

Engaging the state and capital: Labour and the deepening of democracy in South Africa

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1 INTRODUCTION

One of the most innovative aspects of South Africa's democratisation has been the emergence of institutions and processes through which workers and unions may engage the state and capital to gain varying degrees of control over important economic decisions. These features are entirely unprecedented when compared to old modes of economic decision-making in South Africa. In the past workers were systematically excluded from such decisions except where – by dint of periodic exercise of power – they had won a tentative purchase in limited areas, such as wage setting. Moreover, these institutions and processes are unique among developing countries undergoing democratisation, and indeed appear to have few precedents among advanced industrial countries with well-established systems of co-determination.

Scholars and practitioners have focused attention on parts of this change, such as the National Economic Development and Labour Council (NEDLAC), or the work-place forum provisions of the Labour Relations Act, 66 of 1995 (LRA) but they have missed its more systematic features: its wide scope from the factory floor to the societal level, and the extent to which labour has obtained strong decision-making and consultation rights founded in both statute and agreement. Taken together these features of South Africa's transition have the potential to deepen dramatically the political democracy won in 1994.

This article will focus on labour's role in extra-parliamentary economic institutions and will spend little time on its involvement in the formal institutions of political democracy, such as parliament. The focus is an analytical one, and should not be taken to prioritise the extra-parliamentary sphere as a superior form of representation. Rather, the argument advanced

¹ I wish to thank Jeremy Baskin, Darcy du Toit, Shane Godfrey and David Jarvis for comments on an earlier draft of this article.

here takes as an assumption that the deepening of democracy is dependent upon strong elected democratic institutions, and cannot occur outside of this context.

Oddly enough, it is these institutions' very newness which – for different reasons – causes great hesitation among labour, business and the state to engage through them. Each must to some extent give up long-standing ways of operating and accept new processes that are frighteningly open-ended. Given their basis in statute and formal agreement these institutions promise to be more enduring than the voluntary forums that grew during the transition to democracy which usurped functions of the discredited regime, but quickly faded once a legitimate government was established. However, the hesitation among the actors may, sooner rather than later, render these institutions a dead letter.

The research reflected in the contributions to this issue of *Law, Democracy and Development* is a first assessment of the institutions of engagement, and is by definition incomplete and tentative. The articles were commissioned in mid-1996 by the National Labour and Economic Development Institute (NALEDI), a research institute associated with the Congress of South African Trade Unions (COSATU). In launching its long-term research project on co-determination and tripartism, NALEDI's aim was to investigate the emergence of broad processes of engagement between labour, the state and capital in South Africa to contribute to union policy-making in these areas. While the present collection is intended to inform a scholarly audience of our findings, the results were first made available to COSATU affiliates in a two-day workshop in late March 1998. They will also be disseminated to trade unionists in a workbook for union education efforts.

2 NEW FORMS OF INTEREST REPRESENTATION BETWEEN LABOUR, THE STATE AND CAPITAL

2.1 Corporatism, concertation, engagement: Capturing South African conditions

Industrial relations reforms in the 1990s have had to look both backwards and forwards. One major thrust has been to make labour legislation consistent with the provisions of the Bill of Rights in the new constitution. In practice this has entailed a massive effort to eliminate discriminatory provisions of the old labour relations dispensation, while extending existing rights to all workers. The revision and repeal of old legislation provided an opportunity as well to look forward and create an order appropriate to a modern democracy at the end of the twentieth century.

Three prominent innovations now complement the traditional emphasis on collective bargaining in labour law: provision for forms of joint decision-making and consultation at the work-place level; the creation of industry (or meso-level) accords; and the establishment of NEDLAC. At each level workers and their organisations have won increased control over the content of policies that directly affect them. Following Bayat

(1991: 3-4), control is taken to mean organizational and institutional arrangements through which ordinary workers have the power to make decisions affecting the processes and administration of production. It "implies a change in power relations from authoritarianism to a more democratic and egalitarian work environment." While control is generally focused on the work-place, this need not be the case: "The areas which workers may bring under their control," he argues, "and the degree to which they exert control in these areas, vary in different experiences and arrangements."

The multi-layered character of engagement between labour, the state, and capital in South Africa defies easy definition in the conceptual categories of industrial relations. In some respects the engagement takes on a corporatist character, in that it features "regularized peak or subpeak negotiation between relatively cohesive units of business and labour, with the formal or informal backing of the state" (Turner, 1991: 16).²

However, trends towards corporatism are highly uneven. Not only are labour, the state and capital relatively *disorganised* when compared to the participants in strong corporatist systems elsewhere, but such peak level negotiation is firmly established in but a few industries.³ Moreover, peak level negotiations have not subsumed plant-level processes. Centralised agreements tend to set minimum rather than actual wages and benefits, with the latter to be worked out in plant-level agreements where factory-level unionists retain the right to negotiate and take action independently of their national unions.

Nor can the system be easily described by the term co-determinist, if the latter is meant to suggest the development of a strong statute-based system of collective interest representation and participation at the work-place. While there are certainly trends in this direction, such as Chapter 5 of the LRA, these are distrusted by labour and remain for the moment relatively peripheral to traditional adversarial bargaining between shop stewards and employers.

Finally, as Jeremy Baskin has argued, labour's involvement in decision-making extends well beyond the borders of the industrial relations system to include involvement in multipartite processes as diverse as university transformation structures, the selection of constitutional court judges, and (until recently) budget formulation. To capture such diversity Baskin has employed the term *concertation*, to describe a looser, less structured, policy bargaining arrangement (Baskin, in Friedman and de Villiers, 1996). According to Baskin, concertation means "an institutional role for

2 The literature on corporatism is vast. For classic interpretations, see Schmitter, 1974; Schmitter and Lembruch 1979; Panitch 1986; Cawson 1986; Pekkarinen *et al* 1992.

3 Labour is divided between three major federations, though COSATU is larger than the other two combined. The federations – even where organised into a single labour caucus in NEDLAC – seldom speak with a single voice, and dissent within the labour caucus is common. Business itself is divided on racial lines into two major organisations. Its peak-level organisations draw extremely weak mandates from their constituents, and have difficulty bargaining beyond a narrow range of distributive issues. Both parties have difficulty making agreements unpopular with their members "stick".

interest organisations (mainly economic) in the formulation and implementation/regulation of state policy”:

“In practice, this involves not one event or institution, but a *web of collaborative interchanges* between state, labour and capital. It may include, but is not limited to, forms of tripartism or even multipartite institutions” (Baskin, in press) (emphasis added).

