

Developments in labour relations in South Africa: Ten years of democracy (1994–2004)

G. M. Ferreira

Department of Public Administration and Management
University of South Africa

Abstract

South Africa's labour legislation framework, promulgated during the past decade (1994–2004), is regarded as some of the most comprehensive in the world. It has done much to redress the imbalances of the past. With four significant Acts promulgated to regulate and manage labour relations in the country, there are still areas lagging behind that have a profound influence on the country's economic performance. This article provides an introduction to the realities of South Africa after its first democratic election in 1994, before moving on to discuss labour legislation briefly. It then identifies specific challenges that face the country in the near future, not least the requirement to provide greater balance in the employee–employer relationship.

I. Introduction

After the first democratic elections of 1994, there was a clear need for radical change in South Africa's socioeconomic and political order. The new government was confronted by significant institutional transformation and the introduction of new policies in line with the Constitution. It was also necessary to integrate the country into a rapidly changing global environment.

Labour relations were important in engineering the much-needed transformation and policy changes. The government started to democratise society based on the principles of equality, non-racialism and non-sexism. In line with the Interim Constitution, Act 200 of 1993, new policies and programmes were put in place to improve the quality of life of all people. In the Constitution Act 108 of 1996, equitable labour relations were formally recognised as a fundamental right in line with protection provided to all workers in advanced democracies throughout the world.

Labour relations were now conducted in an environment where labour and capital had to be harmonised to achieve industrial peace and to improve productivity. In an attempt to provide transparent socioeconomic decision-making processes, the government created institutions such as the National Economic Development and

Labour Council (Nedlac). Democratic labour relations policies also had to be enshrined within a new legislative framework. Four primary Acts were formulated to regulate employment relationships in South Africa.

The article commences with a discussion of the labour market's poor performance and how this influences the economy. The influence of labour legislation on performance is then examined. Some challenging social and economic trends are identified that will need attention in the next decade, such as mending and reinforcing the labour relationship and transformation processes started in the 1990s.

2. Changes in the socio-political dispensation in South Africa

Economic and political developments in a country may lead to government intervention in labour relations. Political and ideological determinants may result in voluntary cooperation between the state, labour and capital to formulate labour relations and economic policies that will achieve maximum benefit for all. An institutional framework is therefore created that incorporates the labour movement in economic, social and political decision-making. With the release of Nelson Mandela in 1990 and the unbanning of political organisations in South Africa, a new socio-political era began. The way was paved for the democratic election of a new government.

The most outstanding event of the 1990s was the democratic election of the Government of National Unity with the African National Congress (ANC) as the majority party. This was the culmination of negotiations that started in 1990, which reached a commitment to a negotiated settlement by the end of 1992. The forum for this negotiation was the Convention for a Democratic South Africa (Codesa). All major parties were invited to participate in a peaceful transition to South Africa's first democratically elected government. Parties represented were, among others, the National Party government, the ANC, labour unions, civic organisations and the business sector. South Africa's Interim Constitution of 1993 resulted from the Codesa negotiations. It provided an interim framework until the newly elected government had drawn up the Constitution of 1996. Many of the principles negotiated at Codesa would serve as a basis for the 1996 Constitution.

The preamble to the Interim Constitution of 1993 acknowledges the need to create a new order in which all South Africans would be entitled to a common South African citizenship in a sovereign and constitutional state (Venter 2003, 43). There would be racial and gender equality and all citizens would enjoy and exercise their fundamental rights and freedom. Equitable labour relations were now formally recognised as a fundamental right. Section 27 of the Interim Constitution of 1993 maintained that

- every person shall have the right to fair labour practices
- workers shall have the right to form and join trade unions, and employers shall have the right to form and join employers' organisations
- workers and employers shall have the right to organise and bargain collectively

- workers shall have the right to strike for the purpose of collective bargaining
- employers' recourse to lockout for the purpose of collective bargaining shall not be impaired.

Constitutional protection for all workers is considered as the hallmark of advanced industrial democracies. After the first democratic election on 27 April 1994, the ANC, supported in an alliance by the Congress of South African Trade Unions (Cosatu) and the South African Communist Party (SACP), assumed power as the majority party in the Government of National Unity. The newly elected government was confronted by great expectations among the electorate. Workers expected the government rapidly to overturn the legacy of apartheid. Addressing the massive socio-political and economic imbalances between the people of South Africa was high on supporters' wish lists. There were expectations around the creation of jobs, better and new investments, improved education, training and health services. Trade unionists became politicians in the new dispensation, serving the interests of all stakeholders, especially in labour relations. The new government emphasised affirmative action in the workplace and a social responsibility to uplift previously disadvantaged communities and individuals. However, because of problems with economic growth, employment did not increase in real terms and mass retrenchments continued. The lifting of trade barriers brought both advantages and disadvantages and led to protests among workers (Bendix 2004, 82).

