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# The need for centralised (but flexible) bargaining

NALEDI was asked to produce a paper looking afresh at some of the issues related to centralised bargaining. The document which emerged, while not an official COSATU position, examines the issues from a labour perspective.



**JEREMY BASKIN** touches on some of the key points.\*

● This article is taken from a talk originally presented in August 1994. Transcripts of the full version of the talk are available from the Industrial Democracy Programme at the Wits Business School. The original paper, "Centralised bargaining and COSATU" is available from NALEDI.

**W**HY centralised bargaining? It comes down to a six point case. Firstly, centralised bargaining sets basic minimums and basic labour standards. For some that may be a case against centralised bargaining, but many believe the notion of having decent minimum labour conditions is, in fact, good. It can prevent sweat-shop labour; it can prevent undercutting; and, it can set a minimum floor that is acceptable to society as a whole.

Secondly, it provides a more efficient way of conducting bargaining. Instead of having hundreds of union officials running around the country, each trying to negotiate at plant level with different managements, there is a focusing of resources and, thus, an ability to allocate skilled people to negotiations. Contrast this with what is happening at the moment in industries with decentralised bargaining; namely a mishmash of very poor quality agreements being negotiated, often in haste and often without sufficient care. In short, a centralised bargaining system is more efficient.

Thirdly, and very importantly for the union movement, centralised bargaining allows unions to promote equality or egalitarian objectives. The nature of South African industry is that when you have decentralised bargaining the unions are going to be strong in the larger, more capital-intensive, wealthier plants and, of necessity, are going to concentrate their efforts there. What happens, in practice, is they achieve wage increases at the plants that are already paying more, frequently at the expense of those who are earning less. Without centralised bargaining it is very difficult to try to promote issues relating to equality. It is also very difficult to fight wage drift.

Fourthly, there are many economies of scale which emerge for both unions and employers from centralised bargaining. In decentralised negotiations workers frequently push for medical aid, provident funds and so on; often buying into private medical aid systems, which we all know are extremely costly, extremely inefficient and showing signs of being on the verge of collapse. Their medium-term future is not assured. With centralised bargaining one can develop benefit funds that can be more meaningful and cost-effective.

Fifth, centralised bargaining increases the powers of both parties. Some may argue this is not necessarily advantageous. But it is absolutely essential to increase the power of both parties if there is to be a stable industrial relations system in South Africa in the coming decade. One of the features we are seeing in the current wave of industrial unrest is, in fact, not that the parties are too strong but that they are not strong enough to make agreements stick, to make a level of bargaining stick.

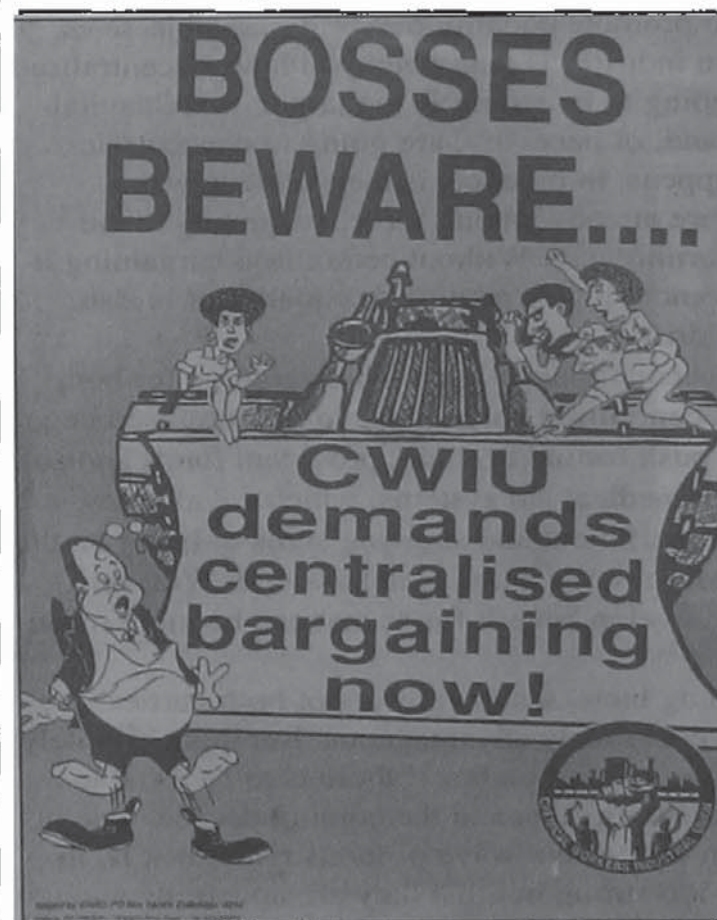
Lastly, is the issue of proactive strategic unionism. For the unions this is absolutely essential. Without centralised bargaining, unions are pushed into a defensive mode. They have to take up issues such as retrenchment in a small-scale way, always in a reactive mode. With centralised bargaining they are able to take a much broader view of what is going on in terms of industry restructuring. They are able to engage in such matters in a proactive and not simply in a reactive way.

