

Collective bargaining

from adversarialism to co-operation?

The advent of the new LRA has raised expectations about fundamental change in the nature of South African labour relations and of collective bargaining in particular.

For many observers, it signals a shift from a highly adversarial model of relations to one based on greater co-operation and industrial peace. This apparent shift seems all the more plausible as an unfolding democratisation process intersects with the challenges of a highly competitive, globalised economy, new forms of work organisation and participative decision making.

The new legislative environment anticipates as well as encourages a paradigm shift away from the old adversarial model characterised by high levels of conflict, union repression, discrimination, cheap labour and authoritarian managerial styles to a more co-operative model based on collective bargaining, greater participation, organisational rights, effective resolution of conflict, and higher levels of co-operation resulting in greater flexibility and improved productivity outcomes.

Is there a fundamental shift in the collective bargaining arena? Is the level of industrial action a reliable indicator of trends in the labour market? What are the main obstacles to a more constructive collective bargaining process?

Adversarialism

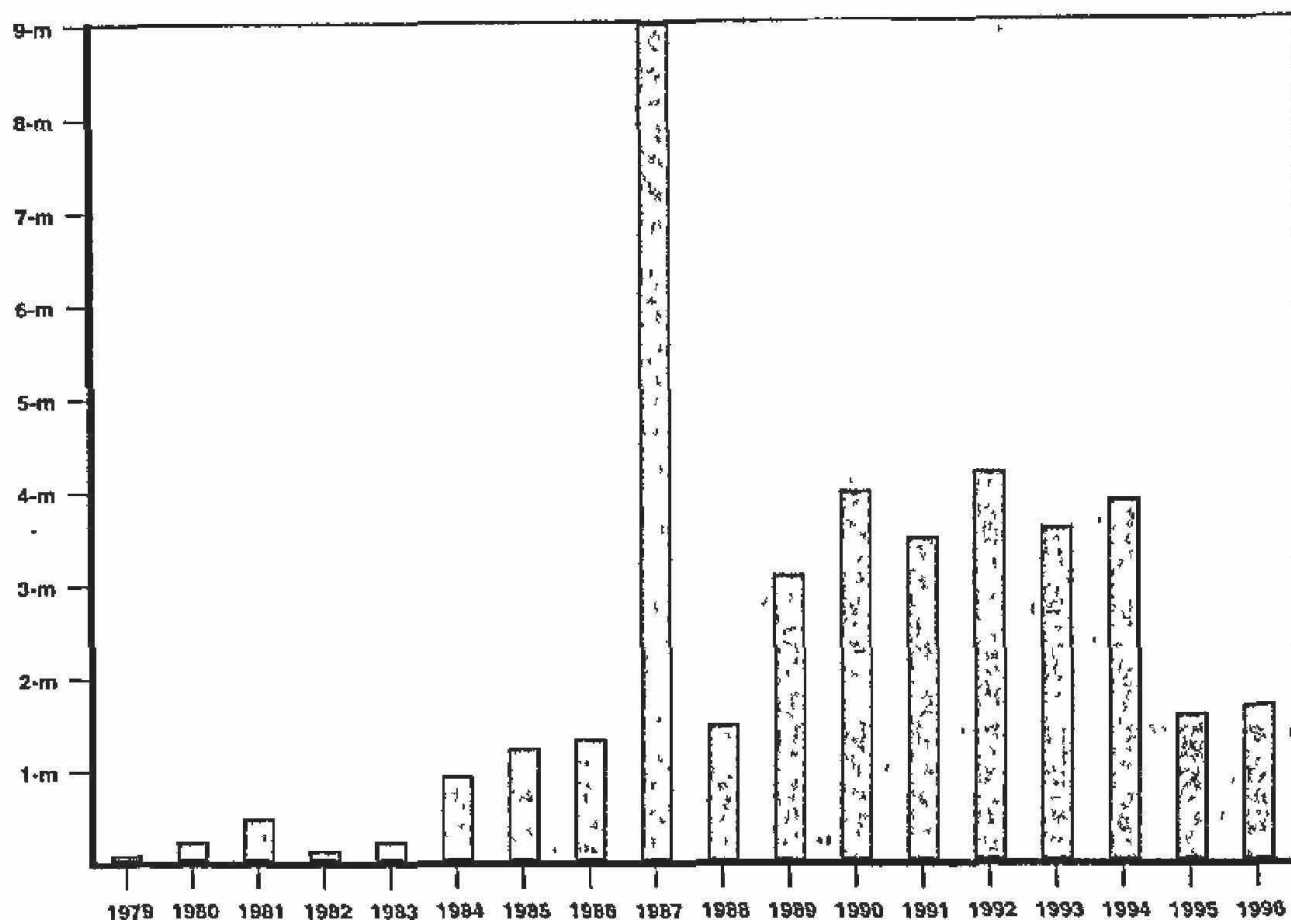
Is the South African labour market moving away from adversarialism? The graph on the