The most important implication of the new political dispensation for labour relations in South Africa was the emphasis on worker rights, workplace democracy, affirmative action, industrial restructuring and the restructuring of education and training. Labour relations in South Africa were now conducted in a fundamentally new context where the challenge was to harmonise labour and capital, to achieve industrial peace and to improve productivity (Venter 2003, 33). Most countries and the international community have accepted trade unions as primary role-players in the economic and social life of a modern state. Employers, employees and the government are viewed as social partners in a cooperative effort to promote economic stability and industrial peace, through collective bargaining, consultation and the adoption of fair and simplified procedures to settle disputes.

Apart from chapter three of the Constitution of 1996, which deals directly with labour relations, sections in the Bill of Rights affect labour relations and legislation, for example,

- Clause 8, dealing with equality, provides that 'no person shall be unfairly discriminated against, directly or indirectly'. It states that this provision does not preclude 'measures designed to achieve the adequate protection and advancement of persons or groups or categories of persons disadvantaged by unfair discrimination'. Affirmative action initiatives will therefore not be regarded as unfair discrimination.

- Clause 10 deals with ‘respect for and protection of [people’s] dignity’.
- Clause 13 deals with the right of an individual to privacy.
- Clause 15 details the right of freedom of speech and expression.
- Clause 16 provides the right to ‘assemble and demonstrate with others peacefully and unarmed, and to present petitions’.
- Clause 26 indicates that everyone ‘shall have the right freely to engage in economic activity and to pursue a livelihood anywhere in the national territory’.
- Clause 29 entitles an individual to ‘an environment which is not detrimental to his or her wellbeing’.

All labour legislation, actions and processes in labour relations should thus be evaluated within this context and may be challenged in the Constitutional Court.

In a bid to add legitimacy and transparency to the socioeconomic decision-making process, the government created Nedlac in February 1995. It replaced the National Manpower Commission (NMC) and the National Economic Forum (NEF). Nedlac is a social partnership between the traditional stakeholders in the tripartite relationship (government, business and labour), as well as the community (represented by civic, women’s, rural, youth and disabled organisations and representative bodies) (Venter 2003, 44). In an attempt to adopt a corporatist approach towards economic relations and labour market policymaking, and to consult all major stakeholders, the government recognised and elicited Nedlac’s approval in proposed legislation. This was the first attempt to reach democratic consensus on matters related to social and economic policy. The employment relationship is transformed from an adversarial relationship where employers and employees tend to be constantly in conflict, to a more cooperative, democratic relationship in which employees and employers can work together as partners to achieve common objectives (p. 44).

Nedlac’s objectives are set out in the National Economic Development and Labour Council Act 35 of 1994. These are to

- strive to promote the goals of economic growth, participation in economic decision-making and social equity
- seek to reach consensus and conclude agreements pertaining to social and economic policy
- consider all proposed labour legislation relating to labour market policy before it is introduced in Parliament
- consider all significant changes to social and economic policy before it is introduced in Parliament
- encourage and promote the formulation of coordinated policy on social and economic matters (p. 44).

Nedlac has played a fundamental role in the shaping of a democratic South Africa. The process of reaching consensus through forums for debate is critical for the formation of legitimate decisions that are acceptable to all South Africans. Nedlac is therefore a consensus-seeking body that tries to facilitate agreement through discussion and negotiation. Nedlac has also played an important role in shaping labour legislation through the formulation of various pieces of legislation. This was the first attempt towards community corporatism in South Africa, where employers and union representatives voluntarily took part in the government's attempt towards empowerment.

3. Labour relations policy and legislation

After the 1994 elections, it was crucial to develop the economy in order to increase employment and redistribute wealth. In labour, a spirit of industrial democracy had to be created and production and labour peace encouraged through greater understanding and joint decision-making. South Africa's re-emergence in global markets coincided with a watershed in industrial relations. The Department of Labour (then the Department of Manpower) established a task team to draft a new Labour Relations Act and, in February 1995, the first draft negotiation document was published for comment.

A transformation programme was introduced in the public service by the government to align it with its new policies. This transformation programme was supported by the following:

- The *White Paper on the Transformation of the Public Sector* included recommendations on restructuring, the policy of the government on affirmative action and the philosophy on the restructuring of the public sector.
- The *National Agreement Framework* is a document about the restructuring of state assets. This agreement is between the public and private sector as well as the government and labour on privatisation and the structuring of the process.
- The *Presidential Revision Committee* was established to analyse the effectiveness of the public sector. The strengths and weaknesses in the public sector, as well as opportunities and threats to its effectiveness were investigated by this committee.
- The *Public Service Commission* was restructured and a new Department of Public Service and Administration was established to manage transformation in the public sector.

