Towards a new plan

1. Test the state's 'liberalism' and the words of Eli Louw

A delegation representing the union movement, armed with a memorandum of our demands, should be sent to meet Eli Louw. We should also inform him that we will give him until the next parliamentary session (February - May 1990) to change the LRA. Any attempts to convince us of the lengthy bureaucratic procedures of the state machinery must be rejected. The delegation which puts our demands to the state must be more representative - it should include regional representatives who are directly accountable to campaign structures.

2. Render the LRA ungovernable through Living Wage struggles

Our wage demands must be put and fought for in a militant manner. We must support them by go-slows, overtime bans and placard demonstrations. The procedures of the LRA should be defied. Threats of lock-outs should be countered by sleep-in strikes. Most important is the open defence with solidarity action by all workers and unions for those who are under attack from the bosses or the state. We should enforce our living wage demands. For example, all workers restrict their work to a 40-hour week.

3. Launch the campaign for a Workers Charter as an alternative to the LRA

4. Convene the 3rd Workers Summit in March 1990.

This summit should assess the campaign. It should note the response of the state and our capacity to fight on, and plot the way forward. ☆

Interviews: Wiehahn and Ehlers

There has been some controversy in government, industrial court and academic circles over the Labour Relations Amendment Act. *Labour Bulletin* interviewed Professor Nicholas Wiehahn, architect of the more liberal 1979 labour law, and Dr. Danie Ehlers, former president of the Industrial Court.

Labour Bulletin: ***Prof. Wiehahn, why do you think the Labour Relations Act was amended in 1988?***

Wiehahn: It was a direct result of pressure from the employers. They tried for years and years to get the Minister to change the law. During the first 5 or 6 years after the Industrial Court was established the trade unions won a lot of cases because they had good cases and good legal advice. Employers felt that strikes were

costing them a lot of money and they wanted to be able to claim damages. They asserted a lot of pressure to have the law changed.

Labour Bulletin: ***Has the right to strike been endangered by the amendments?***

Wiehahn: It has been restricted - yes certainly. I believe that labour law should be based on six fundamental rights: the right to work, the right to associate freely, the right to bargain collectively, the right to withhold labour, the right to be protected and the right to development.

Labour Bulletin: ***Unions are calling for domestic, farm, and forestry workers to be covered by Labour Law. What is your view on this?***

Wiehahn: I've always been against restrictions on the organisation of workers. The exclusion of workers from the law should be removed.

Labour Bulletin: ***Unions are calling for widespread changes to be made to the law. Do you think it is necessary to make changes?***

Wiehahn: I think that the time has come for us to have a good look at the Act. I think that practice has caught up with the Labour Relations Act. I believe that the Act should not contain a definition of Unfair Labour Practices. It was against my advice that it was originally defined in the law. I've always been against patchwork. What we need to do is to look at the entire Labour Relations Act. It must be redesigned and re-formulated in line with modern concepts.

Labour Bulletin: ***Are you optimistic about the future of Labour Relations in South Africa ?***

Wiehahn: Yes, very optimistic. But this is based on labour law being revamped entirely. The National Manpower Commission is currently examining the law. But we have a problem with employers in this country. Many of them are at fault because they don't like trade unions. I think that large and powerful trade unions are a good thing.

Labour Bulletin: ***Dr Ehlers, do you think it was necessary to amend the Labour Relations Act?***

Ehlers: I personally don't think it was essential to make amendments. The only serious matter was that before the amendments the Minister had to give permission for the establishment of Conciliation Boards. The Minister is the political head - he shouldn't concern himself with that type of problem. That amendment was a good thing but there were no other serious problems to be attended to.

Labour Bulletin: ***One of the amendments makes it possible for the Industrial Court to grant an urgent interdict preventing even legal industrial action if the action is considered***

to be unfair. Do you think this is unfair to the unions?

Ehlers: Yes, one can say so. The situation is that urgent interim relief tends to favour employers. Only employers are really in a position to show the court that irreparable damage will take place if the workers take action. Employees are not usually in a position to do that.

Labour Bulletin: ***Do you have other comments on the amendments?***

Ehlers: Since the amendments there have been few cases where employers have tried to claim damages from the union after a strike. This has never succeeded in practice. The employers used to say "we must be able to claim damages." But what's the use ? It only estranged employers from their employees.

Labour Bulletin ***Do you think that the campaign by COSATU, NACTU, and unaffiliated unions against the LRA is justified?***

Ehlers: One could conclude that they have reason to be unhappy. It seems that the government could have intended to clamp down on trade unions and its only natural that they would consider it as an attack.

Labour Bulletin: ***Why did you criticise the Act earlier this year?***

Ehlers: I felt particularly disturbed by the definition of an Unfair Labour Practice. The court had been given a fairly free hand before the amendments. We tried to be independent and strive for fairness. I would suggest that the court has been successful in determining whether labour practices are fair or not. Now the court's powers have been substantially reduced.

Labour Bulletin: ***What were the consequences of those criticisms for you personally?***

Ehlers: Well, they ignored my unhappiness. I think the main problem was jealousy over the the independence of the Industrial Court. We didn't want to be interfered with - we just wanted to make the facilities available.

Labour Bulletin: ***Do you think that the law should be re-amended?***

Ehlers: As it is now the Act is really very unsatisfactory. We've had pronouncements in the Supreme Court on a number of occasions where the Act has been criticised. With all this patchwork over the years we're in a position where we have no coherent statute. As I understand it the idea is to have as few constraints on the parties as possible. Let the participants in the industrial relations system sort it out. The National Manpower Commission is currently reviewing the law. One can only hope for a proper statute. I am optimistic that we'll see a more satisfactory Act. ☆