

The struggle over appropriate levels of bargaining has resulted in one of fiercest clashes between employers and trade unions. COSATU has launched a major campaign to promote one particular level of bargaining. In practice though bargaining takes place at a number of different levels in South Africa, from highly centralised multi-plant bargaining to completely decentralised plant bargaining.

These levels include:

- inter-industry bargaining which brings together employers and trade unions from a range of different industries (such as the recent SACCOLA/COSATU/NACTU talks on appropriate labour legislation).
- industry bargaining such as the metal industry negotiations involving a range of different operations and products in a single industry.
- sectoral bargaining which involves only plants in a single segment of industry (such as the blanket division of the Textile industry).

The case for centralised bargaining

The Mercedes strike has focused attention on the struggle over levels of bargaining. Here SACTWU's EBRAHIM PATEL* puts the union case for centralised national bargaining forums. He argues such forums facilitate collective bargaining, promote industrial democracy and strengthen self-regulation of industry.

- plant bargaining which involves only a single plant or physical operation or what is sometimes called a profit centre.

The democratic trade unions have over the last few years come out strongly in favour of industry wide centralised bargaining. The biggest industrial conglomerate in South Africa, the Barlow Rand Group has been equally vociferous in opposing all forms of centralised bargaining.

Unions argue for centralised bargaining.....

The traditional arguments by trade unions for centralised bargaining are simple and compelling.

Firstly, centralised bargaining allows for the most efficient use of skilled union and employer negotiators. Instead of using 500 man hours to motivate the need for a maternity agreement at 250 different factories the same results could be achieved in two hours at a centralised forum.

Trade unions in particular do not have the human re-

sources to adequately negotiate hundreds of separate agreements. With plant level bargaining unskilled or overworked officials are often delegated to sensitive negotiations, with disastrous consequences for the company and the workers.

Secondly, centralised bargaining allows trade unions and employers to establish industry wide minimum and fair standards. Since trade unions are fundamentally concerned with the quality of life of their members, we see fair mini-

*This is an edited version of a talk given at the Third Annual Labour Law Conference in Durban, 1990

imum standards of wages or other conditions of employment as a desirable and worthy goal.

Thirdly, where centralised bargaining is conducted through institutions which allow the legal regulation of minimum standards, for example industrial councils, it sets a clear rate for the job. This prevents wage cutting by weakly unionised competitors of companies paying fair wages. The success of a business would then depend on the quality of its management not the lowness of its wage or the weakness of its workers.

Fourthly, some industries consist of a large number of small operations and plants, and wage agreements cannot realistically be concluded at each such plant. For instance, our trade union has members at about 2 000 different plants. Should we negotiate separately at each we would need to conclude about eight agreements per day - a prospect well beyond our capacity.

Fifthly, some negotiations such as those involving benefit funds or training schemes benefit from economies of scale which can only be achieved through centralised agreements.

Finally, the existence of centralised bargaining institutions increases the power of both parties. Labour is strong because it is able to close down an entire industry during industrial action.

Employers too are strong because an industry wide strike disperses trade unions' resources and prevents a union

from concentrating its collective resources on one plant. Where unions do indeed isolate a single company, employers can combine to support such a company financially as happens in West Germany and Sweden.

In short, the very scale of industrial action across a wide front poses grave risks for both parties, and has a mutually deterrent affect on the parties. They will therefore concentrate their efforts on seeking a solution through discussion and negotiation.

....while employers come out against it

The arguments of employers against centralised bargaining have been many and varied.

The first set of employer arguments rejects the very notion of centralised bargaining and argues that centralised bargaining promotes strikes, and undermines economic growth through setting high wage entry levels for employers in an industry.

Unions have replied that there is no empirical evidence to back up these contentions. On the contrary there appear to be a number of examples where the opposite is true. Italy has a highly complex dual bargaining system with strong centralised bargaining arrangements, including for small business.

Yet Italy has a vibrant economy with a GDP that has overtaken that of largely decentralised England. West Germany has a highly centralised system of collective bargaining yet its dynamic and

strong economy has grown faster than the United States economy which is characterised in turn by a high degree of decentralised bargaining.

These examples show at the very least that there is nothing inherent in centralised bargaining which makes it more prone to labour instability and which stunts economic growth.

Operations criticised

The second set of employer arguments challenge the operations of centralised institutions. Those arguments contend that:

- centralised bargaining removes negotiations from the key actors at plant level, namely the shop stewards and managers
 - it denies access to the bargaining forum for trade unions which have strong plant representation but lack an industry majority
 - it lacks flexibility in that disputes are often declared for an entire industry and strikes take place even when the more profitable sectors of the industry are able and willing to pay more than the average offer of the employers
 - the tendency to dual bargaining exposes employers to a double risk of strike action. One for industry demands, and then for supplementary plant demands.
- Many trade unions will respond by accepting the need to restructure centralised bargaining forums. The operation of the forum is a matter like any other which will require nego-

tiation between the parties.

To overcome the distance between the forum and the factory, trade unions from their side have started to convene large representative shop steward caucus meetings. These gather close to the venue of wage talks, shape union mandates during the course of negotiation and report rapidly to members at the different plants on the progress of negotiation.

Trade union representation in bargaining forums differs in a number of industries. It varies from an all comers approach where every union which has members in the industry can sit on the council, to proportional representation where the number of seats for each organisation is determined by that degree of representivity you have in the industry, to majoritarianism where the majority union is the sole worker representative.