South Africa's labour dispensation was shaped in several pieces of legislation that constitute the country's labour legislative framework. This legislation regulates the employment relationship. There are four Acts that form this framework. They are briefly set out in the next paragraphs. (Summarised by Bendix 2004, chapter 4 and Venter 2003, 47.)

3.1 Labour Relations Act 66 of 1995

The purpose of the Labour Relations Act is to advance economic development, social justice and the democratisation of the workplace by

- giving effect to section 27 of the Constitution of 1996
- giving effect to the obligations conferred on member states of the International Labour Organisation (ILO)
- providing a framework for determination of wages, policy and matters of mutual interest between employees and their representatives and employers and their representatives
- promoting orderly collective bargaining, employee participation and effective dispute resolution.

The Act has some distinctly democratic features. It recognises *collective bargaining* as the most acceptable means of resolving disputes of mutual interest, and encourages and provides the means to reach agreement. It recognises that *strikes* and *lock-outs* are an intrinsic part of the process of collective bargaining. The Act imposes an obligation on employers to *disclose information* that may be required for bargaining and negotiations. The most radical innovation of this Act is the introduction of the *workplace forum*. Workplace forums are organisations consisting of elected employees who have the right to consult with management and to reach a joint agreement with them over matters such as those relevant to the interest of the parties in a particular workplace.

The scope of the Act has been extended to include employees who were previously excluded from labour action. Therefore, state employees, teachers and lecturers in tertiary institutions, farm workers and domestic workers are included in the Act and have the same rights and obligations as other workers. The Act makes provision for the establishment of a bargaining council for the public sector. Most of the changes favoured unions rather than business or employers. Centralised bargaining favours larger unions rather than employers. This can lead to a new power imbalance.

3.2 Basic Conditions of Employment Act 75 of 1997

The purpose of the Basic Conditions of Employment Act is to advance economic development and social justice by

- giving effect to and regulating fair labour practices as conferred by section 23 of the Constitution of 1996
- establishing and enforcing, as well as regulating the variation of basic conditions of employment
- giving effect to obligations conferred on member states by the International Labour Organisation.

This Act provides for maximum working hours, payment for overtime and for work on Sundays and public holidays, minimum notice periods, minimum annual leave and sick leave, the regulation of overtime and the prohibition of certain deductions. The only employees excluded from this Act are those employed by the South African National Defence Force (SANDF), the National Intelligence Service and the South African Secret Service, which have their own statutes regulating these matters. The legislators recognised the importance of creating an incubating environment for small business and proposed certain amendments to this Act in the Basic Conditions of Employment Amendment Act 11 of 2002.

3.3 Employment Equity Act 55 of 1998

The purpose of the Employment Equity Act is to achieve equity in the workplace by

- promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination
- implementing affirmative action to redress past inequalities in the workplace by promoting the employment and promotion of individuals from previously disadvantaged backgrounds.

Discrimination was taken up by the passage of this Act, which has an explicit anti-discrimination and affirmative action part. It prevents discrimination and compels organisations with more than 50 employees to produce an Employment Equity Plan and show progress in instituting affirmative action measures. The Act gives effect to section 9(3) of the Constitution of 1996, which provides that national legislation must be enacted to prevent and prohibit unfair discrimination, as well as to Convention 111 of the International Labour Organisation. Fair discrimination according to this Act is to promote, protect or advance persons previously disadvantaged by unfair discrimination, including blacks, women and the disabled. Chapter 3 of the Act compels employers to submit an Employment Equity Analysis and Plan to identify and correct the under-representation of designated groups.

The strict prohibition of discrimination in the Employment Equity Act of 1998 placed an obligation on employers to review all policies, procedures and practices. Cases resting on allegations of discrimination in what used to be accepted practices have been heard and some have been judged to be discriminatory. An example of this is differentiated pension funds for salaried and non-salaried employees in the absence of any other justifiable reason for the differentiation that was regarded as discriminatory. Harassment, as any special attention to or treatment of an individual on the grounds of his or her physical attributes, is also included as an objection in this Act. The Act contributes to the opinion that South Africa has become one of the most regulated labour markets in the world.

3.4 Skills Development Act 97 of 1998

The purpose of the Skills Development Act is eight-fold, namely to

1. develop the skills of the South African workforce
2. improve investment in training and development and increase return on investment;
3. encourage employers to develop learning environments, as well as to provide opportunities for employees to acquire new skills
4. encourage employees to participate in learnerships
5. improve the employment opportunities of individuals from previously disadvantaged backgrounds and generally to improve their skills base
6. ensure and control the quality of training in the workplace
7. help jobseekers find work and employers to identify potential employees
8. regulate employment services.