For its part, COSATU resolved at its recent 6th National Congress to “develop strategies that engage both the state and capital for the improvement of the material conditions of the majority, while developing a long-term vision of a socialist society” (COSATU, 1998). The idea of engagement has certain advantages over concertation. In particular, while it allows for an emphasis on working in concert towards certain mutually accepted goals, it also emphasises disagreement and conflict, and that the parties may have very different bases for seeking a concertation of interests. Engagement implies a common meeting place, not a common starting point, nor even a common end-point. For these reasons the term engagement will be employed here. But whatever the term, it is crucial to stress Baskin’s emphasis on a “web of collaborative interchanges between state, labour and capital” which traverse every level of society.

2.2 Engagement at enterprise level

Chapter 5 of the LRA for the first time enabled representative unions at work-places with more than 100 employees to create co-determinist-type institutions called work-place forums, which possess broad consultative and decision-making powers.

There is something of an unfortunate precedent for work-place forums in South African labour law. The 1953 Native Labour (Settlement of Disputes) Act included a provision for works committees for African workers, whose representatives were directly elected by workers themselves. However, these bodies had no statutory rights to joint decision-making or consultation, and were a clear attempt at union avoidance. The same Act redefined the term “employee” to exclude all Africans, closing the loophole through which Africans exempt from the Pass Laws were able to join registered unions while ruling out any liberalisation of labour law. Disputes between works committees and employers would be automatically referred to hierarchical bureaucratic bodies chaired by whites appointed by the Minister of Labour. An even weaker body – the infamous liaison committee – was created in legislative revisions following the 1973 Durban strikes. Oddly enough, these structures closely resembled those introduced in a number of post-independence African countries that were intended to marginalise unions and harness workers’ efforts to the project of national development. The Wiehahn Commission advocated the retention of a weak form of works councils that were to replace works and liaison committees. Though embodied in section 34A of the old Labour Relations Act, this recommendation remained a dead letter.

These experiments in union avoidance – like their counterparts elsewhere in Africa – generated considerable opposition from workers (Shivji, 1986 and 1976; Lwogo and Mapolu ND; Maphosa, 1992; Bayat,

1991: 152ff; Rakner, 1992). They certainly contributed to black South African workers' enduring perception that non-union work-place structures are little more than an attempt to avoid legitimate trade union representation.

Though it would be tempting to view work-place forums in this light – and many commentators have done precisely that (Etkind, 1995; Lehulere, 1996) – there are substantial differences between work-place forums and their counterparts elsewhere in the third world. Work-place forums are not compulsory institutions; indeed they may be triggered only by a registered trade union. Nor do they replace trade unions as workers' collective voice. Indeed, at NEDLAC labour won a revision in the Bill to allow for a variety of types of work-place fora: an employee-based model or a union-based model which is essentially an extension of union shop steward committees. Nor are work-place forums a substitute for collective bargaining: rather the work-place forum would have consultative and joint decision-making rights on a range of non-distributive issues, as well as extensive rights to information.⁴

While consultation means that an employer must, in a timely fashion, canvass plans with a work-place forum, decision-making power rests with the employer, though the latter must provide reasons to the forum for overriding their objections. Joint decision-making means exactly that: both the employer and the council make the decision, with clear and agreed procedures for breaking deadlocks. While one may be seen as a “soft” and one a “hard” form of interest representation, in practice the two tend to blur. Employers are more likely to heed a forum's objections on a matter of consultation if they know that tomorrow they will need the same council's agreement on a matter of joint decision-making.

Work-place forums introduce into South Africa what Rogers and Streeck (1994) call “second channel institutions”: “work-place-based institutions for worker representation and labour-management communication”. These complement collective bargaining by giving workers a voice in the governance of the shop floor and the firm, and facilitate communication and cooperation between management and labour on production-related matters, more or less free of direct distributive conflicts over wages (1994: 97).

In many European countries the rights and obligations of second channel institutions (“councils”) are statutorily entrenched, and may include powers of joint decision-making, consultation, and information sharing. The issues addressed by such institutions vary widely, but, according to Rogers and Streeck, these are largely determined by the character of

4 The range of issues was determined at NEDLAC. For a complete list, see Satgar's contribution to this issue. However, the Act makes provision for a representative trade union and an employer to conclude a collective agreement to add or remove issues for consultation and joint decision-making. In essence, the division between matters to be decided through industry or enterprise-level collective bargaining or via joint decision-making or consultation in a work-place forum cannot be made without the agreement of a representative trade union.

extra-firm collective bargaining. Where this is strong and centralised, councils are prevented from dealing directly with matters addressed in collective bargaining, such as wage-setting. Indeed, councils are obliged to uphold and monitor any collective agreements applying to their enterprise. This division is usually understood as a practical one which simplifies councils' work and assists in building consensus with employers by removing from the council's scope the annual divisive negotiation over wages. The division in fact extends from the principle that councils should not be allowed to undermine centralised bargaining. By contrast, in countries with weak systems of extra-firm wage-setting, councils function like local trade unions, and in some cases are able to bargain over wages and call strikes.

In some countries, most notably Germany, councils are established on a non-union basis. But this is not the case everywhere. In Italy local unions perform council functions, while in Sweden, which has both strong centralised bargaining and strong "second channel institutions", the latter are run by shop stewards. But whether or not they are union bodies, councils are institutions that represent *collective* rather than individual interests of workers. Insofar as they are *participatory* bodies they are distinct from managerial schemes to "involve" workers in production through, for example, quality circles. Significantly, councils are independent of management: they are not organised along functional production lines and stand outside channels of managerial authority (Rogers and Streeck, 1994: 102).⁵

Whether or not councils are union bodies, their functions are meant to complement centralised bargaining by taking on tasks for which centralised bargaining is not well suited. But "well suited" is a relative term: there is no fundamental division between issues appropriate for collective bargaining or for councils. Council competencies may include matters that are best decided at the level of the enterprise, such as work organisation and technological change. Furthermore, where extra-firm bargaining takes place on an annual or triennial basis, councils provide a means for addressing issues that require either constant monitoring or rapid responses. But there are no absolutes: matters that in Germany are decided by a non-union works council in Sweden are determined by shop stewards; issues that councils decide in Spain at the work-place level are the subject of collective bargaining in Germany.