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In fact, what we have found with unionists involved in decentralised bargaining is that the organisers spend their time going from plant to plant negotiating for a few more crumbs or a slightly larger slice of the cake. There is almost no time or opportunity to think about where the industry is going or where the future of the economy is headed. Proactive unionism is not only important from a union perspective. A comprehensive, centralised bargaining system is fundamental for tackling the major economic issues facing this country — pay levels, productivity, incomes policy, wage differentials, training, the social wage, job creation and even taxation and investment policy. Otherwise, these issues can only be dealt with in a conflictual and *ad hoc* manner. In short, it is not only for industrial relations reasons but for sound economic reasons, that a centralised bargaining foundation is essential.

### The de-regulation alternative

Some people argue that there is an alternative, namely, no unions and



deregulation. They say if only there were no unions in this country, or if only we could pay Indonesian levels of wages. The obvious retort for unionists is to say if only we could get the managers to work for Indonesian levels of management wages! But the problem is that this is really only pie in the sky. This "if only" is a nice theoretical debate, but it is totally unrealistic in our context. A country may be "lucky", if you care to put it like that, to have compliant, passive workers, but South Africa is not one of those countries.

However, there is one valid criticism of the centralised bargaining approach and that is the main point addressed in the paper. This criticism is that centralised bargaining can be inflexible. The centralised bargaining system as we know it, set up in the 1920s through the industrial council system, is archaic and often inflexible. But, instead of that being an obstacle to creating a centralised bargaining system in this country, we need to see it as a challenge. We need to draw lessons from that in

building a system that is both centralised and comprehensive.

To do that, the NALEDI paper argues for the design of a flexible bargaining system and again it focuses on six points.

### **Three bargaining levels**

The paper suggests three main bargaining levels; national (meaning something similar to the National Economic Forum (NEF), National Manpower Commission (NMC) type of level); industrial (across fairly broadly-defined industries); and, plant or enterprise level. The important point is not simply to have the three levels, but that they should be interactive levels of bargaining.

Obviously there is room for other levels of bargaining, for example, where a company policy is involved there may be room for a company-level interaction between labour and the employer. But what is being proposed are three basic levels of bargaining conceived of as national, industrial and plant.

### **Broad-based industry forums**

Secondly, the NALEDI paper talks about broad-based industry forums; and 40 are listed. The important point is that they be registered as Industrial Councils (ICs). In other words, it is suggested the industrial level of the three basic bargaining levels forms the legal centre — not the national level and not the plant level. The reason for this is fairly straightforward. The law allows agreements to be extended to non-parties. If you want a centralised system to work it must be extendable to non-parties.

### **Basic schedules**

The first two points are not very flexible. The paper therefore develops the notion of IC agreements with basic schedules; schedules which can set down differing conditions, if necessary for sub-sectors, for different regions, for smaller towns, and for smaller employers. We must get away from the notion that there must automatically be one IC agreement applicable to all. As a matter of course there could be a number of schedules that each IC normally includes within its ambit.

### **Framework agreements**

The fourth point is the question of ICs setting framework agreements. The idea here is to get away from the notion of complex IC agreements. The aim should be to set the minimum standards and conditions necessary and then to devolve further bargaining up or down. What would that mean? Perhaps one might say public holidays are not to be negotiated at IC or plant level, as they are at present. The IC might say we are devolving upwards, we are buying into a national agreement; maybe at NEF or NMC level, on what the public holidays should be. Similarly, one can devolve downwards. Additional bargaining can take place, and one would set the constraints of that additional bargaining, at plant level.