This Act, which replaced the Manpower Training Act 56 of 1981, the Guidance and Placement Act 62 of 1981 and the Local Government Training Act, attempts to coordinate training in a more structured and purposeful manner. The implementation of the Act intends to address the imbalances and to alleviate the problem of structural unemployment, if only partially.

The Employment and Skills Development Directorate in the Department of Labour is responsible for the implementation of the Act. This unit has been involved in a number of education and training programmes such as training in the Land Reform Programme, training of prisoners in Correctional Services and the training of the Service Corps of the SANDF. The South African labour market is suffering from a skills deficit, with the demand for highly skilled workers far exceeding the supply. With this Act, the government attempts to rectify the imbalances between skilled and unskilled workers by providing an environment where skills acquisition and education are openly encouraged. This is done through the creation of institutions such as the National Skills Authority, which has to advise the Minister of Labour on a national skills development policy, strategy and guidelines to implement the policy (sec. 5).

4. Implications of the labour legislation on the performance of the labour force

During the five years following the promulgation of the Labour Relations Act, the government has increasingly emphasised the Growth, Employment and Redistribution Strategy (GEAR). It has moved towards rationalisation in the public sector, attempted to contain social spending and opened up the economy (Bendix 2004, 210). South Africa has one of the most comprehensive labour legislative frameworks in the world. The degree of intervention in the labour market creates, on the one hand, a great deal of inflexibility and rigidity in the employment

relationship, particularly among small to medium enterprises. This integrated system of rights and protection provides, on the other hand, for the facilitation of a more harmonious and equitable relationship.

The poor performance of the South African economy is mainly due to the poor performance of labour. Some of the indicators of this poor performance are the unemployment rate, the inability to create job opportunities, poverty, inequality, productivity and labour unit costs (Van Rensburg 1998, ch. 21). These indicators are identified below, with an indication of the influence of labour legislation, especially the Labour Relations Act, on poor labour performance.

4.1 Unemployment rate

The South African labour market suffers from endemic structural unemployment. The economy cannot absorb all jobseekers and all positions that are available cannot be filled because of a lack of skills among many jobseekers. Labour markets that fail to match supply with demand are responsible for unemployment. The unemployment rate in South Africa is very high. Between 1995 and 2002, the number of people employed in South Africa grew from 9.6 million to 11.2 million (Department of Labour Report 2004). This represents 1.6 million new jobs. However, during the same period, the number of unemployed people grew from 1.9 million to 4.3 million, an increase of 2.4 million.

Several initiatives have been undertaken to alleviate unemployment. The parties to Nedlac concluded the Social Plan Agreement for Retrenchments in October 1998. Phase 1 of the agreement deals with the prevention of retrenchments by establishing a Social Plan Productivity Advisory Council to oversee the work of the National Productivity Institute in this regard and to provide technical assistance on cost-effective management to companies to prevent job losses. Phase 2 deals with the humane management of retrenchments as companies have to notify the Department of Labour of retrenchments. The department provides a counselling service for those affected. Phase 3 deals with local economic development. A Social Plan Fund has been developed for local authorities affected by retrenchments to apply for funds to conduct feasibility studies into local economic development opportunities. The Department of Labour has undertaken a number of initiatives to stimulate employment, the most notable being those related to education and training. The promulgation of the Skills Development and Skills Levies Act should partly address the problem of structural unemployment in the medium term.

4.2 Creation of job opportunities

Both inequality and poverty in South Africa are caused by a shortage in income. Those unemployed can only hope for an increase in job opportunities in the formal sector. The success of policies such as affirmative action depends on

increases in job opportunities. New posts must be created to accommodate candidates in affirmative positions and these employees must be carried against the budget for an unavoidable training period of lower productivity (Van Rensburg 1998, 21–24).

There is an increase in the base numbers of those seeking work in South Africa, which now includes a greater proportion of women from rural areas. It remains the case that large numbers of unskilled workers are unemployed, while employers cite a shortage of semi-skilled and skilled workers as a constraint on expansion. There is a relatively large reservoir of young unemployed school leavers and even graduates. The percentage of unemployed graduates of tertiary institutions grew from 6.4 per cent in 1995 to 15.3 per cent in 2002 (*Beeld* 22 February 2005, 5). The unemployment rate for unskilled labour dropped from 33.1 per cent in 1995 to 32.3 per cent in 2002. However, unemployment among people with only primary education qualifications increased from 35.4 per cent to 41.3 per cent during the same period. The unemployment rate among people with secondary school education, but without a matriculation, increased from 33.8 per cent in 1995 to 48.3 per cent in 2002.