The general point is that the same institutions can perform different functions while different institutions may perform the same functions. Indeed, the distinction between councils and unions in practice blurs, as in the modern work-place the valorisation of worker consent as a productive asset makes it increasingly impossible to separate technical and

5 For further discussions of co-determination in Europe, see Schregle 1978; Schauer 1973; Swenson 1989; Pontussen 1988; Weiss 1986. For a discussion of workers' control, self-management and co-determination in the third world, see Bayat 1991. For the results of an international comparative study of worker participation, see Kester and Pinaud 1994 and 1994a.

representative processes (Streeck, 1994). On the one hand, labour movements that sought to preserve their identity by eschewing council type institutions (as in Sweden) find their factory-level structures becoming "councilised". On the other hand, the non-union works councils in Germany have essentially been colonised by strong centralised unions. Councils have helped unions to broaden their membership and power such that Streeck can describe them, in a well-known phrase, as the "extended arm of the union at the work-place."

The public service remains a fascinating challenge to the development of co-determinist forms of engagement in South Africa. The public service was deliberately excluded from the provisions of Chapter 5, and was instead to be regulated for the purposes of work-place forums by a schedule to be promulgated by the Minister for Public Service and Administration (LRA, section 80(12); see also Satgar's and Patel's contributions to this issue).

According to Patel's analysis in this collection – the first systematic assessment of the issue – co-determination in the public service is both under- and over-developed relative to the rest of the economy. Notwithstanding the absence of a proclamation from the Minister, institutions of engagement are potentially extremely widespread in the public service. Interesting institutional innovations – in the form of transformation committees – have in certain instances given unions wide-ranging effective co-determination powers at the enterprise level. These include, curiously, participation in governing committees and enterprise boards, rights which are available in Germany, but which were not included in Chapter 5. Furthermore, centralised bargaining in the Public Service Co-ordinating Bargaining Council occurs over issues that extend well beyond wage-setting: qualitative "non-distributive issues" such as work organisation, as well as the restructuring of the public service itself. It is unclear whether such practices will continue, particularly given fiscal austerity and the trend towards commercialising the public service. Thus public service co-determination includes work-place and sectoral transformation committees; board-level participation; and strong centralised bargaining over a wide array of distributive and non-distributive issues. The public service has produced a potentially robust version of engagement that could serve as a model for unions to pursue elsewhere in the economy.

2.3 Engagement beyond the work-place: Industry accords

If the LRA provides workers with new rights of engagement at the work-place level, other developments provide for engagement between labour, capital, and the state beyond the enterprise. These trends point to the development of corporatist-style bargaining in South Africa (Maree, 1993; Baskin, 1993 and 1993a; Vally, 1992; Desai and Habib, 1996).

The new unions of the 1970s and 1980s grew from the shop-floor, where they focused their organisational power around strong shop steward-controlled locals capable of extracting concessions from employers in plant-level bargaining (Friedman, 1987; Adler and Webster, 1995). This strategic emphasis proved insufficient as employers and conservative unions could

box unions into unfavourable conditions of employment through industry-level bargaining in industrial councils over which the unions exerted little influence. Many unions had refused to participate in such structures, which required formal registration with the Department of Manpower. However, as shop-floor strength and union density grew, many unions reassessed this strategy and chose to challenge management in industrial councils.⁶ Since the late 1980s centralised bargaining has in fact become a core demand of the labour movement and a major point of contention between labour and capital in revising the LRA.

However, the unions' move towards centralised bargaining unleashed a series of organisational problems which have never been fully resolved. The need to combine disparate local demands into a common negotiating position created the possibility of destructive and embarrassing defections from the central bargain (Von Holdt, 1990). Furthermore, the skilled staff required to conduct the negotiations generated tensions for a movement that had long prioritised the power of elected semi-skilled worker leaders over full-time officials. These tensions between the centre and local remain: Marie (1995, 1992) traces the widely acknowledged and chronic weakening of locals in large part to these original centralising tendencies. Nonetheless, increased centralisation remains an imperative, compelling COSATU to identify an even more vexing problem: the creation of larger affiliates through the merger of existing unions along broad sectoral lines.⁷

In the early 1990s COSATU's strongest affiliates were able to use their power to engage with broad questions of industry restructuring. This issue had been placed on the agenda as a result of South Africa's impending reintroduction into global markets as a consequence of political democratisation. The adjustment required would be enormous, given the long history of protectionism associated with import substitution industrialisation. Unions feared that such adjustment would occur on neoliberal terms, entailing massive job loss unless they developed appropriate restructuring plans and the institutional means for establishing these as government policy. Thousands of jobs were at stake in the clothing and textile, automobile, and mining industries. These were not only the largest sectors in manufacturing and among the most densely organised, but the unions in these sectors were COSATU's most powerful.

In the years prior to the 1994 elections the unions sought to ensure that industrial policy would be developed on a tripartite basis by government, business, and organised labour. While the "mining summit" of the early 1990s largely stalled, efforts in the other two sectors ultimately produced agreements.⁸ The unions were able to bring capital to the negotiating

6 For an assessment of the Metal and Allied Workers' Union's decision to enter the Industrial Council, see Webster (1985).

7 For a frank discussion of the difficulties of accomplishing this feat, see COSATU 1997 and 1997a.

8 Pressures for an accord in mining were revived in early 1998 due to the continuing fall in the gold price and employers' plans for widespread retrenchments in the industry. The establishment of a tripartite Gold Crisis Committee provides an opportunity for the

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table, in large part because the employers were as threatened as the unions by restructuring. Furthermore, the unions were able to impose corporatism on the weakened apartheid state which feared the disruptive political effects rapid restructuring would generate, and saw agreements with capital and labour as a means to gain some legitimacy for itself. According to Hirschsohn *et al*, "The political transition thus created a unique opportunity for the three social partners to develop and implement consensus based industrial policies to restructure their industries to ensure their long term viability" (1997: 1). But they stress that the unions – rather than the state or business – drove the process by virtue of their ability to develop creative policies and to realise these through a combination of skilled negotiators backed up by their organisations' mobilisational power.

In both industries the three parties agreed progressively to reduce tariffs and rapidly integrate South African industry into the global economy; in return both labour and capital sought numerous supply-side inputs, including retraining and trade incentives, to offset the likely shocks of adjustment (Hirschsohn *et al*, 1997). In addition, they sought the creation of industry authorities to implement these measures and to monitor progress. In principle these agreements provided workers with substantial powers to restructure their industries according to their own agendas, rather than responding reactively to adjustment imposed from without.

However, engagement over industrial policy is flawed in that the institutions through which engagement occurs are not statutorily based, but depend on the good will of the participants. The parties – most especially government – were not bound by the agreements produced. Indeed, once in power, the ANC government "cherry-picked" both the clothing and textile and automobile agreements, endorsing those aspects consistent with the policies of the Department of Trade and Industry, such as tariff reduction, while rejecting those that meant increased state expenditure or the creation of multipartite implementation and monitoring authorities which could usurp state functions. While COSATU could impose corporatism on the weakened National Party government, it could not achieve the same result with a legitimate government, even one headed by its alliance partner!