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Most importantly would be the notion that one avoids rigid and complex agreements. There is a liquor and catering trades IC agreement which includes a perfect example of what can be avoided in a flexible system. The following is a clause from this agreement: "An employer shall not employ an unqualified porter [presumably in a hotel] unless he has in his employ one qualified porter. And for every two qualified porters, not more than one unqualified porter may be employed." If one wants to have a workable, comprehensive, centralised system, it has to get away from that type of complexity and rigidity of agreement.

### **Modernisation**

The fifth issue in terms of flexibility is to try to reform the IC system. This is really a modernisation issue: less bureaucracy, more user-friendliness. For those who have had dealings with ICs, this point does not require elaboration.

A related, and more substantial point, is to get rid of exemptions. The ideal would be to avoid exemptions altogether, and this would be partly achieved by having a simple set of agreements. If the IC agreement was simple and related to basic conditions, particularly if an IC decided to have a special schedule, there would not be much need for exemptions. Alternatively, one could take the issue of exemptions away from a particular IC and link it to a special exemption agency. That way, charges of special interests or large employers colluding with large unions to prevent exemptions for smaller employers would be avoided. Moreover, this avenue could provide the way to link exemptions to a national policy regarding small business development. One could then link the carrot and the stick and keep small business within the regulatory net.

### **Flexible system**

Finally, a big challenge for the unions is to accommodate the legitimate needs of small business. Obviously "legitimate needs" is a flexible concept. It will change from year to year and definitely from decade to decade. The NALEDI paper sees a move away from the notion that the IC is simply for the larger employers and that, therefore, small businesses should be exempted altogether or left out. The idea in fact is to keep small business within the regulatory net; to make it easier for them to comply, and the paper emphasises simpler schedules and the need to link support services to compliance. In other words, part of the function of ICs could be to support the development of that industry, including its small business component.

### **Problems still remain**

We are faced with a difficult task in South Africa. We need to develop our own system of collective bargaining and we need to take into account the specific conditions that face this country. The problem is this: the closest parallels are industrialised first world countries which differ sig-

nificantly from ours. There is no other first or third world parallel to anything we are attempting to do in labour markets and with labour relations. So we are going to have to draw on our own resources and our own knowledge.

Even the system proposed in this paper is not problem-free. One challenge we have to grapple with is that if centralised bargaining is to work, the minimum conditions that must be set by those forums have to be high and demanding. But we all know this may be too onerous in the specific economic conditions of South Africa. The gap between what employers at the top end of a particular industry, and employers at the bottom end pay, is extremely wide. If one does not go for high and demanding, others argue one should go for low and realistic minima being set by any centralised bargaining forum. But then it is not clear in what sense bargaining remains centralised. It may, in fact, become irrelevant bargaining for many plants, especially those that are the higher paying and often more unionised plants.

Despite such problems it seems clear that, if we want to tackle the economic and industrial problems we have in a realistic manner, we need to be working towards some degree of wage convergence and salary convergence, between industries and within industries. And, to do that somewhere within a centralised bargaining framework, we are going to have to find ways of increasing (over time) the minimum floor of conditions at the same time as setting maximum caps on conditions in order to achieve that convergence. That is not easy, and that is the problem the NALEDI paper leaves us with.

*A range of questions and comments from the floor highlighted key concerns about the NALEDI paper. The following section outlines some of these issues and the responses which were presented.*

#### ***Moving away from the centralised versus decentralised debate***

One of the things we have to get away from is the notion that the issue is centralised versus decentralised. By saying there should be the right to bargain, one is not addressing the question of where one bargains, or why one bargains. The right to bargain has, in fact, long been achieved in this country, at least for most workers. We need to address the issue of where to bargain.

The problem with a decentralised system is not that bargaining happens at the grassroots level but that, in bargaining terms, it is simply a fragmented system. It is not being argued that workers should not bargain with their employer. One bargains with one's employer, but within a framework instead of on a fragmented basis.

#### ***Segmented labour market***

In South Africa, we have extreme segmentation of the labour market. This may not look like a problem for big business, but it is certainly a

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problem for organised labour and it is a problem for the development of the country as a whole. It is unproductive and distorts our consumer market. It is unstable to have the levels of inequality we have. It encourages the worst forms of third-world industrialisation. If we want a growth path to be meaningful, it has to be a stable growth path and a re-distributive one. Once we start saying that competitiveness is the only issue, we are starting to go back towards the dream-world of Indonesian and Thai wage levels. Yes, competitiveness is an important issue, but so is a stable and redistributive growth path.