Economic growth, as well as the labour intensity of the economy, is low. The economy therefore does not have the ability to create jobs. A job summit was held in 1998 to address the issue. It was attended by representatives of government, business, labour and community organisations, and aimed to consider the best means of job creation. The proposals reflected differences and agreements on economic policy between the parties to the ANC's alliance (ANC, Cosatu and SACP).

4.3 Poverty

The poor largely carry the cost of an abnormal labour market. It is estimated that approximately 28 per cent of households and 48 per cent of the South African population were living below the poverty line in 1995 – calculated on the basis of expenditure, thus excluding access to services and assets (Commission of Inquiry into the Development of a Comprehensive Labour Market Policy 1996, 5). In 1999, there were 3.7 million such households out of 11.4 million (just under 33%) living below the poverty line. On average, the poor were living on incomes of about 12 per cent below the poverty line. The Human Development Index (HDI), a measure of longevity, knowledge and income, considers whether people of a particular country have the ability to lead a long and fruitful life, to participate in the community, and to have the means to afford a decent lifestyle. The higher the HDI, the better off the country. According to the HDI of 2001 (United Nations Development Report), South Africa's HDI of 0.7 is only slightly better than those of Zimbabwe (0.56) and India (0.58).

4.4 Inequality

Political inheritance and the high poverty levels in South Africa contribute to the high levels of inequality in our society. South Africa's income inequality relative to the rest of the world is reflected in the Gini coefficient.

The Gini coefficient determines the level of inequality in a country, with the number 0 as total equality, where all households earn the same, and number 1 indicating total inequality, where only one household earns all the income. The Gini coefficient for the total economy, excluding social transfers for the period 1997 to 2000 in South Africa, shows a decline from 0.68 to 0.59 and, with the inclusion of social transfers, a decline from 0.44 to 0.35 (Venter 2003, 27). This indicates a shift in social spending to the poor. This research is based on the 1997 Household Survey. A relative analysis of Gini coefficients in South Africa and other developing countries shows South Africa's as reflecting the highest disparity of 0.59, Zimbabwe with 0.54, Mozambique with 0.39 and India with 0.37 (United Nations Development Report 2001).

Economic participation, which measures employment, the proportion of non-poor and earning, shows a decline from 0.63 to 0.60 for the period 1997 to 2000.

4.5 Productivity and labour unit costs

The more productive the workforce, the greater the economic benefits enjoyed by the country as a whole. This may encourage investment both locally and from external sources. Labour productivity is a particularly useful and sensitive indicator of a country's economic performance.

South Africa's gross domestic product (GDP) compares most unfavourably with other developing countries in similar phases of reintegration into the international economy. South Africa ranks second to last on the global competitiveness register (Bendix 2004, 490). This is because of the ineffective use and development of human resources and because of a lack of productivity among those in employment. The productivity problem, according to Bendix (p. 490), has many probable causes. First, the historic and still existing inequalities in the South African workplace militate against joint productive input. Second, insufficient education and training and high labour turnover have resulted in a decrease in labour productivity. Third, South Africa suffers from an almost universal absence of proper work ethic. Poor attendance of members of parliament is characteristic of this problem. Productivity problems not only render South African products uncompetitive in comparison with those of other countries, but also discourage investment, particularly if labour unit costs are relatively high.

The cost of labour is the main factor that influences the creation of job opportunities and the performance of the labour market. An increase in recent labour productivity is the result of the substitution of labour by machines (capital) and not because of the better utilisation of labour. The improvement in productivity is one of

the main issues in the government's GEAR policy. It refers to the development of human resources, the improvement of the utilisation of working hours, improved training of management, modernisation of working practices, better cooperation between employers and employees, as well as the role of institutions such as the National Productivity Institution. Labour legislation also influences productivity in the regulation or overregulation of the labour market. The Labour Relations Act of 1995 is more union-friendly and this has an indirect influence on the labour market. Unions and union activities influence both wages and productivity.

The government established its economic policies since 1994 in different documents such as *Ready to govern*, the *Reconstruction and Development Programme* document and the *White Paper on Economic Policies*. Key economic objectives were identified, including job creation, the elimination of poverty, the reduction of inequality and the overall growth of the wealth of the country. Key tools to establish these objectives were identified as

- macroeconomic stability
- trade reform and improved trade access in the context of a strong multilateral system
- industrial policies to add domestic value and to increase competitiveness and improve productivity to encourage exports
- encouragement of foreign direct investment
- strong competition policies to improve competitiveness
- encouragement of small and medium enterprises
- promotion of skills development, including occupational skills and adult basic education and training, for affirmative action and employment
- further reduction of inequalities through affirmative action and land reform; and
- support for innovation, research and development for competitiveness and social benefit (Republic of South Africa 2003, 32).