2.4 Engagement beyond the work-place: NEDLAC

Most significantly, and in contrast with the experience of engagement in industry restructuring, another Act of parliament extended and entrenched workers' rights to engagement at the level of the society as a whole. The National Economic Development and Labour Council Act (Act 35 of

consensual restructuring and downscaling of the industry while ameliorating the extent of job losses. The mining summit also yielded a major advance in the area of health and safety, though this came about less through the tripartite process and more through the Leon Commission into health and safety in the industry and the work of former unionists in parliament who pushed through progressive legislation.

1994) provides labour and other collective actors with unprecedented rights to shape a range of government policies.⁹

According to Gostner and Joffe, in their article in this issue, with the transition to democracy in the early 1990s the unions sought a dramatic extension of corporatist-style initiatives to questions of broad social policy. Though this was in some ways a logical development of labour's efforts to increase worker control over decision-making at the centre, Gostner and Joffe argue that the unions were primarily motivated by the goal of preventing the government and business from undertaking unilateral restructuring of the economy prior to the election of an ANC government (see also Schreiner, 1991; Friedman and Shaw, in press; Webster, 1995; Adler and Webster, 1997).

For much the same reasons that labour was able to win the co-operation of capital and the state on industry restructuring, the unions succeeded in drawing both parties into a tripartite National Economic Forum in the dying days of the old regime (Friedman and Shaw, in press). Rather than fading away with the installation of a new regime, the NEF and the National Manpower Commission, a policy advisory body created under the Wiehahn reforms, were replaced by NEDLAC. Though labour's ability to achieve its goals in NEDLAC has been uneven, the Council provides the opportunity for wide ranging interventions on the most important government policies. These possibilities are not only a radical departure in South Africa, but are largely unprecedented in the world, especially given the trend towards neoliberal deregulation.

Why should engagement have become so common in South Africa? The next section will explore a number of general explanations for its development.

3 EXPLAINING ENGAGEMENT: PASSING FASHION OR ENDURING FEATURE?

Engagement is not simply the latest managerial vogue, nor an obsession of the ministerial legislative drafting team that developed the LRA. The emergence of co-determinist and more broadly multipartite processes is part and parcel of the broader transition to democracy in South Africa which has prioritised practices of bargaining and pacting between opposed societal interests. Such co-operation – and the inherent compromises on which it hinges – was a necessary condition for transition under

9 Representation at NEDLAC includes members who represent organised business, organised labour, organised community and development interests, and the state. According to the Act (section 5(1)) NEDLAC shall: "(a) strive to promote the goals of economic growth, participation in economic decision-making and social equity; (b) seek to reach consensus and conclude agreements on matters pertaining to social and economic policy; (c) consider all proposed labour legislation relating to labour market policy before it is introduced in Parliament; (d) consider all significant changes to social and economic policy before it is implemented or introduced in Parliament; (e) encourage and promote the formulation of co-ordinated policy on social and economic matters."

conditions of political stalemate. In this sense, engagement is an era-bound product, precipitated by the exigencies of collaboration between an illegitimate state which governed but did not rule and a legitimate democratic opposition which ruled but did not govern. However, where most transitional multipartite bargaining withered away after the election of a legitimate government, engagement between labour, the state and capital has survived the negotiated settlement that gave it such a strong impetus.¹⁰

There are four main reasons why these fora have endured. First, South Africa's transition to democracy has coincided with the advance of globalisation and new forms of competition in the international political economy. Locally this has posed the simultaneous challenges of democratisation amidst profound economic restructuring. Given its historical strength and the imminent threat to its members' interests, the labour movement vaulted into negotiation with business and the state over the form and pace of restructuring. But as described above, both the state and capital – for different reasons – had an interest in some form of engagement over these same issues.

Similar processes are occurring at enterprise level. Market demand for quality puts a premium on employee performance while new forms of work organisation allow for the potential decentralisation of decision-making and increase employees' influence over work. In many sectors management cannot simply tell employees what to do, but must trust them not to misuse their increased discretion. One approach is to increase employees' commitment to the enterprise, and many managements have undertaken some elements of organisational restructuring aimed at increasing "employee involvement" and other forms of co-operation (Streeck, 1992; Rogers and Streeck, 1994). Such initiatives are tied to extensive adjustment aimed at improving productivity and competitiveness, and have often brought with them demands for retrenchment and wage restraint. In other words, engagement has persisted because many employers themselves desire that it continue as an adjunct to their development strategies, albeit with important limitations on the nature and extent of participation.

Second, notwithstanding their refusal to participate in statutory structures during the apartheid era, most of the unions that emerged in the 1970s and 1980s were committed to a vision of socialist transformation, and advocated the radical extension of worker control at the enterprise, industrial, and societal levels. Though the principled policy of "militant abstentionism" during the anti-apartheid struggle emphasised minimum co-operation with the state and capital (though it did not exclude routine collective bargaining and even registration under the LRA), with the onset of the transition to democracy labour gave force to its commitment to worker control (Von Holdt, 1991 and 1991a). While there are some ambiguities about the approach, labour sought direct engagement with the

¹⁰ For further discussion of such transitional institutions, see De Villiers (1994).

state and capital at the national and industrial sectoral levels.¹¹ If business sought to make contact with labour over certain limited forms of co-operation, then labour – in pursuit of worker control – sought engagement with business and the state.

Third, engagement has grown out of and has been sustained by the regular, institutionalised interactions between organised labour and business founded in the employment relationship. This relationship, exemplified by the welter of recognition agreements, industrial councils and other institutions of the industrial relations system, existed prior to the transition itself. Engagement is thus rooted in the extensive and long-entrenched relationship between labour and capital which is formally independent of political parties and the state.¹² The historical embeddedness of engagement between labour and capital in capitalist relations of production constrains the options available to the state for unilateral restructuring of the economy and society. Indeed, the new LRA has significantly bolstered the industrial relations system and its independence from the state.

Finally, most multipartite transitional negotiating processes emerged due to the crisis in legitimacy of the apartheid state and existed on a voluntaristic basis, with unstable and shifting membership. By contrast, the cornerstones of institutional engagement between labour, capital and the state – NEDLAC and work-place forums – are enshrined in law. The existence of such fora and the rights conferred upon them do not depend primarily on the exercise of power by the participants; rather, the power of the participants enabled the creation of entrenched powers that will maintain the institution even if the parties' strength wanes. Gostner and Joffe argue in their contribution to this issue that the NEDLAC Act gives labour and business the right to influence the policy process and therefore the sorts of policy that government adopts before legislation goes to parliament. As such, labour need only mobilise in those instances in which negotiations deadlock, as it no longer has to expend considerable resources on getting a place at the table.

