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THE DEMOCRATISATION OF THE WORKPLACE IN SELECTED SOUTH AFRICAN ORGANISATIONS

BY

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Since 1994 the government has steadily been moving the South African society towards democratic practices. One of the areas of society identified for transformation is the workplace. One of the earliest acts passed by government to achieve this objective is the Labour Relations Act (LRA) (No 66 of 1995).

Ascertaining the views and attitudes of employers and employees towards the undermentioned four aspects of workplace democracy form the research problem of the investigation. The four aims of the investigation are as follows: to determine the views and attitudes of management and workers towards information disclosure; to determine the views and attitudes of management and workers towards collective bargaining; to determine the views and attitudes of management and workers towards worker participation, consultation and joint decision-making. The views and attitudes of management and workers on the above topics were obtained by means of questionnaires and in-depth interviews.

In order to understand the labour movement and industrial democracy, the social and economic conditions that gave rise to these social and economic phenomena need to be examined. As a result of the historical roots and influence which Britain and Europe had on the development of South Africa, this brief survey focussed primarily on developments in Britain and Europe.

An explanation of what is meant by the term "democracy" is presented. Both the direct and indirect forms of democracy are discussed. From democracy the discussion turns to industrial democracy. Various forms and models of industrial democracy are

organisations were engaged in collective bargaining.

Both groups of respondents viewed consultation as discussions and/or an exchange of views. Some management representatives noted that their understanding of what is meant by consultation differed from the trade unions' views that consultation is synonymous with negotiation. It further appears that both groups consider joint decision-making as referring to workers participating in the decision-making process with their employers.

The representatives of management and representatives of workers in organisations that do not have Workplace Forums (WPFs) agreed that WPFs were not established as the trade union had insufficient representivity and that existing representation structures were adequate.

In the case of organisations with WPFs it was found that both management representatives and worker representatives indicated that they followed the requirements for constitutions as prescribed in section 82 of the LRA of 1995 in drawing up the WPF constitution for their respective organisations.

Very little research information on the views and attitudes of both management and the workers in the same organisations in South Africa are available. The current study has contributed insight into the views of both management and workers on the disclosure of information; collective bargaining; worker participation, joint consultation and joint decision-making as well as workplace forums.

Based on the experience of the current study it is recommended that future research include respondents from all nine provinces or at least two or more provinces to ensure greater representivity of South African organisations, management and workers. It is further recommended that future research attempts to include even more than the seven sectors of the economy used in the current study.

CHAPTER 1

INTRODUCTION AND THE AIMS OF THE STUDY

1.1 INTRODUCTION

Since the new government came to power in 1994 there has been a steady movement to democratise the South African society. It is therefore not surprising that democratic principles and human rights are expressed as the fundamental values of the South African Constitution (The Constitution of the Republic of South Africa Act No 108 of 1996). In order to provide substance to these values the government, amongst other means, uses the legislative processes at its disposal to amend existing laws or introduce relevant new legislation.

One of the areas of society earmarked for transformation and democratisation is the workplace. The intention is the creation of a democratic work environment i.e. enhancement of industrial democracy. It follows that one of the earliest acts passed by parliament to achieve this objective is the Labour Relations Act (No 66 of 1995) (the LRA).

1.2 THE STUDY IN HISTORICAL PERSPECTIVE

In order to gain an understanding of the development of democracy, and much later, of industrial democracy, it is necessary to briefly sketch the history of remunerated work in South Africa.

The colonisation of South Africa in 1652 was initiated by commercial interests and not by a government wishing to govern the country politically. The settlement at the Cape became a remote branch of a very large and flourishing business enterprise, the "Vereenigde Geoctroyeerde Oost-Indische Companjie " (VOC). The VOC (English: the Dutch East India Company) was granted a charter for overseas trading by the Netherlands parliament, the States-General, in 1602. In terms of this charter the States-General delegated its sovereign power over specified overseas dependencies to the VOC. In accordance with this arrangement the VOC established a virtual empire in the spice-rich Dutch East Indies (now Indonesia) with its headquarters in Batavia. The

settlement at the Cape fell under control of the VOC officials in Batavia whose major concern was with making profits for their company.