The influence of labour legislation on performance can be seen in different aspects in the labour environment. A new era in labour relations and collective bargaining was established by the Labour Relations Act. Improvements such as a simpler dispute settlement process, the elimination of discrimination and democratisation of the workplace were established. The Act is also more union-friendly than previous legislation. Unions have an influence on wages and productivity, and are responsible for higher costs of unskilled and semi-skilled labour in South Africa because of wage increases and production losses caused by strikes and other labour actions. The power balance shifted towards the unions as a result of the Act. The Basic Conditions of Employment Act resulted in an increase of labour costs because of a shortening of working hours per week, increases in paid leave, paid family responsibility leave, longer notice periods, as well as increases in overtime payments and payment for work on Sundays and public holidays. The Employment Equity Act created more job opportunities for previously disadvan-

tagged groups. The skills of the South African workforce improved because of investments in training and the development of people in the country. The Skills Development Act and the Skills Development Levies Act encourage companies both to develop a training strategy and framework and to implement training programmes. The system designed by this legislation provides institutions with incentives to provide training activities by making it more expensive not to do so.

Labour action and union activities in South Africa are legalised by the most comprehensive labour legislative framework in the world. Contrary to expectations, labour action did not decrease to any significant extent. This will be the main discussion of the next section.

5. Labour action and union movement

The 1980s saw the height of the struggle against apartheid. Black workers increasingly turned to the trade union movement, their only legitimate means to voice their discontent. In 1985, Cosatu, with an initial membership of more than 500 000, was formed (Venter 2003, 42). It closely aligned with the ANC and joined it in the political struggle for freedom. Cosatu was also represented at Codesa. Cosatu remains the major union federation, although unions affiliated to the National African Council of Trade Unions (Nactu) and the Federation of Unions of South Africa (Fedusa), as well as other grassroots bodies, are gaining ground (Bendix 2004, 84).

The total number of unions registered with the Department of Labour for 2003–04 is 369, with a membership of 3.3 million. This number decreased since 2002 from 504 registered unions with a membership of 4 million. This decrease is due to the cancellation of registrations by the Department in terms of section 106 of the Labour Relations Act for reasons ranging from not submitting audited financial statements over a number of years to not being a genuine union as envisaged by the Act. There was also a decrease in the number of employers' organisations from 270 in 2002 to 239 in 2003, for the same reasons as mentioned above (Republic of South Africa 2003–04, 18–19).

The incidence of strike action during the last decade indicates that there were approximately twice as many strikes during the run-up to the 1994 elections as there were after the 1994 elections. Between 4 million work days were lost due to strikes in 1990 against 3.7 million days in 1994 (Andrew Levy Annual Report 2002). There was a sharp decrease in the years immediately after the 1994 elections (1.6 million in 1995, 0.7 million in 1997), only to increase sharply again in 1999 (3.2 million).

The major strike trigger for the period was undoubtedly wage disputes, which accounted for 77 per cent of action, while all other disputes (retrenchments, recognition, grievances and dismissals) accounted for only 23 per cent of strike action (Venter 2003, 478). Much of the political action prior to the 1994 elections was because of the struggle for political freedom that characterised unions and the union movement during the apartheid era. The sharp decline in action after 1994 is

due to a shift in the way strike action is viewed as a vehicle for protest. With the ANC government in power, trade unions would no longer have felt the need to protest against the disenfranchisement of the majority of South Africans (Venter 2003, 478). The promises in the GEAR policy, such as employment and wealth redistribution, could also have led to a reduction in strikes in anticipation of government objectives being met. The sharp increase in strike action is almost solely attributed to a wage dispute in the public sector that accounted for 61 per cent of work days lost (Venter 2003, 478). The government unilaterally implemented its wage increase of 6.3 per cent despite union objections. This was also a period of unions showing their strength, as is common during the run-up to an election. This also occurred in the 2004 elections.