In engagement is not simply a passing fashion, it may be too soon to declare that it is an enduring feature. It is important to survey the difficulties each party has with engagement, to which the discussion now turns.

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- 11 The ambiguities concern whether engagement in fora such as the National Manpower Commission and National Economic Forum was purely defensive in orientation – blocking the apartheid state's ability to embark on unilateral restructuring of the economy – or whether it included a proactive element of involvement in policy making. Friedman and Shaw (in press) tease out the complications of labour's position: in essence it attempted to do both by furthering the ANC's (and its own) short-term agenda by blocking state economic policy, while seeking to achieve certain long-term gains by participating in agreements. While the latter produced some important results advantageous to workers, the largely defensive posture of blocking unilateral restructuring "interfered with pursuing a longer term transformative agenda." Either way, engagement was a function of a strategy of extending worker control.
- 12 This independence is extremely important: neither labour nor business owe their organisational status to the state; nor is either party – most significantly labour – dependent on the state or the ANC for its funding, leadership selection, or for decisions to take collective action.

4 ENGAGEMENT: A DUBIOUS ACHIEVEMENT?

If one speaks to a trade unionist elsewhere in Africa or his or her counterpart in Asia or North America, they will express deep envy at the forms of engagement available to South African unions. Indeed, unionists elsewhere have spent considerable time studying the NEDLAC Act and the new LRA while strategising how to achieve similar gains in their own countries. Yet one of the most intriguing ironies of the experience of engagement in South Africa is that, while each party has reason to be thankful for its existence, engagement generates little enthusiasm among its putative beneficiaries, most especially labour.

Indeed, at critical moments each party has opted out of engagement when it suited their interests to do so. As Gostner and Joffe demonstrate, NEDLAC has been particularly prone to such defections. The unions bypassed the council by insisting on treating the restructuring of state assets as a bilateral issue between them and government. Business judges that it can better secure its interests by quietly lobbying friendly government politicians and senior civil servants than by entering complicated negotiations in NEDLAC over macro-economic fundamentals. For its part, government treated GEAR as a non-negotiable issue, and maneuvered to ensure that it was never formally discussed in NEDLAC's Public Finance and Monetary Policy chamber. According to Hirschsohn *et al* (1997), government has similarly refused to be bound by industry restructuring accords, unilaterally rejecting crucial items in the clothing and textile and automobile industry agreements thereby eroding their effectiveness.

Each party resembles a prosecutor or defence attorney "shopping" for the most suitable judge to hear their case. Rather than being bound by decisions that limit their options, the parties seek another venue where an unpopular result can be overturned as if on appeal. In this respect engagement serves not to bind parties to unfavourable outcomes, but is more or less an extension by other means of a zero-sum adversarial bargaining process.

By definition, engagement cannot allow any actor to maximise his rewards. It is rather a way of producing compromises: sub-optimal, or "least-worst" outcomes (Baskin, 1998: 18). Ambivalences arise, however, because engagement is a deeply contested concept with different meanings for each actor. On labour's side, advances towards involvement in decision-making appear to satisfy long-standing goals to deepen worker control and constrain both capital's and the state's unilateral decision-making power. As Satgar argues in his article in this issue, the LRA's provisions allowing for the establishment of a work-place forum through agreement between employers and a representative trade union hold out the possibility for a radical extension of worker control. In addition to expanding the areas of joint decision-making beyond those identified in section 81(1) of the Act, he identifies the possibility of including within the agreement an autonomous self-management competency which goes beyond co-determination in that workers begin to usurp managerial functions.

But these very possibilities threaten managerial prerogatives and heighten capital's fears that engagement is labour's Trojan Horse that must at all costs be kept outside the gates. Hence, for the most part, as Godfrey, Hirschsohn and Maree show in their contribution to this issue, managers embrace limited forms of work-place-level decision-making, which are yoked to their pre-existing plans for achieving competitiveness. Except in cases where unions are well organised and assertive, employers seek to restrict engagement to forms they believe to be functional to their overall agenda. Similarly, Webster and Macun, in their contribution to this issue, argue that – with few exceptions – existing forms of work-place representation amount to soft forms of consultation developed in response to firm-threatening crises. Such fora's powers are ambiguous, and are seldom institutionalised. The existing cases, Webster and Macun report, fall well short of joint decision-making, as in the final instance power rests with management, and come close to Pateman's (1970) famous description of pseudo participation.

Thus, capital has its own imperatives for embracing forms of participation: to incorporate labour into their chosen strategies for increasing efficiency and competitiveness. To a great extent this imperative is shared by the state. As Du Toit (1995) points out, the Minister of Labour, when launching the Draft Labour Relations Bill, described worker participation as “‘more than a moral or ethical imperative’ situated within ‘parameters of equity and social justice.’” However, the Act eventually passed by parliament does not give precedence to this democratising and empowering intention, and prioritises instead that work-place forums “must seek to enhance efficiency in the work-place.” (LRA, section 79(b)) “Such an explicit directive,” Du Toit argues:

“will be binding on a court in a way that a general statement of intent by a minister is not. The implication is that economic efficiency must take precedence over the requirements of democracy and that, if ‘efficiency’ (as understood by a court) demands it, workers’ rights to be involved in decision-making must be curtailed. An alternative approach...would be to seek a synthesis: a system of work-place governance designed to enhance democracy as well as efficiency, in mutually reinforcing ways . . .”¹³

These orientations on the part of capital and the state activate labour's fears that engagement – despite certain advantages – will ensure their incorporation on unfavourable terms within capitalism and undermine their programmatic commitment to a socialist transformation. In this sense engagement is perceived by labour as capital's Trojan Horse. Thus, in spite of advances that have created an unprecedented expansion of labour's potential power over decision-making, these opportunities have been met with considerable scepticism – even rejection – in the ranks of labour (see Buhlungu, 1996).

13 It is worth stressing that the NEDLAC Act (section 5(1)) more successfully achieves the balancing act Du Toit calls for by giving equal weight to “the goals of economic growth, participation in economic decision-making and social equity.” It is unclear why the LRA – which after all was negotiated at NEDLAC – does not do the same.