New labour laws have done little to alter the extremely adversarial nature of collective bargaining in South Africa. Alistair Smith explores the changes in mindset that may be necessary to turn this situation around.

next page outlines the trend in industrial conflict since 1979. The data is drawn from the *Andrew Levy and Associates Survey* which is based on sample surveys and monitoring of press reports. It is not absolutely accurate, but provides a useful indication of trends.

The figure for 1987 is the highest in labour history. This is largely due to COSATU's political role and stayaway action. Important strikes on the railways and mines made their contribution. Since 1990 the number of person days lost has hovered between three and four million, while the figures dropped below two million in 1995 and 1996.

According to the latest *Andrew Levy and Associates, Quarterly Survey* 78 000 person hours were lost due to industrial action in the first quarter of this year. This compares with 175 000 for the same period in 1996.

Figure 1: Person days lost

Shifts?

This could lead to the conclusion that industrial conflict is declining and that there is therefore a shift away from adversarial labour relations. Such a conclusion should, however, be treated with caution for a number of reasons: Firstly, the data is based on a very simple methodology which may not be statistically valid. Secondly, while the figures for 1995 and 1996 indicate a definite drop compared to the period 1989 to 1990, it is not significantly lower than it was in 1985, 1986, and 1988. If anything, the survey is most useful as a measure of the volatility of industrial relations.

Triggers

The two main strike triggers are wage disputes and grievance and disciplinary related issues. For the last few years most strikes have been triggered by disputes over

wages. In 1995, wages were responsible for 87 % of the person days lost, with grievance and disciplinary issues contributing to about 12 %. Retrenchment and recognition disputes accounted for only 1% each.

Grievance related action

In 1996 the number of days lost due to grievance and disciplinary issues shot up to a combined 40%.

Since its establishment, the CCMA has faced a massive demand for its services. According to inside sources the case load has been doubling every month and is likely to have exceeded 1997 projections by 100%. It is therefore reasonable to assume that the new legislation, and especially the CCMA, are already having a significant impact on industrial action, especially in terms of strikes due to grievances and disciplinary action.

Does this mean a move away from adversarialism?

Although it is encouraging that many individual dismissal and grievance disputes are being settled through the CCMA, this may well have important negative consequences for labour relations in the long run. A less adversarial system is based on local co-operation and attempts to resolve conflict. There is a danger that hasty referrals to the CCMA will eventually undermine relationships and structures on the shopfloor. Conflicting parties may end up bypassing each other, making no attempt to resolve issues at the shopfloor. This could sow the seeds for future conflict and also place huge burdens on CCMA resources. It may also undermine union structures in the long run.

Collective bargaining conflict.

While the CCMA has made a good start with individual dismissal cases, the same does not appear to be true of wage disputes. Recent examples such as the Nestlé, Mondi and construction industry disputes suggest a collective bargaining reality that is still very much rooted in the culture of adversarialism. Conciliation of these disputes via the CCMA has proven difficult, and downright impossible in some instances.

Although many COSATU unions are adopting more sophisticated approaches, the cut and thrust of collective bargaining is

still dominated by highly adversarial and extremely frustrating negotiation processes. Wage negotiations are still part of an annual ritual where long lists of demands are discussed in many rounds of motivations and counter motivations. Very little negotiation on substance actually takes place, very little information is exchanged and very few creative solutions are explored

With both sides rigidly sticking to positions, negotiations, especially at central level, become almost impossible. They usually end up in dispute just before collective agreements expire and often lead to some form of industrial action because there is very little other option. Invariably, industrial action leads to very little additional material gain.

There is very little that the legislative framework can do to fundamentally alter these features. The roots of the patterns of collective bargaining are deeply entrenched and are unlikely to alter simply because the Minister of Labour would like it to be so.

