition*. These accords would be derived from a framework established under the auspices of NEDLAC's labour market chamber

that could explicitly address a number of restructuring issues simultaneously. This would likely entail trade-offs and concessions around employment, work, technology and employability training. In this way industry accords could also take account of what any national accord might intend whilst also setting the agenda for any enterprise bargaining that might then follow. Such ambition requires NEDLAC representatives to be liaising with bargaining council counterparts on a more regularised and mediating basis so as to ensure sympathetic interpretations of the national productivity accord that best fit idiosyncratic sectoral needs. Above all, it should be state representatives that take the lead in all of this. Any such initiative will likely lose impetus without their whole-hearted support and determination. Revitalising NEDLAC's social dialogue processes requires a form of leadership that only the state can provide.

The same maxim applies to any championing of industry bargaining reform. Only the state has the means by which South Africa can change from having a *dualistic* bargaining system with *multi-employer* overtones to one that becomes recognisably *multi-tiered* and *coordinated* in terms both of process and outcome. Formally acknowledging ideas like the above for making *associability* stronger through policy *guidance, conservation* and *development* can signal an end to any ambivalence the South African state has previously shown towards making its employment relations more organised and its corporatist institutions more robust. For South African corporatism to become stronger in future requires both the other organised actors to do likewise. However, reformers are constrained in what they can initiate. Given South Africa's retreat from racial corporatism and elitism, any form of compulsion would prove to be a step too far. Instead, it must be left to the South African state to facilitate *organisability* through policy prescription and a programme of incentivisation that acknowledges this voluntarist precondition. Subtlety, not insensitivity, is the prerequisite for this type of policy approach. Such prioritisation applies equally to

capital as much as it does to labour since their mutually reinforcing strength and capacity provides the best guarantee that each stays within the corporatist fold. The contention throughout this thesis has been that, nowadays, it is capital ahead of labour that is more likely to defect from any central bargain. Based on this presumption, this country study tries to substantiate why employer associability should enter the policy lexicon for any state wedded to social corporatism. In fact, these abridged observations and recommendations would seem to represent a fitting conclusion with which to end this whole thesis.

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## Appendix 1      SURVEY Nos.1    (Summer 1995)

### *Specimen Questionnaire*

Dear Sir/Madam

I am a UK lecturer conducting research as part of my doctoral thesis at the London School of Economics . I am interested in employers' views about how the Labour Relations Act (1995) will affect their current industrial relations arrangements. My particular concern relates to the official encouragement for businesses to seek or retain membership of an employers' organisation.

Your organisation has been selected as one of many within the business community of the New South Africa whose views are to be valued.

**Your responses will be held in the strictest confidence.** Neither you, nor your organisation, will be identified by name in the resulting study.

The questionnaire has been designed not to waste your time ( or, at least, as little as possible !). You are simply asked to tick a box or circle a number between 1 and 5 for each item as indicated. Overall, these are intended to denote your preferences and views across a range of issues. Eventually, I hope to make the results available to participants upon request.

Unfortunately due to the restricted length of my visit this time, I would be grateful if **the questionnaire responses could be returned to me within three weeks of receiving this request for help.** Your cooperation will be much appreciated.

**The survey itself should take you no more than 20 minutes to complete .**

Ideally, I would like to extend the research by way of a limited number of interviews based on the survey's preliminary results. **To this end, I have asked organisations to indicate whether they would be interested in such a follow-up.** I would be extremely grateful if some consideration could be given to this although I fully appreciate the constraints upon your time.

**Upon completion, please forward to the address provided.**

Thanking you in advance for whatever time you can afford this matter.

Yours faithfully,

Eddy Donnelly  
Senior Lecturer in HRM at Bournemouth University Business School  
registered doctoral candidate at The London School of Economics (London, UK).

c/o Pretoria Polytechnikon; Faculty of Economic Sciences (fax: 012-318-5635)

#### **contacts (UK):**

**telephone**                      00944 -1202- 504216    **fax** 0944 - 1202 - 298321  
**e.mail**                        edonnell@ bournemouth.ac.uk

## SECTION A: COMPANY DATA

**nb:** n/a indicates 'not available'

### CURRENT WORKFORCE:

1. *please underline which of the following industry categories best describes the main business of your organisation:*