But the state's reservations about engagement do not coincide entirely with those of capital. Without denying the attractions of bringing labour "on board" a programme of increasing competitiveness, the state, too has reasons to fear that engagement will indeed be a Trojan Horse for *both* labour and capital. Engagement could well enable both to usurp the state's constitutional prerogatives by infringing on its sovereign right to make and implement laws. Where this infringement was inevitable during the transition to democracy (indeed, it may be argued, such power sharing was a necessary condition for transition) its attractions for a democratically elected government are greatly reduced, particularly given that the new parliament and other democratic institutions remain unconsolidated.¹⁴

Buttressed by a popular mandate and equipped with policy-making capacity, the ANC government has far less need than its predecessor to heed either business or labour (Friedman and Shaw, in press). This does not mean that the state is free to ignore either, though with increasing frequency ministers and senior civil servants defend state autonomy in policy-making by invoking pluralist notions of parliamentary sovereignty. These could be the harbinger of a retreat from engagement. Indeed, as mentioned above, the government effectively blocked NEDLAC from considering macro-economic policy, though it must be stressed that such insulation was not aimed solely at labour, but extended to the ANC itself as well as civil society formations.¹⁵

The NALEDI research project thus arrived at an awkward conclusion. One can point to important trends towards engagement at the work-place, industry, and societal levels, but it is far more difficult to identify who is responsible for such innovations, since none of the participants are unambiguous champions of engagement.

5 ASSESSING LABOUR'S ENGAGEMENT WITH CAPITAL AND THE STATE

In one respect it is clearly too early to conduct a proper assessment of engagement. Similar institutions have evolved over decades in western Europe and labour, capital and the state have each taken considerable time to develop appropriate strategies for using them. Without resorting to a score-card approach, it is possible, nonetheless to identify certain trends.

¹⁴ In this context, both parliament and the extra-parliamentary institutions of engagement may well be threatened by the growing power of the executive. Given that the apartheid state granted central state authorities massive formal and informal power any democratic project must address the restructuring of the relationship between the executive and representative institutions.

¹⁵ It is not clear to what extent organised South African capital was involved in GEAR's formulation, but the direct involvement of World Bank economists is rather easier to discern. For a discussion of insulating economic policy-making, see Gelb and Behlhem (1998).

5.1 Building organisation: Strong unions enable strong engagement and vice-versa

Gostner and Joffe report that labour has proven particularly effective at using NEDLAC in a defensive mode to block certain policies unpalatable to them. But defensive responses are only a small part of the potential gains to be had from engagement. The unions have not been able to realise fully the possibilities for building organisation by extending union membership. Such outcomes have been attained in Germany, where unions have colonised supposedly non-union works councils and have brought their leaders and employees into union membership. While formally non-union structures, works councils tend to rely on unions to provide research and other support in their dealings with employers, and in this interaction councilors usually become converted to the cause of unionism. Furthermore, unions have used rights of access to co-determined work-places (for example, the right to attend works council meetings and the right to call for elections to establish a works council) to recruit new members. Given the symbiotic relationship between councils and unions, the election of a works council in practice amounts to a union recognition procedure (Streeck, 1992: 153; Streeck, 1994a).

Much of the skepticism around work-place forums revolves around union fears that they will not only incorporate unions into capitalism, but will undercut the most important union structure: the shop stewards committee. The LRA's acceptance of a union-based work-place forum helps allay these fears. But it is also crucial to recall that "second channel" institutions can operate through a multiplicity of forms. It is therefore necessary to reflect on ways to marry "second channel" type interventions with the traditional structures of shop stewards committees, combining bargaining with the more consensus-building practices associated with co-determination. It is unclear at present exactly how union and work-place institutions can be combined. More research and debate, as well as well-chosen experiments on the ground can advance our understanding in this crucial area. This includes finding ways of functionally differentiating "those issues which are too complex and detailed to be given proper consideration in the context of annual negotiations from those which are not" (Lagrange, 1995).

5.2 New use of power

The distinction between defensive blocking maneuvers and proactive involvement in policy-making implies a subtle shift in notions of power embraced by all three parties. Friedman and Shaw (in press) argue that industrial relations in South Africa has been underpinned by "realist" notions of power, defined as "an actor's ability to impose its will, regardless of resistance." By contrast, creative policy-making depends upon the use of communicative action power which is the ability to "act in concert" with others. Power here rests on securing the voluntary consent of other actors. If "realist power" concerns the division of existing capacities within society, "communicative action," they argue, "is about creating new capacities" through co-operation between labour, capital and the state.

Realist notions of power will continue to be important, not only because this is an inherited tradition, but because the oppressive conditions that in the past generated such conflicts will remain for the foreseeable future. Engagement – defensive and proactive – demands the use of both forms of power. Friedman and Shaw however stress, “the challenge of using the one while retaining the other is substantial and unions’ experience equips them for it only partially at best.” Engagement demands of union leaders, Friedman and Shaw conclude,

“that they find both a strategic and a rhetorical balance between continued adversarialism and new forms of cooperation. If the balance is found at all, the quest will not be easy. And damaging failures to find it seem almost inevitable” (Friedman and Shaw, in press).¹⁶

5.3 Legislative entrenchment

The statutory entrenchment of institutions is an important condition for the deepening of engagement. Certainly, entrenchment does not guarantee that the parties will take engagement seriously – as witnessed by the government’s unwillingness to subject GEAR to consideration at NEDLAC – but it does greatly increase the likelihood that the institutions themselves will continue and that agreements reached therein will be binding. As Webster and Macun show, informal work-place engagement was largely a crisis-driven response by powerful personalities on both sides who were converted to the wisdom of negotiated solutions. When the crisis wanes, or individuals move on, or firms change direction the institutions themselves tend to crumble. A similar lesson may be drawn from the experience of COSATU unions in developing accords on industry restructuring.

5.4 Capacity

All sides lack research, administrative, and personnel capacity to engage effectively, but the problems are most extreme in the unions, and are increasingly acknowledged (COSATU, 1997 and 1997a). A decline in servicing members is obvious, stemming largely from resource problems in many affiliates. Some are unable to fund necessary functions such as training for shop stewards and officials, and in many prominent cases business is taking on the function of educating union factory representatives. These capacity problems are important because they directly affect union power. If management is training shop stewards – or as bad, if no

16 In contrast to those state officials looking to end or downgrade engagement, the Director General of the Department of Labour, Siphos Pityana has recently made a sophisticated assessment of the possibilities and problems of engagement. In distinguishing NEDLAC from collective bargaining between labour, capital and the state he has called instead for “the three parties together [to] define a vision of what South Africa must be transformed into.” All policies – including those from business and labour – should be up for discussion, but with a clear focus on desired outcomes, tied to extensive and collaborative research (Pityana 1997, 1997a). These ideas come very close to Friedman’s and Shaw’s arguments for “communicative action”.

training is occurring – the unions risk compromising their power, which is ultimately founded on the political sophistication, mobilisational ability and mandates of shop floor workers and their shop stewards.