Initially all the new residents of the Cape were employees of the VOC and were subject to its rules, regulations and discipline which included harsh physical punishment and imprisonment. This situation changed in 1657 when a number of VOC employees were allocated land to farm as freeburghers. The motivation for this was to provide the VOC with a better supply of produce for its trading ships when they docked at the Cape. Although the burghers were encouraged to participate in local administration, they had no say in policy-making. It was only in 1778 that they demanded representation in the central administration when the "Kaapse Patriotte" directly petitioned the States-General in the Netherlands after their complaints to the Governor-in-Council in Batavia had failed. Their agitation was in reaction to the abuse of power by the then Governor and his clique in the Political Council which administered the Cape. The ordinary citizens enjoyed virtually no democratic rights - a situation which continued for almost two hundred years.

Between 1795 and 1815 when the Napoleonic Wars were waged in Europe, the Cape experienced a period of political turmoil as it changed hands three times during this period. The VOC lost ownership of the Cape to the British in 1795. It then briefly reverted to the newly established Batavian Republic in the Netherlands. It is interesting to note that this was the first time that the Cape was ruled by a government. However in 1806 the British again took control by military occupation. Reversion to British rule brought a return to autocratic political control which was the norm in Britain's colonies of conquest (Wilson and Thompson, 1985: 212-214).

Many colonists were disgruntled at being subjugated by a foreign power, Britain, and moved further and further away from the Cape to get away from British control. The desire for self-government or democracy, was also later given by the *Voortrekkers* as one of the reasons why they decided to leave civilisation behind and to trek into the wild hinterland. The *Voortrekkers* introduced their own democratic governing institutions in the Republic of Natalia and also later in the Orange Free State and the South African Republic. The constitutional system of the Orange Free State was an amalgam of the Cape Colonial system of local administration, the legislative system that existed in the short-lived Republic of Natalia and several parts taken over from the United States

Constitution (Wilson and Thompson, 1985: 429). The Boer republican constitutions were noted for their sovereignty of the people, a one chamber parliament and an elected head of state. The benefits of these provisions were however only the privilege of white male citizens. These democratic and republican ideals were also of limited duration as they stood in the way of powerful British imperialist policies that eventually subjugated the two independent republics to British rule (Van Schoor, Oberholster, Coetzee and Pienaar, undated: 461, 470 and 473).

After the Anglo-Boer War (1899-1902) the diversity of customs, rail tariffs and race policies made unity amongst the then four British colonies essential. At a suggestion of the Inter-Colonial Conference in 1908 a National Convention was called to come to agreement on unification. This National Convention serves as an early example of the democratic process at work in South Africa albeit only for the white population. Unification occurred on 31 May 1910 when the Union of South Africa was constituted. With the acceptance of the Union Constitution full independent democratic governance was given to South Africa. The Union Constitution had most of the characteristics of a democracy except that democratic rights were only applicable to the white population group of the country.

After a referendum among the white population in October 1960, South Africa left the British Commonwealth and became a republic on 31 May 1961. The ruling National Party was then in a position to implement its apartheid policy through various parliamentary acts. Apartheid laws made the possibility of democracy for the non-white population even more remote. With the introduction of the three chamber parliament following the 1983 Constitution, the Coloured and Asian population groups experienced a limited form of political democracy (Van Schoor *et al*, undated: 490-502; Cameron and Spies, 1986: 314). Even for the white population group, democracy was largely limited to the political arena. In many instances democratic principles were not present in other spheres of the South African society such as the workplace. It can be said that industrial democracy was not a feature of the South African workplace prior to 1994.

With the African National Congress (ANC) coming to power in South Africa in April 1994 a totally new political era commenced. The ANC's political model is one of democracy for all citizens of South Africa and not a type of democracy limited to a minority of the total population. The new South African Constitution aims to extend

involvement and participation in matters which affect them as widely as possible among all persons concerned. Often the opinion of people at grass roots-level who were previously ignored are actively sought e.g. in the building of infrastructure in the remote areas of the country. This approach of participation and involvement is taken further by also seeking the opinion, involvement and participation of non-governmental organisations (NGOs) and other civil institutions in various issues of concern to society, such as health matters.