In the labour market we have to tackle a few issues. Firstly, we have to flatten the wage curve, to flatten the differentials between the top earnings and the bottom earnings. In our country the differentials are outrageous. The second goal is to somehow achieve wage convergence both within industries and between industries. In other words where workers are doing essentially the same job within the same industry, but being paid vastly different amounts, it is unhealthy in terms of growth and development. To tackle such issues requires a centralised framework.

***Away from voluntarism***

The system proposed is flexible but comprehensive. The possibility of opting out does not arise. Underlying the NALEDI proposal is a move away from the existing voluntarist position. The paper argues that the framework should not be voluntary. The aspect of flexibility is meant to accommodate some of the more subtle elements and problems. But, the framework itself is not voluntary it is compulsory.

How can one combine regulation and flexibility? That of course is a difficult question. What the paper is saying is the IC (or industry forums or bargaining councils) would be the legal centre. Yes, there is the possibility they can enter into rigid agreements. That is where you need an agreement between capital and labour; an overriding national agreement as to what the flavour of such industrial forums is going to be.

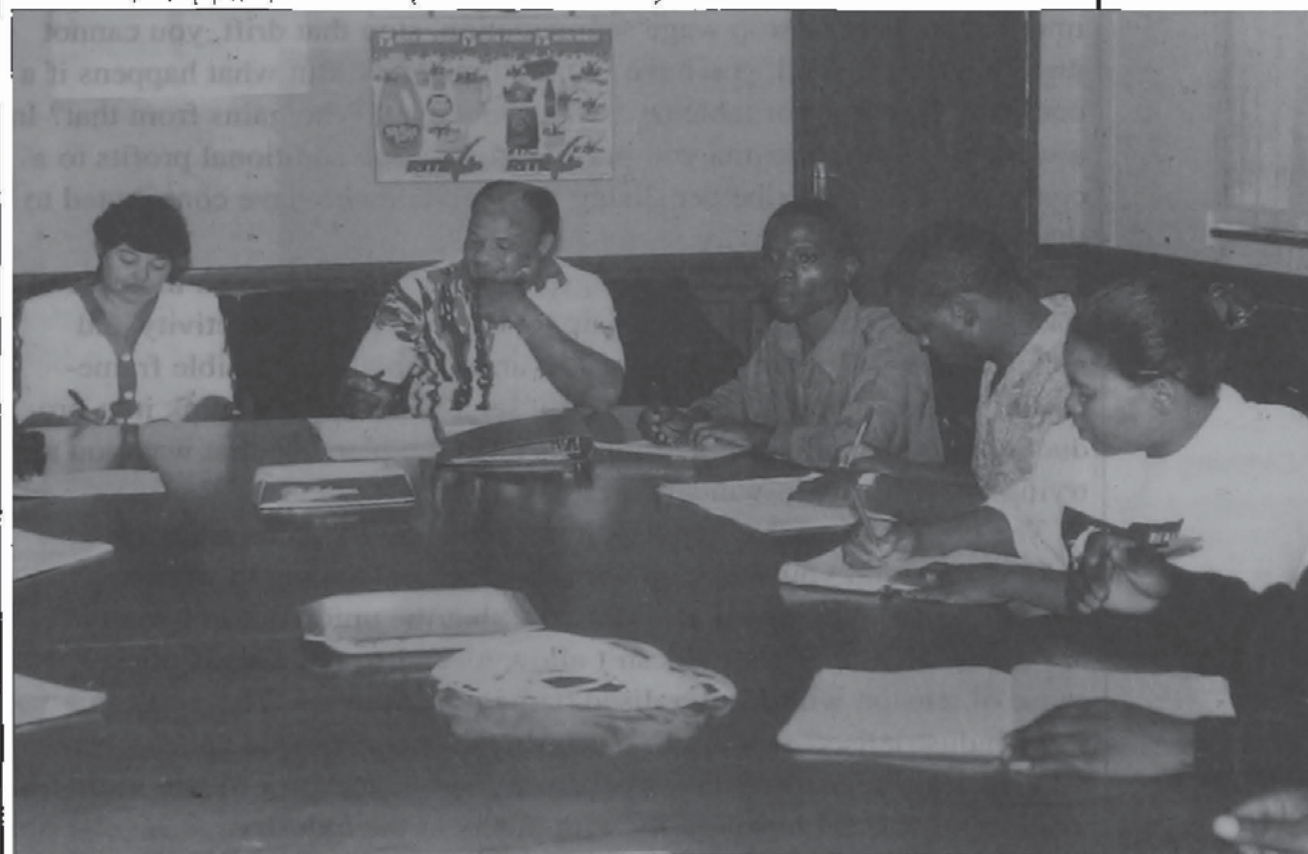
The bottom line of the NALEDI paper is that centralised bargaining is needed not only for the unions, but for the whole economy if we want to tackle the problems we have in our particular labour market. So the bottom line is, yes, centralised bargaining. But the issue of flexibility is more than sugar coating a centralised pill. One cannot build a new system regardless of previous traditions, and the tradition in our country includes strong plant level organisation, and plant level bargaining and interaction. This sort of shop floor interface is important, not just because of modern management theory but it is important in practice in the South African workplace. The aspect of flexibility in the NALEDI proposal is partly an attempt to accommodate employer concerns. But, it is also trying to build on the reality that it is not even desirable to locate everything centrally; it is not desirable to scrap a lot of those very positive interactions that one has at plant level.