If union education efforts are weak, their research capabilities are even more constrained, notwithstanding the development since 1993 of NALEDI. The economic research capacity in even a single quasi-state institution – such as the Development Bank of Southern Africa – completely dwarfs the total research capacity at labour's disposal.

Unfortunately, multiple layers of engagement demand that education and research capacity be radically expanded. Without this unions are likely to find themselves either blocking initiatives from capital and the state or meekly agreeing out of ignorance or for want of alternatives. In this context the silence in the LRA over provision of appropriate funding for training members of work-place forums is cause for considerable concern. In many European countries provision for funding of training by employers is an essential feature of “second channel institutions.” The lack of similar arrangements here – where the impact of a racist education system heavily advantages capital – threatens the viability of all forms of engagement.

5.5 Strategic vision

A (partial!) list of commitments made at the recent COSATU Congress include campaigns for: living wage; paid maternity and family leave; restructuring UIF; child care facilities; a social security net for all; monetary and fiscal policies that enhance growth and employment creation; public sector restructuring; tariff reduction; a viable public works programme; fair regional labour standards; organisational renewal; changing the country's electoral system; transformation of the police and justice system; fighting globalisation (COSATU, 1998).

COSATU has made gains in many of these areas, and these goals are individually admirable. Taken together, however, they are well beyond any movement's capacity, particularly one with the problems mentioned above. In many respects labour has become a shadow government, developing policies in every conceivable area of interest to the working class.

This wide agenda is a symptom of deeper strategic problems. The labour movement has not decided which activities take precedence, nor ranked its involvement with any one campaign. If organisations cannot make these choices on a deliberate basis, they risk doing many things badly rather than a few things well. This is the opposite of strategic action. If they are unable to establish specific goals, differentiate short, medium, and long-term objectives, and marshal scarce resources to achieve them unions risk lapsing into what the September Commission on the Future of the Unions labelled “zig-zag” unionism: a reactive unionism, lurching from one issue to another as they pop up (COSATU, 1997).

This is evident in NEDLAC where, as Gostner and Joffe argue, with a few exceptions the agenda has been set by government's legislative timetable.

The process is driven by White Papers or draft legislation usually drawn up in relative isolation by government with both labour and capital compelled either to oppose or to amend proposals at the edges. The first may lead to breakdown; the second to marginalisation, whereby labour accepts to work within someone else's plan. Indeed, government not only tends to define what goes on the agenda, but what is kept out of the forum (most importantly, GEAR).

Gostner and Joffe call instead for clarity in strategic vision as a prerequisite to the effective use of NEDLAC, though the same point can be made about engagement at the other two levels. Labour cannot maximise its opportunities because it is unsure how to deploy its scarce resources wisely, nor does it know how to link its efforts at NEDLAC with those at the other two levels. The huge and highly technical agenda of discussions in fora such as NEDLAC, combined with weakened links between leaders and members means that these discussions cannot be widely debated throughout the organisation. With a relatively uninformed membership, how can the massive power of the unions be mobilised to achieve the organisation's goals?

Thus the problem of strategic clarity has as its parallel the growth of what the South African Communist Party's Jeremy Cronin (1992) has called the tap theory of protest: turning the mobilisation off or on as determined by the ebb and flow of a very distant negotiation process. This development has serious implications for democracy. How possibly can members follow, let alone exercise democratic control over decisions if these are made in far-away locations and are sealed by agreements brokered between top leaders? A membership that did not participate in agreements made at any of the three levels will be unlikely to feel bound by them, and a labour movement that cannot ensure that agreements stick will be unlikely to command the respect of either capital or the state. These problems could result – as COSATU's secretariat acknowledged in its report to the 6th National Congress – in the “strategic initiative passing into the hands of those opposed to fundamental transformation,” and to the rollback of gains made during the apartheid era and since 1994 (COSATU, 1997a).

5.6 Transformation

Aside from labour's pragmatic concerns about engagement, lurking in the background is a very palpable principled objection. For many South African unionists the historical reference point for both co-determination and corporatism is European social democracy, where they are seen to have contributed to labour's incorporation into capitalism. What is more often neglected is that both co-determination and corporatism have also come at a cost to capital, that they continue to yield significant benefits for employed workers and union members, and that they have not meant the extinction of labour's independence.

Corporatism, in particular, has been associated with union success in weathering the storm of globalisation. According to Turner, in the period of heightened deregulation and global competition, union success or

decline and the stability of industrial relations systems are largely determined by two critical variables:

“The extent to which unions, as a broad national pattern, are integrated into processes of managerial decision-making, especially concerning work reorganisation; and second, the existence of laws or corporatist bargaining arrangements that regulate firm-level union participation from outside the firm” (1991: 12).

The necessity of reaching agreement between management and workers helps ensure that even far-reaching restructuring programmes take into account *both* market imperatives and the representation of workers’ interests. It also means that workers have an independent base from which to assess company needs, giving them the potential to develop a “worker-oriented vision of the shape of new work organisation.” At the same time, the existence of corporatist bargaining arrangements outside the enterprise “narrows managerial discretion” and ensures that “both management and labour . . . are pushed from without toward collaboration . . .” (Turner, 1992: 12-13).

It is not coincidental that such integrated systems strongly correlate with those cases (e.g. Sweden, Germany) where unions have succeeded in maintaining membership through the economic storms of the 1980s and 1990s (Turner, 1991; Rogers and Streeck, 1994; Streeck, 1994). In an era in which unions are generally on the defensive, advantages which enable them to maintain their size and integrity are extremely important.

Moreover, Streeck (1992) argues that co-determination has resulted in a double incorporation. It has certainly increased labour’s identification with management’s goals, though it is important to stress that co-operation does not exclude serious conflict between labour and capital. But it has also fundamentally changed the way firms deal with labour. Given the constraints co-determination imposes on manpower policy (e.g. retrenchments and training) firms cannot easily take on or shed labour as market conditions would normally dictate. The organisational rigidities in co-determined firms have in part achieved the decommodification of labour

“in effect reduc[ing] the dependence of employment on the product market and . . . turn[ing] labour, within limits, from a dependent into an independent or even constant factor. For many practical purposes labour in co-determined enterprises is almost as difficult and costly to dispose of as fixed capital. In this sense the status of capital and labour as factors of production has been made more similar (1992: 159). Thus co-determination has resulted in the subtle transformation of the nature of capitalist relations of production”.