The government led by the ANC uses legislation to create an institutional framework through which democratic objectives can be achieved. The South African Constitution, as the supreme law of the country, makes several references to the values underlying a democratic state and other institutions supporting a constitutional democracy. The values on which the Constitution of South Africa is founded are stated as follows:

a. Human dignity, the achievement of equality and the advancement of human rights and freedoms.

b. Non-racialism and non-sexism.

c. Supremacy of the constitution and the rule of law.

d. Universal adult suffrage, a national common voters' role, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.
(The Constitution of Republic of South Africa Act No 108 of 1996).

Institutions supporting constitutional democracy in SA include the Constitutional Court, the Office of the Public Protector, the Human Rights Commission, the Commission for the Promotion and the Protection of the Rights of Cultural, Religious and Linguistic Communities, the Commission for Gender Equality, the Auditor-General and the Independent Electoral Commission.

The following examples of legislation serve as illustration of the democratic/participative framework and processes provided by parliament for the citizens of South Africa.

Section 32(1)(a) of the Constitution provides that everyone has the right of access to any information held by the State. Furthermore section 32(1)(b) of the Constitution provides for the horizontal application of the right to access of information held by another person to everyone when that information is required for the exercise and protection of any rights. These rights are given to all citizens by the Promotion of Access to Information Act (No 2 of 2000) which aims to foster a culture of transparency and accountability in public and private bodies.

Chapter Two of the Basic Conditions of Employment (Act No 75 of 1997) refers to the regulation of working time. Sections 10, 11 and 12 all provide for the joint conclusion of an agreement between the employer and the employees in order to regulate overtime work, a compressed working week and averaging hours of work. This cooperative process between the employer and the employee(s) may be an individual or a collective agreement between the parties to vary overtime hours and pay, vary the daily working hours and averaging hours of work and overtime over a four month period provided in each instance that the requirements of the applicable section of the Act are complied with.

The Employment Equity Act (No 55 of 1998) will have a critical impact on transforming workplaces in South African organisations. Its objectives are to achieve equity in employment through promoting equal opportunities and implementing affirmative action to redress disadvantages experienced by people from designated groups. It is superior among all labour legislation in that if there is conflict between acts, the Employment Equity Act takes precedence.

The Skills Development Act (No 97 of 1999) seeks to develop the skills of the workforce, improve productivity of the workplace, promote self-employment and the delivery of social services. A special focus is improvement of the employment prospects of previously disadvantaged persons through education and training.

The Labour Relations Act (No 66 of 1995) (LRA), as the cornerstone act of the South African labour relations system, also serves to promote democracy. Section 1 of the LRA sets out the objectives of the Act and together with section 1d (iii) demonstrates the government's promotion of democracy and particularly democracy in the workplace (in other words, industrial democracy). It reads:

" to promote

(i) orderly collective bargaining;
(ii) collective bargaining at sectoral level;
(iii) *employee participation in decision-making in the workplace ; and*
(iv) the effective resolution of labour disputes."
(My italics at (iii))

To revert to historical developments the sections that follow examine some of the reasons for the interest shown by many individuals and institutions in employee participation.

Two of the main characteristics of human beings are their desire to be free and their struggle against domination. It is therefore possible to see employee participation in decision-making as an essential component of the struggle for control of one's own self.

Most work is performed by two or more parties who enter into a work agreement. The employment relationship that thus comes into existence is characterised by the domination exercised by the owner of the business or his representative and the subordination of the worker who has to take orders.

This type of employment relationship became particularly strained in the nineteenth century and deteriorated further early in the twentieth century with the emergence of Taylorism and Fordism and recently by the development in technology. These circumstances resulted in the alienation of employees from their work because employers unilaterally determined how work was to be performed. Employees were therefore not in a position to take part in decision-making. Greenberg (1989:16) writes that humans are purposeful beings, capable of intelligent decisions and that denying them these opportunities is to sever them from their humanness. The prerogative of the owners of business and their representatives to determine the nature of work is regarded as a serious threat to the freedom of workers and is consequently continually resisted.

The idea that workers should participate in decision-making is not a new one and can

be traced back to the Industrial Revolution. In Vanek's (1975:16-17) view this idea came about as an intellectual reaction to the negative consequences of modern capitalism on the working conditions of employees. The earliest ideas of employee participation was formulated by the utopian socialists, a group of scholars and social reformers in Europe and Britain who believed that democracy should also be applied to the world of work. Later both world wars contributed to the advancement of employee participation through the introduction of factory committees and councils in the aftermath of the wars. More recently the adoption of the social charter in member countries of the European Union (EU), requires that employees in large businesses be represented on their boards (Bayat, 1991: 22).