Unions are considering introducing greater flexibility in central bargains through, for example a single condition of employment agreement which should regulate public holidays, sick leave etc, but with a series of different wage schedules for each distinct sector of an industry. Dual versus single bargaining can similarly be regulated, either:

- through clauses in agreements which prohibit dual bargaining or
- through specifying the issues on which bargaining can take place outside the central forum.

Dispute procedures ought to address the issue of industry wide strikes and whether sep-

arate settlements in distinct sectors of an industry would be necessary, desirable or permissible.

In short merely because some real difficulties have arisen in centralised bargaining forums does not mean that the forum need to be scrapped.

In truth though, unions are sceptical of employers sincerity when they talk about the alleged flaws of centralised bargaining. As an example I will cite Barlow Rand. First, I would like to quote from some Barlow Rand Reports and public statements issued in the newspapers.

In 1974 the Barlows chairman said, "we welcome the fact that the (Black Labour Relations) Act gives blacks the opportunity to participate in discussion at industrial council level." *Unions hardly existed at the time.*

In 1977 the chairman said, "we would like to see negotiations at industry or national level between the employer organisations and multi-racial unions." *Unions were still weak.*

In 1980 the Barlows chairman said again, "we would ideally like to deal with registered unions in an industrial council structure." *Unions were weak.*

Barlows considers pulling out of the IC

In 1983 when labour was getting its act together, Barlows decided to reconsider its position on the industrial council system. The chairman reported: "The year has seen the use of the industrial court and entry into the industrial council system by trade unions.



Unions doubt their sincerity

Decisions of the court have created considerable uncertainty among employers as to what they can and cannot legitimately do. Unions are entering the industrial councils on the basis that centralised negotiation is complementary to but exclusive of plant level bargaining."

By 1986 the human resources report of Barlows said: "the decentralised nature and collective bargaining arrangements of the group helped the group to deal effectively with industrial unrest and political demands." *Our giant federation COSATU had just been launched.*

In 1987 the human resource report said that during the labour unrest in 1987 Barlow companies fared better than most due to the group values and plant level bargaining.

And by 1988 we heard: "recognition agreements are logical extension of our decentralised management structure and the belief that industrial relations should be managed at plant level." (*Human Resource Report*).

These changing statements over the years show clearly an initial support for centralised bargaining when unions could not use the economic muscle that comes with it, and then a period when the group turns against centralised bargaining because powerful national

unions were emerging.

Second, our experience has been that Barlow companies have in some instances been very active and vigorous participants in industrial councils until strong and independent trade unions entered the councils.

When that happened Barlows sought to break up the councils on the grounds of its belief and philosophy that labour relations is best conducted at a decentralised level. Why is it that this philosophy is only discovered when strong trade unions enter industrial councils and not where weak trade unions occupy centralised bargaining forums?

Consensus on democratising society

The above issues are the traditional arguments of the trade unions. South Africa is entering a new period characterised by growing consensus on the need to democratise our society.

The trade union vision is one of a democracy not limited to the political process, but a democracy which includes industry and the economy. Labour's legitimate concerns in a democratic South Africa cannot be confined to the rate for the job and the length of the working week, for these are not the only issues which affect our members and their families.

Trade unions intend to play a role in shaping future macro-economic policy. We regard it as vital that workers help to shape policies on employment creation, inflation, economic growth, investment, income policy, training, productivity

and a host of other matters.

Unions are committed to the goals of high employment, high wages, high productivity, economy with economically viable, competitive enterprises. I am quoting from a COSATU statement here. We need to go beyond slogans and negotiate agreements which give effects to these commitments.

The programme to extend the frontiers of industrial democracy means extending the areas of economic decision-making which are negotiated by labour and capital.

Unions and macro policy

How best then can trade unions enter the terrain of co-shaping macro policy. They can do so in one of two ways. They can seek to increase their influence in a future democratic state and use the institution of the state to regulate economic matters.

This may include minimum wage legislation, re-shaping of the industrial judicial process to produce a more pro-labour position, changes to the labour laws to regulate conditions of employment, increased taxation or nationalisation of enterprises.

Alternatively they can seek to achieve self regulation in industry through collective bargaining with employers on a broader range of issues than is the case at present. This would require centralised institutions and forums since macro issues cannot be dealt with adequately at plant level.

Many trade unions prefer the latter option of self-regulation within industry and a more active, genuine and wider

dialogue with employers on economic policy, rather than state intervention. This preference for self regulation is based on three propositions.

Firstly, the need to avoid an over centralised commandist approach to economic policy by the state. Commandism, that is, a series of laws, regulations and instructions issued from an authority far removed from realities of industry, is less likely to be economically sound.

Secondly, the importance of developing a strong civil society independent of state and political party with real economic power. The danger of concentrating all power in the hands of an all powerful state has well been demonstrated. The state itself becomes a tyrant over the people and the people are effectively left out of decision making. Strong civil society requires strong trade unions.

Thirdly, the advantage of creating a compact state without a massive bureaucracy which will need to regulate and implement all policy.

In conclusion, trade unions want to expand the areas of economic decision-making which they participate in. They can do so through state regulation in a new democratic South Africa, or they can do so through using strong dynamic centralised bargaining forums to bargain with employers and reach common decisions. Which route the unions choose will depend on whether employers are prepared to co-operate. ☆