Still, the gains identified above have come within a capitalist framework. What remains unanswered is the extent to which engagement today can be translated into a means towards longer term processes of transformation. Though the tendency may be strong for engagement to become an end-in-itself rather than a means towards transformation, it would be a mistake to see labour’s incorporation as a one-way relationship entirely functional to capital.

Engagement can bring about workers’ empowerment by equipping them with skills beyond their specific knowledge, particularly regarding production, management and financial control in enterprises. Without

these capabilities workers will be less able to move beyond a traditionally narrow bargaining agenda, as core functions of the firm will remain opaque, even in a context of thorough information disclosure. Furthermore, the opportunities provided by engagement would allow workers to intervene early in policy issues, and perhaps contribute to approaches that would avoid problems such as retrenchments. In such a fashion workers could move beyond reactive and defensive responses to capital's initiatives and mistakes. In the longer term, engagement contains the possibility, outlined above, of usurping managerial functions, the Trojan Horse of co-determination most feared by capital.

These arguments mesh well with COSATU's September Commission's recommendations for transforming the economy (COSATU, 1997). The Commission's economic vision portrays labour as both the major bearer of the public interest in industrial development, and the bearer of the majority interest in redistribution and social justice. The vision attempts to reconcile short-term defence of worker interests with a longer-term strategy of economic transformation that includes:

- Restructuring the public sector to deliver better services; to serve as a source of productive investment in strategically important areas; and to serve as the cutting edge of work-place democratisation;
- socialising the investment function through reintroducing prescribed assets – a requirement that enterprises invest in specified developmental areas;
- using union investment companies to build “a social sector” of co-operatives;
- transforming the private sector into a “stakeholder sector” where “no longer only the rights of shareholders prevail, but also the needs of workers, communities and society”.

These goals in turn are unachievable except through the processes discussed above. The Commission acknowledges this in its call for “strategic engagement.” But it did not fully perceive the multi-layered character of labour's engagement and the opportunities it provides for advancing in a more co-ordinated fashion at each of the three levels the Commission's integrated development agenda.

It is worth registering a caveat: labour's aspirations to represent a broader constituency of the exploited need to be examined critically. Many assessments of engagement in South Africa have characterised it as a concern of the relatively well-off. Bird and Schreiner once argued for an inclusive multipartite version of corporate (collective) bargaining, comprising also “civics, women's groups, associations of the unemployed and the aged, consumer and rural organisations . . .” (Bird and Schreiner 1992: 28-29 and 32).

To an extent this problem is addressed in NEDLAC's development chamber which includes community based organisations alongside labour, business and the state. But this sector is at best weakly represented at NEDLAC and does not provide an appropriate counter-weight to the other groupings (see Webster, 1995). Engagement is weakened because “there

are large numbers of poor and oppressed South Africans whom the civics and trade unions do not represent and who are outside any significant radical popular initiative" (Harris, 1993: 95). By their absence such groupings ensure that solutions to South Africa's problems of political and economic transition are less likely to meet their peculiar circumstances and needs.

In response, Jarvis and Sitas argue in their contribution to this issue for a more encompassing "social co-determination" that goes beyond traditional shop floor-based co-determination (as in western Europe) to include constituencies other than labour and capital in processes integrating production and distribution decisions. While identifying a need for the state to co-ordinate and plan development, they call for new national, regional and local "grids of decision-making." Work-place co-determination mistakenly assumes that decisions can be isolated from broader societal interests. But who should "co-determine" a firm's decision to open or close a plant in a particular region? Who has an interest in addressing possible environmental effects or the impact of hiring strategies on local labour markets? "A plurality of interests," they argue "need to shape together the 'co' side of our economic decisions":

"We need to in other words find a new agency for determination that is not "univocal" but "multivocal." A return to centrist, commandist and dictatorial forms of organisation is undesirable. A collapse of all determination into a re-born "marketism" is also undesirable. By social co-determination we are signposting the need for an economic system that is accountable to social and civic needs. And this accountability demands new forms of "co-decision"-making".

In this respect, arguments for engagement return full circle to the issue of deepening democracy. The forms of participation called for by Jarvis and Sitas cannot be accomplished through the formal institutions of representative democracy alone. Not only do these lack the power to regulate the economic system, on the terms of Jarvis's and Sitas's argument it would be undesirable for them to acquire such power. Rather, such participation depends upon a creative mix between parliament (and regional and local legislative assemblies) and bodies that ensure the direct participation of civil society groups in economic decision-making, implementation and monitoring. The institutional forms through which this could be accomplished, their competencies, and the division of labour between them remain unclear at present.

Such participation would have important implications for deepening South Africa's new democracy. Engagement helps ensure that workers can hold those in authority directly and immediately accountable; that such accountability can be extended to the sphere of private economic decision-making; and that it can be exerted before a decision is made, preventing or amending an objectionable policy prior to its implementation. Engagement may ensure that workers reap greater benefits from their labour, and thereby contribute to increased trust, in turn encouraging higher quality work effort. Engagement may increase the flow of information between all parties, which not only contributes to better – more informed – decision-making, but contributes to a climate of trust and reciprocity (Rogers and Streeck, 1994: 104-112). Agreement on goals

helps bind all parties to a policy and ensures their joint responsibility in bringing it about (Gelb and Bethlehem, 1998: 17). In short, engagement may slow down decision-making, but it will likely improve the quality of an outcome and vastly increase its legitimacy, while developing the participants' intellectual and technical competencies.

6 CONCLUSION

Engagement holds out the possibility – difficult as it may be to realise – of advancing worker's control over crucial economic decision-making, thereby deepening democracy and contributing to a transformative program. The paradox is that such potential is realisable only through participation in and risking incorporation into the capitalist system.

Labour faces a tall order. It must develop strategic and feasible approaches to engagement at the work-place, industry and societal levels, and be in a position to synchronise these transformative initiatives. An approach that sees these as mutually reinforcing departures – rather than as a series of discontinuous encounters with the state and capital – can help ensure that labour's limited capacities are better marshalled towards achieving its goals.

The South African labour movement, it has been said, has proven to be more adept at opening doors than walking through them. But the opportunities described in this article won't remain open for ever. The question posed above as to whether the institutions and processes of engagement are a passing fashion or enduring feature cannot yet be answered. But we will – sooner rather than later – know whether engagement has changed the relations between labour, capital and the state, and – by extension – the nature of South Africa's new democracy.

In the meantime, the findings presented in this issue of *Law, Democracy and Development* make but a first assessment of engagement. Further detailed work and debate is needed by all who share an interest in labour and democracy.

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