<b>manufacturing</b>	mineral products, chemicals	metal goods manufacture
-	construction & heavy engineering	textile & clothing
-	food & drink	other manufacturing

2. what is the total size of your workforce (across all sites)? \_\_\_\_\_ n/a
3. what percentage (approx.) are :
- |                 |           |                      |           |
|-----------------|-----------|----------------------|-----------|
| clerical/admin? | _____ n/a | skilled manual?      | _____ n/a |
| professional?   | _____ n/a | semi-skilled manual? | _____ n/a |
| managerial?     | _____ n/a | unskilled manual?    | _____ n/a |
4. is your company foreign-owned? \_\_\_\_\_ wholly/ partly / not at all
5. what percentage (roughly) of managers are white? \_\_\_\_\_
- what percentage of employees (roughly) are non-white? \_\_\_\_\_
6. what percentage (roughly) of managers are female? \_\_\_\_\_
- what percentage (roughly) of employees are female? \_\_\_\_\_

### CURRENT and FUTURE INDUSTRIAL RELATIONS ARRANGEMENTS

*pleases circle as appropriate*

7. how many of your employees belong to a union? \_\_\_\_\_ none / less than 50% / more than 50%
8. do you currently recognise any representative union(s) for bargaining purposes in any part of your operations? \_\_\_\_\_ yes / no / don't know
9. do you have a closed shop agreement in operation within any part of your organisation? \_\_\_\_\_ yes / no / don't know
10. does your organisation belong to an employers' organisation ? \_\_\_\_\_ yes/ no/ don't know
11. if yes, does this body currently sit on a bargaining council? \_\_\_\_\_ yes/ no/ don't know
12. if yes, are you happy enough for such a body to continue to represent you in this way? \_\_\_\_\_ yes/no/not sure
13. if no, would your company approve of the employers' organisation helping to establish a bargaining council? \_\_\_\_\_ yes/ no/ not sure
14. if not a member, is your company considering joining an employers' organisation ? \_\_\_\_\_ yes/ no/ not yet



15. if yes, would your company like such an organisation to help form the employers' side of a bargaining council? yes/ no/ not yet
16. has your organisation established anything similar to that proposed for workplace forums under the new law? yes/ no/ not yet
17. is your organisation considering introducing the equivalent of workplace forums for non-unionised parts of workforces? yes/ no/ don't know

#### RECENT COMPANY PERFORMANCE

***please place a circle around that number which you feel best represents your views on the statements on offer. your choices are as follows:***

- 1.... below average      2.... average      3.... slightly above average***  
***4.... above average      5.... well above average***

(current) comparisons with the rest of the industry (including close competitors) suggest that:-

- |     |  |   |   |   |   |   |
|-----|--|---|---|---|---|---|
| 18. | the company's financial performance is.....  | 1 | 2 | 3 | 4 | 5 |
| 19. | productivity performance for the company is ...  | 1 | 2 | 3 | 4 | 5 |
| 20. | company profitability has been improving .....   | 1 | 2 | 3 | 4 | 5 |
| or  | company profitability has been falling.....  | 1 | 2 | 3 | 4 | 5 |
| 21. | the company has expanded the number of jobs ...  | 1 | 2 | 3 | 4 | 5 |
| or  | the company has decreased the number of jobs...  | 1 | 2 | 3 | 4 | 5 |
| 22. | the industrial relations 'climate' for the company remains ....  | 1 | 2 | 3 | 4 | 5 |
| 23. | recently, market competition has begun to increase for the company by :-<br>very much / much / a little / hardly at all / not at all |   |   |   |   |   |

***pto***

## SECTION B: EMPLOYERS ORGANISATIONS

Below are set out a number of statements that try to reflect the most popular explanations for why organisations might choose to belong or not belong to an employers' organisation. As a representative of your company, you are asked to indicate how strongly you feel about these matters bearing in mind the recent changes brought about by the Labour Relations Act (1995).