Changes

A number of issues have to be addressed before the objective of the LRA for a more co-operative approach to collective bargaining become a possibility:

Changing the approach and style of negotiations

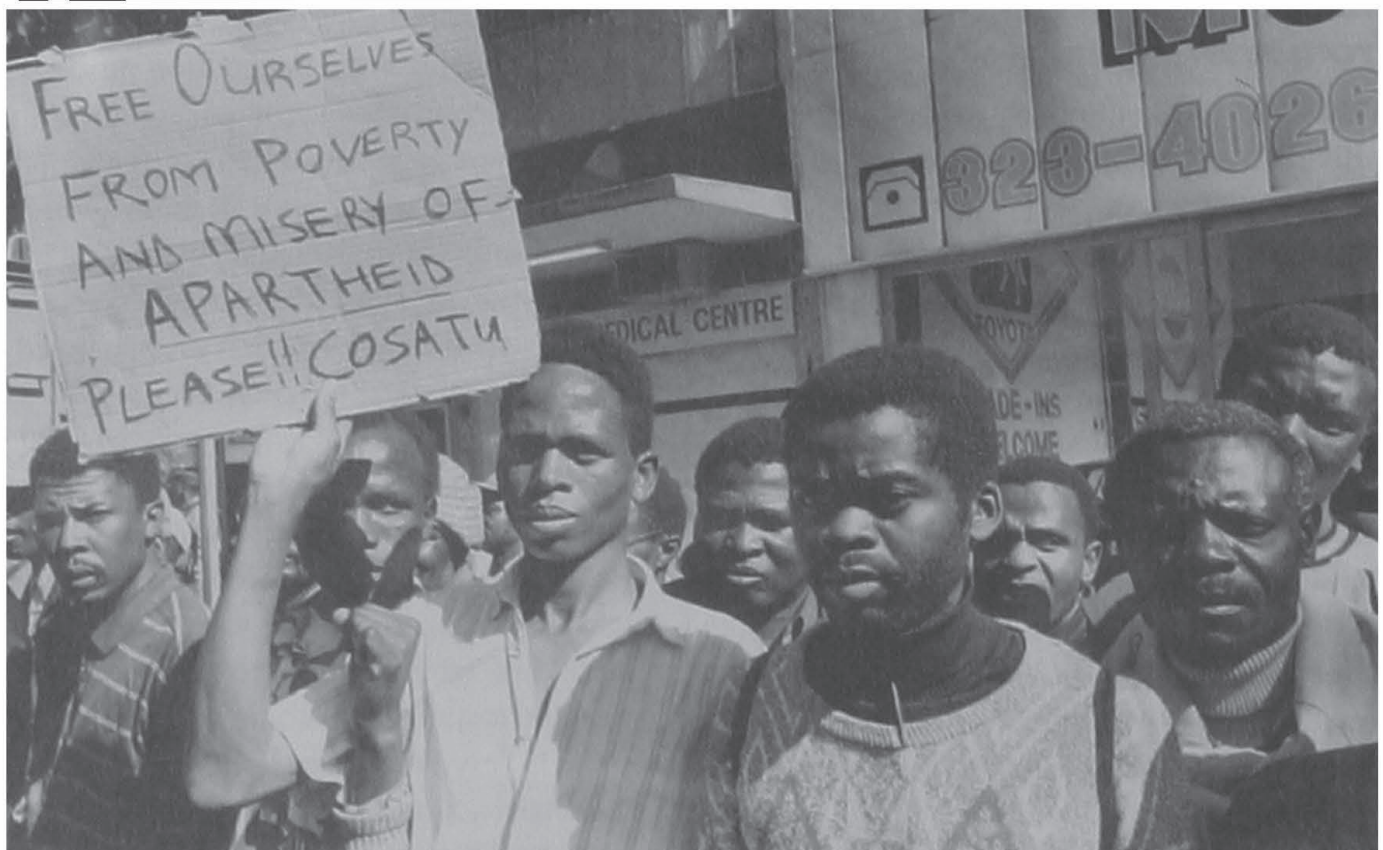
The relationship between capital and labour is not easily reduced to simple models of either adversarialism or co-operation. While it is inherently conflictual, this is countervailed by the necessity of co-operation

A less adversarial approach to collective bargaining requires both sides to understand the dual nature of their relationship and to be more prepared to explore the co-operative dynamic. An adversarial model is dominated by coercion

Strike triggers in 1995 and 1996

Issues	1995	1996
Wages	87%	57,4%
Grievance/ disciplinary	12%	39,6%
Recognition	1%	1,2%
Retrenchment	1%	1,8%

(Source Andrew Levy and Associates Annual Report 1996/7)



LRA march, Pretoria, 1995.

through power or suppression/avoidance of conflict. A more co-operative approach focuses on ways of developing consensus as a first resort, and power and adjudication as a last resort.