Apart from a few isolated attempts by relatively unknown unions, state employees did not organise effectively in South Africa until the early 1990s. By this time, the transition to democracy had begun in earnest and developments in public sector labour relations began to resemble those of the private sector, with rapid change occurring over a short period of time (Macun in Adler 2000, 92). In late 1989 and 1990, health workers, teachers, the police and prison warders embarked on a wave of strike action. Many workers were not union members and only joined unions after taking part in the strikes. Over the next few years, the number of trade unions organising public service workers grew rapidly. Membership of existing unions, such as the National Education, Health and Allied Workers' Union (Nehawu), formed in 1987, and the Public Servants' Association of South Africa (PSA) formed in 1920, increased dramatically. Negotiations on a new dispensation began soon after the strikes, culminating in the promulgation of the *Public Service Labour Relations Act* 105 of 1994, which put in place a labour relations system in line with that governing the private sector. But there was still the controversial issue of whether the public service should be governed by a separate dispensation or incorporated under the *Labour Relations Act* governing the private sector. Before 1994, there was much debate on this issue, with the ANC members of Parliament supporting the extension of the Labour Relations Act to the public sector (Macun in Adler 2000, 99). In late 1996, the public sector was included in the Labour Relations Act, with certain transitional measures. A few changes took place in the nature of labour relations in the public sector. There was a shift from consultation to interaction between the state and representative organisations. The first of these changes was the creation of new collective bargaining structures consisting of a central chamber, provincial councils and departmental structures. Local government has long been unionised and has been regulated by the Labour Relations Act. The second change was that labour relations were transferred from the Public Service Commission to the newly established office of the Minister for Public Service and Administration. The third change was the statutory recognition of trade unions, first under the Public Service Labour Relations Act and then in terms of the Labour Relations Act. This opened the door to new unions and competition between unions.

There has also been a rapid growth in the membership of unions. In the early 1980s, the PSA was the largest union, with approximately 80 000 members. By 1999, there were nearly 20 organisations representing more than 980 000 employees, a union density of approximately 96 per cent (Macun in Adler 2000, 101). For a labour market to function effectively, a balance has to exist in the labour relationship and the activities of the labour force. Unions will have to function in a free and more stable labour environment in the future.

6. Labour relations challenges for the next decade

The discussion above shows some challenging social and economic trends that will need attention in the next decade. According to the constitutional framework, government policies are to create a united, non-racial, non-sexist and democratic society. Different targets can be identified for attention such as long-term development indicated in the RDP objectives and targets to decrease poverty and hunger, universal primary education, reduction in child and maternal mortality, combating HIV/AIDS and other major diseases, ensuring environmental sustainability, developing a global partnership for development, and the reduction of unemployment. Within labour, serious consideration should be given to the transformation process. Much greater attention should be focused on mending and reinforcing the labour relationship. The state has made significant progress in recent years in improving labour policy coordination both within and across spheres of government, but these efforts need to be further consolidated with greater attention being focused on implementation and the sophistication of the labour relationship. The government needs to promote greater participation and interaction of people in the labour relationship. It has now provided a framework for a sound relationship, but actual participation in these structures, or the capacity to take advantage of its existence has been limited mainly to special interest groups, or hindered by considerations of short-term self-interest. Mutual trust and confidence between the different parties should be increased.

Transformation is a strategic reaction of an institution to a situation where it cannot continue to function in the same manner as in the past. It has to change every dimension of its existence drastically to enable it to survive. This is true for a country, its institutions, legislation and regulatory systems. Democratisation involves change and therefore organisations, employers and employees have to engage in a constant reassessment of all facets of the undertaking. In South Africa, an elaborate process of rules and procedures was put in place that regulates the behaviour of various parties to the labour relationship since the early 1990s. These changes should be seen in the broader context of global changes. South Africa's reintegration into the world community has entailed a large degree of relationship building with a number of international and regional bodies (Venter 2003, ch. 14). Bodies such as the International Labour Organisation, the Southern African Development Community (SADC), the Non-Aligned Movement (NAM), the

African Union (AU) and the New Partnership for Africa's Development (NEPAD) have played and will continue to play a highly influential role in the development of South African policy. South Africa has become a signatory to a number of ILO conventions. South African labour policy will therefore have to be aligned with international labour standards and conventions (Venter 2003, 520). Discriminatory labour policies and practices will have to be eradicated and addressed. South Africa also features as a key player among SADC countries. As a unified front organisation for the regulation of economic affairs among countries in Southern Africa, the regulation of labour relations and the establishment and promotion of fair and equitable practices among member countries are inherent to this role. South Africa's role in NAM and the AU is of primary importance. The role and influence of these institutions in shaping the labour relations policy in South Africa are still to be seen. NEPAD is a vision and programme of action for the redevelopment of the African continent, which was conceived and developed by African leaders (p. 521). It seeks to redress social, economic and political imbalances on the continent and to speed up Africa's integration into the international arena. The upliftment of the continent's human resources has been identified as critical in achieving the goals of NEPAD. Job creation, and education and skills development have been identified as driving forces.

South Africa, with its rapidly increasing levels of unemployment, is central to the solution of this problem through growth and job creation. Labour in South Africa is becoming an expensive commodity in terms of unit costs relative to productivity. If this continues, businesses will have to downsize and turn to more capital-intensive, less expensive means of production. Much needed direct investment from foreign countries will be directed to those countries with more facilitative, less demanding labour policies (p. 524). Unemployment breeds poverty and poverty breeds problems. South Africa thus cannot afford high unemployment levels.