***please place a circle around that number which you feel best represents your views on the statements on offer. your choices are as follows:***

***1.... strongly agree (with the statement )***

***2.... strongly agree***

***3.... neither agree nor disagree***

***4.... disagree***

***5.... strongly disagree***

- |  |   |   |   |   |   |
|--|---|---|---|---|---|
| 24. it makes sense for a company to belong to an employers' organisation when a government gives strong support to trade unions.   | 1 | 2 | 3 | 4 | 5 |
| 25. any agreements reached by the parties in a bargaining council still provides enough leeway for an employer to implement it flexibly within his/her company             | 1 | 2 | 3 | 4 | 5 |
| 26. it is good for companies to have representatives working with union counterparts to moderate 'over-competitive' labour practices                                       | 1 | 2 | 3 | 4 | 5 |
| 27. it makes sense for companies to trust their employer representatives and give them a virtually free hand to negotiate on their behalf                                  | 1 | 2 | 3 | 4 | 5 |
| 28. my company would be prepared to conduct a 'lock-out' of workers if recommended to do so by an employers' association   | 1 | 2 | 3 | 4 | 5 |
| 29. it is natural for an employer to want to join an employers' organisation so as to protect its interests against a powerful union movement                              | 1 | 2 | 3 | 4 | 5 |
| 30. an employers' organisation can do a good job in getting agreements from bargaining councils on the provision of vocational training that is helpful to businesses      | 1 | 2 | 3 | 4 | 5 |
| 31. too much autonomy is lost by a company through membership of an employers' organisation and subsequent representation on a bargaining council                          | 1 | 2 | 3 | 4 | 5 |
| 32. the agreements that come out of bargaining councils provide the best means for managing the 'crisis of expectations' that has arisen post apartheid                    | 1 | 2 | 3 | 4 | 5 |
| 33. there is nothing wrong with non-members deriving the same gains as members from the efforts of employers' organisations dealing with unions                            | 1 | 2 | 3 | 4 | 5 |
| 34. the possibility of gaining exemption from industry-wide agreements is a decisive factor for companies when deciding to commit themselves to an employers' organisation | 1 | 2 | 3 | 4 | 5 |
| 35. my company fails to see how agreements reached in  |   |   |   |   |   |



## Appendix 2      EMPLOYER SURVEY nos 2 (Autumn 1999)

### *Specimen Questionnaire*

Dear Sir/Madam

I am an academic from the UK conducting research as part of my doctoral thesis at the London School of Economics. Some of you may recall an earlier questionnaire I circulated in mid-1996, the response to which was both positive and informative and for which I owe you many thanks. This second questionnaire is a follow-up to the first one. I am still interested in employers' views, and how they might be changing, following the implementation of reforms associated with the Labour Relations Act (1995), its subsequent amendment and current debates over further adjustments to the system. My particular interest is in measuring their impact on current arrangements for managing labour relations at the industry level. This survey addresses a past encouragement for businesses to seek or retain membership of employers' organisations and, thereby, their endorsement of the 'bargaining council process'.

Your organisation has been selected as one of many within the business community of South Africa whose views are to be valued in this respect. **Your responses will be held in the strictest confidence.** Neither you, nor your organisation, will be identified by name in the resulting study.

The questionnaire has been designed not to waste your time (or, at least, as little as possible!). Mostly, you are simply asked to circle a word or phrase and a number between 1 and 5 for each item as indicated. Overall, these are intended to denote your preferences and views across a range of issues. There are forty 'quick' responses that are sought in total.

Unfortunately due to the restricted length of my visit, I would be grateful if **the questionnaire responses could be returned to me within three weeks of receiving this request for help.** Your cooperation in this regard would be greatly appreciated.

**The survey itself should take you no more than 20 minutes to complete. Upon completion, please forward via the self-addressed, pre-paid envelope attached.**

If you wish to find out the 'headline' results from both surveys please do not hesitate to contact me at the numbers provided below. I will be returning to the UK in mid- January and will be working on the findings from this second survey from March 2000 onwards.

Thanking you in advance for whatever time you can afford.

Yours faithfully,

Eddy Donnelly      Senior Lecturer in Human Resource Management (MSc; MA; MIPD)  
Bournemouth University / The London School of Economics (UK).