Japan and the United States of America also experienced the push for employee participation. In Japan it was felt that because of new technology in the workplace a greater understanding of the overall operation of an enterprise was necessary. This was to be achieved through the involvement of employees in decision-making (Kazuo,1988: 8-9). In the USA technology advanced employee participation in two ways: through economic pragmatism, that is, a trade-off between the employment of new technology by the employer and some involvement in the organisation of the work by employees. Secondly, there is evidence that manufacturing technology will work better if it formed part of a total system of participative management in which employees are involved (Steven,1986: 529-539).

The United States General Accounting Office (1988:2) indicated that most US companies supported employee participation programmes and almost nine million full-time employees were involved.

The above examples serve as indicators of the advancement of different forms of industrial democracy in some parts of the world.

The drive towards employee participation reached South Africa especially through the trade union movement. Worker control and socio-economic transformation to achieve employee participation have long been a strategy of the union federation, Congress of South African Trade Unions (COSATU) (Ramaphosa,1986). Some employers in South Africa realised that the winds of change had started blowing and introduced different forms of employee participation. Notable in this regard were the programmes at

Volkswagen (Smith in Anstey,1990) and at Toyota (Dewar in Anstey, 1990).

This desire for employee participation in decision-making only found statutory expression once the LRA came into effect and Workplace Forums were introduced. The Act contains provisions for the establishment of Workplace Forums (WPFs) aimed at enhancing industrial democracy. The implementation of these provisions could profoundly change human activity and relationships in places where people work together in South Africa.

The introduction of WPFs in the industrial relations system has two other main objectives, namely, (a) to promote the interests of employees and (b) to enhance the efficiency of South African workplaces. The country now faces competition as never before and the government is fully aware that South Africa needs to become internationally competitive if the aims of the Reconstruction and Development Programme (RDP) and especially economic empowerment of the people are to be achieved. In order to become more competitive, employers on their side, are striving for employment situations in which employee participation as established through WPFs will provide greater flexibility in work organisation and deployment of labour, leading to increased productivity.

There is increasing evidence to support the excitement about management systems utilizing employee involvement. Hoerr (1989: 56) cites productivity gains of between 30 and 350 percent. Employee-management relations, customer satisfaction, quality control and profitability all seem to improve through employee involvement.

The current study will focus on some of the components of industrial democracy as contained in the LRA, namely, disclosure of information, collective bargaining, joint consultation and decision-making as well as Workplace Forums as a new structure.

1.3 THE RESEARCH PROBLEM

It is now more than five years since the Labour Relations Act No 66 of 1995 has been promulgated in South Africa. This qualitative study investigated whether the workplaces in the participating organisations have become more democratic in this time, in terms of four specific aspects the Act namely: disclosure of business information; collective

bargaining; joint consultation and decision-making as well as Workplace forums as a new structure. These aspects were examined from the perspective of management as well as the workers of the participating organisations representing various sectors of the economy.

1.4 DEFINITIONS OF CONCEPTS

Democracy	- "a system of government by the whole population, usually through elected representatives" (The Concise Oxford Dictionary,1995)
Industrial Democracy	- " a social-political concept or philosophy of industrial organisation of democratic procedures to restructure the industrial power and authority relationship within organisations" (Salamon,1998: 50)
Disclosure of Business Information	- the making available of business information to employees and employee representatives in order to take part in decision-making and labour relations processes.
Collective Bargaining	- the process through which a trade union or employee representatives collectively negotiate with an employer on behalf of its members.
Worker Participation	- "the perceived degree of influence which workers have on decisions affecting them". (Horwitz, 1981)
Joint Consultation	- "the independent formulation of problems concerning any aspect of management

policy by elected members on behalf of workers and from the point of view of the employees, its discussion with top management and the attempt to influence top management policy on such a basis" (Hovels & Nas, 1977: 119).

Joint Decision-making - a system of joint decision-making between management and worker representatives through means of structures such as works councils, works committees or enterprise committees.

View - "a particular way of regarding something: an attitude or opinion" (Word Power Dictionary: 2001). For purposes of the investigation the word "views" refers to how both the management and the worker representatives regard the selected aspects of industrial democracy.