The two conflicting participants in the economy – organised labour and business – will have to take positive steps to address problems in the workplace. Organised labour identified imbalances in the workplace, such as discrimination and under-representation of the previously disadvantaged and a reduction in the wage gap between the highest- and lowest-paid workers, as problem areas. Business advocates minimal intervention, maintaining that the South African labour market is already over-regulated. The re-inclusion of South Africa in the international labour market will require increased flexibility so that it can respond quickly and effectively to global competition. Therefore, the government will have to review the over-regulation of the labour market. Remedies that will not negatively affect an already vulnerable economy will have to be found in a labour-friendly relationship between the different parties to the relationship. The parties will have to strive towards a common labour objective in this country.

7. Conclusion

Since the first democratic elections in 1994 in South Africa, the country has moved forward by leaps and bounds in establishing a new democratic order. Labour has been a primary vehicle in engineering this change, through widespread socioeconomic and political renewal in the workplace. The labour legislation framework has been restructured over the last decade. Government intervention was required to reform the workplace to meet the socio-political needs of the majority of South Africans who were previously excluded. This change was brought about by major changes in labour legislation.

Labour relations do not exist in isolation, but are part of the socioeconomic environment, influenced by and influencing social, economic and political factors. Labour activities contribute to the economic performance of a country. Comprehensive labour legislation has had a direct influence on the performance of the labour force and parties to the labour relationship. There are some challenges remaining in this field for the next decade. The following questions should be asked:

- Has the government achieved its labour policy objectives?
- Are these objectives appropriate to answer the labour demands made by the electorate?

South Africa will be challenged in the labour field to find a more appropriate power balance between employers and employees in a more sophisticated labour relationship between the two parties.

References

- Adler, G. ed. 2000. *Public service labour relations in a democratic South Africa*. Cape Town: Naledi.
- Amos, T., A. Ristow and L. Ristow. 2004. 2nd ed. *Human resource management*. Lansdowne: Juta.
- Beeld*. 22 February 2005.
- Bendix, S. 2004. *Industrial relations in South Africa*. 4th ed., 5th ed revised. Lansdowne: Juta.
- du Plessis, J. V., M. A. Fouche and M. W. van Wyk. 1998. 3rd ed. *A practical guide to labour law*. Durban: Butterworths.
- Finnemore, M. 1995. *Introduction to labour relations in South Africa*. 5th ed. Durban: Butterworths.
- Levy, A. and Associates. 2002. *Twentieth annual report on labour relations and employee benefits in South Africa*. Johannesburg: Andrew Levy and Associates.
- Republic of South Africa, Interim Constitution of the Republic of South Africa, Act 200 of 1993.
- . National Economic Development and Labour Council Act 35 of 1994.
- . Labour Relations Act 66 of 1995.
- . Constitution of the Republic of South Africa Act 108 of 1996.

- . Basic Conditions of Employment Act 75 of 1997.
- . Employment Equity Act 55 of 1998.
- . Skills Development Act 97 of 1998.
- . Skills Development Levies Act 9 of 1999.
- . *Annual report of the Department of Labour. 1 April 2003 to 31 March 2004.*
- . *Annual report of the Unemployment Insurance Fund for the period 1 April 2003 to 31 March 2004.*
- . *Annual report of the Compensation Fund for the year ended 31 March 2004.*
- . October 2003, *Towards a ten year review. Synthesis report on implementation of government programmes.* Pretoria: Policy Co-ordination and Advisory Services.
- . *Growth, employment and redistribution strategy, 1996.*
- . *Commission of Inquiry into the Development of a Comprehensive Labour Market Policy, 1996.*
- Salamon, M. 1998. *Industrial relations theory and practice.* 3rd ed. London: Prentice-Hall Europe.
- Shear, L. and I. Sirkhot. 1996. *Labour law.* Randburg: Anglo Pocket-book Publishers SA (Pty) Ltd.
- Slabbert, J. A., J. J. Prinsloo, B. J. Swanepoel and W. Backer. 1998. *Managing employment relations in South Africa.* Durban: Butterworths.
- Tustin, C. and D. Geldenhuys. 2002. *Labour relations: The psychology of conflict and negotiation.* 2nd ed. Cape Town: Oxford University Press.
- United Nations. 2001. *Development Report.* http://www.undp.org/hdr2001/indicator/indic_17_1_1.html.
- van Rensburg, R. ed. 1998. *Deelname en vooruitgang: Arbeidsverhoudinge in Suid-Afrika* (Participation and progress: Labour relations in South Africa). Durban: Butterworths.
- Grossett, M. and S. Hills. 2003. *Labour relations in South Africa.* rev. ed. R Venter. Cape Town: Oxford University Press.