C/o      The Sociology of Work Unit (Rm. 232a )  
University of the Witwatersrand,  
Private Bag 3, Wits, 2050  
Johannesburg,  
South Africa

tel      011 716 2908      fax      011 716 3781

contact (UK): tel      0944 -1202- 504216      fax      0944 - 1202 - 298321

e.mail   **e.donnell @ bournemouth.ac.uk**

## Section A: Company Data

### TYPE OF BUSINESS

1. please underline which of the following industry categories best describes the core business of your organisation:

<b>manufacturing:</b>	mineral products	chemicals/petro-chemicals
	construction & engineering	textile & clothing
	food & drink	metal goods manufacture
	light engineering	other manufacturing

2. what is the total size of your workforce (across all sites)? (approx) \_\_\_\_

4. is your company foreign-owned? wholly/ partly / not at all

### CURRENT LABOUR RELATIONS ARRANGEMENTS

*please circle as appropriate*

7. how many of your employees belong to a union? none/ minus 50%/ plus 50%

8. do you currently recognise any representative union(s) for bargaining purposes in any part of your operations? yes / no / don't know

9. do you have a closed shop agreement in operation within any part of your organisation? yes / no / don't know

10. does your organisation already belong to an employers' organisation ? yes/ no/ don't know

11. has your organisation established a workplace forum or similar anywhere in the company? yes/ no/ not yet

12. is your business registered as a 'party' or 'non-party' employer with any bargaining council? party/ non-party/neither

### RECENT COMPANY PERFORMANCE

Please place a circle around that number which you feel best represents your views on the statements on offer. Your choices are as follows:

1....well below average	2.... below average	3.... average
4.... above average	5.... well above average	

(current) comparisons with the rest of the industry (including close competitors) suggest that:-

13. the company's financial performance is..... 1 2 3 4 5

- |     |   |   |   |   |   |   |
|-----|---|---|---|---|---|---|
| 14. | productivity performance for the company is ...   | 1 | 2 | 3 | 4 | 5 |
| 15. | recent company profitability has been .....   | 1 | 2 | 3 | 4 | 5 |
| 16. | the industrial relations 'climate' for the company remains ....   | 1 | 2 | 3 | 4 | 5 |
| 17. | recently, market competition has begun to increase for the company by :-<br><i>very much / much / a little / hardly at all / nothing at all</i> |   |   |   |   |   |

### ***Section B: Employers Associations and Industry Bargaining***

Below are a number of statements that try to reflect the most popular explanations for why business might choose to belong or not belong to an employers' organisation that participates in the bargaining process. As a representative of your company, you are asked to indicate how strongly you feel about these matters being mindful of the original changes brought about under the Labour Relations Act (1995) and your experience of its workings to date.

***please place a circle around that number which you feel best represents your views of the statements on offer. Your choices are as follows:***

- |  |  |
|--|--|
| <b><i>1.... strongly disagree (with the statement)</i></b> |  |
| <b><i>2....disagree</i></b>                                | <b><i>3.... neither agree nor disagree</i></b> |
| <b><i>4.... agree</i></b>                                  | <b><i>5.... strongly agree</i></b>             |

- |   |   |   |   |   |   |
|---|---|---|---|---|---|
| 18. being allowed exemptions from agreements is important for our company deciding whether to belong to an employers' organisation that then sits in a bargaining council | 1 | 2 | 3 | 4 | 5 |
| 19. industry agreements reduce industrial conflict and provide valued stability within my industry  | 1 | 2 | 3 | 4 | 5 |
| 20. it makes sense for a company to belong to an employers' organisation when a government gives strong support to trade unions.  | 1 | 2 | 3 | 4 | 5 |
| 21. employers' organisations in my industry do not protect my company's interests within the bargaining council process or equivalent.                                    | 1 | 2 | 3 | 4 | 5 |
| 22. agreements reached by parties in a bargaining council still provides enough leeway for an employer to implement it flexibly at the company and plant level            | 1 | 2 | 3 | 4 | 5 |
| 23. too much autonomy is lost by a company through membership of an employers' organisation and its   |   |   |   |   |   |