1.5 OUTLINE OF STUDY

The thesis consists of ten chapters. Chapter two discusses the research methodology. In chapter three the development of democratic societies and a brief history of South African labour relations are examined. The fourth chapter describes the concepts democracy and industrial democracy and worker participation. Chapter five, six and seven respectively discuss some of the components of industrial democracy: disclosure of information, collective bargaining, worker participation, joint consultation and decision-making. In chapter eight of the thesis the Workplace Forum system as a South African model of industrial democracy is examined. In chapter nine the results of the investigation are discussed. The final chapter sums up and contains conclusions and recommendations.

CHAPTER 2

METHOD OF RESEARCH

2.1 INTRODUCTION

The term methodology refers to the method by which one approaches problems and seeks answers. In the social sciences, the term applies to how one conducts research. Debates on methodology are essentially debates on purposes, theory and perspective.

Mouton and Marais (1990:8) describe research methodology as "*.... a communal activity, by means of which a particular phenomenon is studied objectively in reality in order to present a valid understanding of the phenomenon*". They explain the five dimensions of research as follows:

a The sociological dimension which accentuates scientific research as a collaborative activity;

b The ontological dimension which states that research must focus on an aspect or aspects of social reality;

c The teleological dimension which regards research as intentional and purposeful and aimed at the explanation of phenomena;

d The epistemological dimension which is concerned with an understanding of phenomena but also attempts to offer valid and reliable explanations of reality;

e The methodological dimension which emphasizes criticism, balance, unbiasedness, systematism and collaboration to ensure the objective nature of research.

Throughout this research attention have been given to all the above-mentioned dimensions of research.

Two major theoretical perspectives have dominated the social science scene (Bruyn, 1966; Deustcher, 1973). The first, positivism, traces its origins in the social sciences to the great theorists of the nineteenth and early twentieth centuries and especially to August Comte (1798-1875) and Emile Durkheim (1858-1917). The positivist seeks the facts or causes of social phenomena separate from the subjective states of individuals. The second major theoretical perspective, which, following the lead of Deutscher

(1973), is described as phenomenological (naturalistic or qualitative), and has a long history in philosophy, sociology, anthropology and psychology. The phenomenologist is committed to understanding social phenomena from the person's own perspective. The phenomenologist (qualitative researcher) seeks understanding through qualitative methods such as participative observation, in-depth interviewing and others that yield descriptive data. However, many naturalistic or qualitative researchers are making use of a combination of methods often even combining quantitative and qualitative methods (Taylor & Bogdon, 1984: 2-3).

In 1970 Kuhn wrote that we are living in a time of paradigm revolution. Most students and researchers grew up in a positivist or empirical era in which the claims of empirical research were held to be absolute. Within the last few decades, however, the empirical world view has been challenged by an alternative paradigm, frequently referred to as naturalistic. Those who work within the naturalistic paradigm operate from a set of axioms that take for granted a simultaneous and mutual shaping of perceiver and known and see all enquiry, including the empirical, as value-bound (Ely; Anzul; Friedman; Garner and McCormack Steinmetz 1991).

Qualitative data, the use of words rather than numbers, have always been the research method of choice for certain social sciences such as anthropology, history and political science. However, since the 1970s more and more researchers in basic disciplines and applied fields with traditional quantitative emphasis such as psychology, sociology, public administration, organizational studies and policy analysis, market research (Mariompolski, 2001) and health services (Smith, Gerteis, Downey, Levy and Edgman-Levitan, 2001:643) to name a few, have shifted to a more qualitative paradigm (Miles and Huberman, 1984: 15 ; 1994:1)

Qualitative data are a source of well-grounded, rich descriptions and explanations of processes occurring in local contexts. This type of data can preserve the chronological flow, assess local causality and derive fruitful explanations. Sound qualitative data are likely to lead to unexpected findings and to new theoretical integrations. Findings from qualitative studies have a quality of so-called "undeniability". Words when used as incident descriptions or stories have a concrete, vivid meaning that often have a definitive significance which proves far more convincing to a policy-maker or other researchers than pages of summarised numbers.

Qualitative research is no longer the domain of a lone researcher immersed in a local setting. This type of research is now often part of "multi-site, multi-method" projects (Smith & Louis, 1982 and Schofield, 1990) or a combined quantitative and qualitative enquiry carried out by a team of researchers whose data collection and analysis methods must be performed in a formalised, comparable way (Herriot & Firestone, 1983; Rossman & Wilson, 1984; Yin, 1984).