But how does one make those interactions at plant level more positive

and less adversarial? How does one build a framework that can be economically creative? Professor Streeck recently argued the need to have two separate areas of interaction between labour and capital. One area which discusses the distributive issues (how you cut up the cake); another area dealing with the productive issues (how you improve productivity, output, wealth creation). And there is a need to institutionally separate those issues. The framework that is being proposed goes a long way towards that. It is not scrapping the plant level interface, but it is trying to grapple with distributive and productive issues.

### ***The difficult issue of wage solidarity***

One of the most difficult issues was raised by a union questioner. He argued that South Africa's economic development choice was either



### **Enterprise bargaining — Score supermarket wage negotiations, April 1994**

labour-cost reduction strategies or tackling work organisation and promoting efficiency and productivity gains. But the latter strategy, particularly intervention in work organisation issues, requires negotiation at plant level.

He gave the example of a company which said that if its quality reject rate could fall from 6,5% to 5,5%, it would reap R2,6million extra income per month. A 1% reduction in its wastage rate across a workforce of 4 500 workers; equivalent to a R600 per worker increase per month.



Quite clearly, he argued, we can move to narrow the wage gap internally within the labour market, quite significantly, in a short amount of time, if wages are negotiated at that level around work organisation and productivity changes.

On the other hand, he conceded, even if you could close the wage gap between different categories of workers within a firm, you actually start to create a wider wage gap between people doing the same occupation across firms, where some firms do not change and others do.

He asked the difficult question — if wages are to be negotiated centrally, at a sectoral level, how will workers at a particular workplace gain the full benefits? And this concern is the basis of much worker ambiguity about centralised bargaining, especially at some of the larger plants.

My personal view is that a solidaristic approach is essential. If you want a centralised system to work you have to set both minima and maxima. If you want to stop wage segmentation, stop that drift, you cannot just plug the one end, you have to plug both ends. But what happens if a company is extra profitable or extra productive? Who gains from that? In a way, by setting maxima you may be giving free additional profits to a company. You might be penalising the workers who have contributed to that increased productivity.

What I have in mind is an IC agreeing, for example, to an increase of 10%, and additional increases of up to 4% linked to productivity and negotiated at the plant. That might be an example of a flexible framework. You set a bottom line, then you set a maximum, but link it to productivity, profitability or additional talks at the plant. In that way you are trying to create a win-win situation.

The problem is: what happens if the productivity gains are way beyond that, and you finish up with management saying to workers, "Well, we could give you an extra 10%, but the union doesn't want it", or "the bargaining system doesn't allow it" and so on. This is often a cause of tension within centralised bargaining systems. The result in some industrialised economies has been described as wild cat co-operation, where management and workers at plant level work to win more for themselves and avoid solidarity with others in the industry.

With productivity gains as large as in the examples given, it seems to me we must find ways, either through the tax system, through bargaining, or through government policy to ensure that additional benefits are somehow accrued, not only at the enterprise, but to society at large. Perhaps a portion of the benefit accrues to the company's profit; a portion to the workers who have made it possible; a portion to the society, maybe through a contribution to a training fund, or to some socially beneficial or productivity-beneficial institution; and, a portion to the consumer through reduced prices. That type of four-way split is personally what I have in mind. This is a very difficult issue for the unions to even consider. But I cannot see any other way of dealing with labour market segmentation and creating a healthy economic base within this country. ☆