subsequent representation on a bargaining council	1	2	3	4	5
24. it is natural for an employer to want to join an employers' organisation so as to protect its interests against a powerful union movement	1	2	3	4	5
25. my bargaining council's 'agents' deal effectively with those employers not registering and not complying with its agreements	1	2	3	4	5
26. there is nothing wrong with non-members deriving the same gains as members from the efforts of employers' organisations dealing with unions	1	2	3	4	5
27. my company fails to see how agreements reached in a bargaining council can lead to significant improvements in our 'productivity performance'	1	2	3	4	5
28. I can see the bargaining council process helping to restructure the whole of my industry in the future	1	2	3	4	5
29. it is unnatural for companies to collaborate with business rivals within an employers' organisation over employment matters effecting market competitiveness	1	2	3	4	5
30. my company has the confidence and 'know-how' to manage its labour relations without the need to be represented by an employers' organisation	1	2	3	4	5
31. the changing world of work makes bargaining much more important at industry than at company/ workplace level	1	2	3	4	5
32. all members of employers' organisations should be prepared to abide by decisions made on their behalf whether they like them or not	1	2	3	4	5
33. generally, industry-wide agreements help, rather than hinder, my company's management of its workers	1	2	3	4	5
34. it is tempting to avoid membership of an employers' organisation because of the competitive advantage enjoyed by those who remain non-members	1	2	3	4	5
35. the interests of both small and medium-sized firms are well represented by the employers' association within the bargaining council process for my industry	1	2	3	4	5
36. the way that bargaining councils (or similar) operate in practice still leaves a company sufficient scope for managing its industrial relations affairs as it sees fit	1	2	3	4	5
37. legally extending industry agreements to non-parties is a welcome part of the bargaining council process	1	2	3	4	5
38. these days, company industrial relations matters are too important to be left in the hands of employers'					

organisations and bargaining councils (or similar)	1	2	3	4	5
--	---	---	---	---	---

39. the content of industry agreements sets the framework for more useful negotiations to occur at the enterprise level	1	2	3	4	5
---	---	---	---	---	---

40. within bargaining councils, employer associations should just stick to setting basic pay and conditions for the industry and not bother itself with broader 'restructuring' issues	1	2	3	4	5
--	---	---	---	---	---

41. employers' associations reflect 'urban' employer interests better than those of 'rural' employers when negotiating industry agreements with their union counterparts	1	2	3	4	5
--	---	---	---	---	---

***Thank you for your time and help. Please return to the address provided in the pre-paid envelope***



### Appendix 3 Interview Schedule (November/December 1999)

<b>name</b>	<b>status</b>	<b>organisation</b>	<b>date</b>
<b><i>HR Corporate Directors</i></b>			
Nigel Unwin	HR Director	Anglo-Gold	29.11.99
Sipho Sitole	HR Director	Erickson Telecom (SA)	30.11.99
Bill Doyle	HR Director	Seimens Telecom (SA)	06.12.99
Penny Abbott	HR Director	Alpha Cement (SA)	08.12.99
<b><i>Employer Association Officials</i></b>			
Colin De Kock	General Secretary	Masters Building Association (Cape Province)	17. 11.99
Mike Spowart	Officer, Industrial Relations Department	Chamber of Mines (COM)	30.11.99
David Carson	Director of Industrial Relations Department	Steel & Industry Federation of South Africa (SIFSA)	01.12.99
Christine Randell	Executive Secretary	Chemical & Allied Industries Association (CAIA)	01.12.99
Marianne Lauser	General Secretary	Transvaal Clothing (TCMA) Manufacturers Association	09.12.99
<b><i>National Employer Organisation Officers</i></b>			
Andre Van Nierkerk	Legal Advisor	Business South Africa (BSA)	18.11.99
Adrian De Plessis	Executive Officer	Business South Africa (BSA)	23.11.99
<b><i>Governmental and Non-Governmental Officers</i></b>			
Phillip Dexter	Executive Director	National Economic Development and Labour Council (NEDLAC)	15.11.99
Dennis Van Der Walt	Director of Collective Bargaining	Department of Labour	17.11.99
Wayland Stapelberg	Chief Executive	National Association of Bargaining Councils (NABC)	18.11.99
Jeremy Baskin	(Past) Director of Communications	Department of Labour	07.12.99

## **Interview Schedule (cont.)**

<b>name</b>	<b>status</b>	<b>organisation</b>	<b>date</b>
<i>Academic Commentators</i>			
Frank Howitz	Professor of HRM	University of Cape Town (Business School)	11.11.99
Shane Godfrey	Researcher/lecturer	University of Cape Town (Sociology Department)	11.11.99
Eddie Webster	Professor/ Director of Sociology of Work Unit	University of Witswaterand (Johannesburg)	20.11.99
Louet Douwes Dekker	Professor of Industrial Relations	University of Witswaterand Business School	04.12.99