The challenge is for both parties to make the shift. This does not mean an end to conflict, and will certainly not mean the end of the class struggle. It simply means that both sides of the bargaining table are aware of their underlying approach to conflict and how this manifests itself in their negotiating style. This would enable the most gain to be extracted from the bargaining process.

Capacity

A lot has been written about the capacity constraints facing the union movement following the mass exodus of union leaders after the first democratic elections. This so-called 'brain drain' has significantly affected the unions. Negotiating skills and styles have developed over a period of years. Many ex-leaders also developed a knowledge of their industries and their bargaining counterparts

that will not be easy to reproduce.

The lack of continuity creates a lot of instability in the bargaining process. Unions are still underresourced. There is a need to develop union knowledge about industry in a more systematic way. In particular, unions require a greater research capacity and back-up and training for negotiators.

While companies enjoy greater access to resources, management is steeped in a highly adversarial style of negotiations. Many disputes are caused because management is simply intransigent and cannot break out of the old mould of doing things.

Developing a more co-operative approach will take time and commitment from both unions and management. It will also require negotiators on both sides who are adept in communication and problem-solving skills and have a solid grasp of the dynamics in their industries and companies.

Fear of disempowerment

Adversarialism is also fuelled by a defensiveness as both sides fear being

disempowered by the collective bargaining process. The union's fear of being co-opted is very real and is rooted in difficult historical experiences. Management is scared that being more open with the union will make unions powerful, thereby undermining managerial prerogative. It is necessary to overcome this fear of disempowerment before collective bargaining takes on a more constructive form. This can only happen over time, as the results of interest-based bargaining become more tangible but may require an imponderable leap of faith in the meantime.

Tackling racism and cultural diversity

Racism and discrimination in society and at the workplace has created deep-rooted suspicions and animosities which will take years to change.

The fact that most managers are white and the majority of the workforce black presents a major obstacle to positive changes in the collective bargaining process. There is hardly any negotiation where issues of racial discrimination and cultural intolerance do not appear, either directly or indirectly.

Collective bargaining is seen through a racial prism which entrenches the fears and suspicions that invariably result in high degrees of conflict. This may alter gradually as the demographics of management change and if workers move up the skills ladder. It is unlikely that affirmative action and especially the promotion of black managers will change this in the long run. This is something that can only be overcome through more fundamental change, with workers and unions having more say in critical decisions.

Strategic commitment

Ideological opposition on the part of the unions to more constructive approaches to collective bargaining is probably the most difficult to overcome in the long run. The

basis of this position is that these approaches are incompatible with the class struggle.

As far back as 1992 NUMSA General Secretary, Enoch Godongwana, argued for engagement around issues of industrial restructuring (costs of production, inputs, outputs, ownership, competitiveness etc) – issues that traditionally fall outside the purview of collective bargaining. Informed by a socialist perspective, he argues for a combination of mass struggle with negotiations as a means of ensuring fundamental transformation of the economy (see *SA Labour Bulletin*, Vol 16 No 4, March/April 1992). This argument implicitly accepts the need for trade offs, creative compromises and areas of co-operation

It is not clear that employers are prepared to consider involving unions in much more than narrow operation-related productivity issues. This will certainly confirm union suspicions and fears of being co-opted and will further restrict the possibility of creative and more lasting consensus about wages and industrial policy questions.

The extent to which the lives of ordinary workers are changed in a material way will ultimately determine the success or otherwise of a less adversarial collective bargaining system. It can work if and only if the employers need for predictability and increased productivity (profitability) is matched by an improved standard of living for workers, better workplace environments and an increased say for workers in the strategic future of enterprises. This will require that employers and unions revisit their approaches to collective bargaining and conflict, develop new skills and also embrace a preparedness to risk the unknown. ★

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