Miles & Huberman (1984:19-20;1994:4) believe that social phenomena exist not only in the minds of people but also in the objective world where some lawful and reasonably stable relationships between phenomena are to be found. In their view the traditional positivists have been too concerned with internal validity and conceptual certainty and often found that their data lacked authenticity and meaning i.e. external validity. In support of their views they refer to some premier positivists such as Campbell, Bronfenbrenner, Crobbach and Snow who have been searching for more fruitful methodologies. More and more "quantitative" methodologists are operating from a logical positivist stance, utilising naturalistic and phenomenological approaches to complement tests, surveys, and structured interviews. Few "post-positivists" now dispute the validity and importance of subjective meaning and few phenomenologists still practice pure hermeneutics. In other words, social research has been and is undergoing a paradigm shift.

2.2 VALIDITY AND RELIABILITY: CREDIBILITY, TRANSFERABILITY, DEPENDABILITY AND CONFIRMABILITY

In their attempt to provide criteria for assessing the trustworthiness of a qualitative research project Lincoln and Guba (1985:20) use the terms of the conventional positivist paradigm, namely internal validity, external validity, reliability and objectivity. However, in doing so they successfully demonstrate how inappropriate these constructs are for naturalistic or qualitative enquiry. As an alternative they propose four more appropriate constructs: credibility, transferability, dependability and confirmability which reflect the assumptions of the qualitative paradigm.

2.2.1 Credibility

Credibility refers to attempts to demonstrate that the enquiry was conducted in such a

manner as to ensure that the subject was accurately identified and described. The strength of qualitative study aims to explore a problem or describe a setting, a process, a social group or a pattern of interaction. A qualitative researcher should therefore adequately state those parameters, thereby placing boundaries around the study. (See paragraphs 2.3.2.1 and 2.3.2.2)

2.2.2 Transferability

The second proposed construct is that of transferability, in which the applicability of one set of findings to another context must be proven. The generalization of qualitative findings to other populations, settings and treatment arrangement - its external validity - is seen by traditional canons as a weakness in the qualitative approach. To counter such challenges, the researcher can refer back to the data collection and the analysis will be guided by concepts and models. By doing so, the researcher delineates the theoretical parameters of the research. This allows the reader to determine whether or not the cases described can be generalized and how the research agrees with the body of theory (Marshall and Rossman, 1995:144).

Another strategy to enhance a study's generalizability is to triangulate multiple sources of data; data from different sources can be used to corroborate, elaborate or illuminate the research in question (Denzin, 1978). Designing a study in which multiple cases, multiple informants or more than one data gathering method is employed, can greatly strengthen the study's usefulness for other settings. For this reason the current study makes use of a multiple case, multiple informant and multiple data gathering method design.

2.2.3 Dependability

The third construct proposed by Lincoln and Guba (1985:5) is dependability, in which the researcher attempts to account for changing conditions in the chosen study as well as changes in the design created by increasingly refined understanding of the setting. This represents a set of assumptions very different from the positivists' notion of reliability that assumes an unchanging universe wherein an enquiry could quite logically be replicated. The qualitative/interpretive assumption is the exact opposite; the social world is seen as continually being recreated. Concept replication is in itself problematic

in the qualitative paradigm (Marshall and Rossman, 1995:145).

2.2.4 Confirmability

The final construct, confirmability, corresponds to the traditional concept of objectivity. Lincoln and Guba (1985:20) stress the need to question whether the findings of the study could be confirmed by another. Evaluation is no longer dependent on the objectivity of the researcher, the data themselves have to help confirm general findings and consequent implications of the specific study.

2.3 RESEARCH PARADIGM AND METHOD OF QUALITATIVE ANALYSIS

Miles and Huberman's (1984; 1994) approach to qualitative analysis is the approach employed in the current study. This approach views data analysis as concurrent flows of activity: data collection, data reduction, data display and conclusion drawing/verification. The interactive model of the components of data analysis in figure 2.1 best illustrates the relationship between the various components: data collection; data reduction; data display and conclusion drawing/verification. As result of the interactive nature of the model, data reduction and data display could take place concurrently.

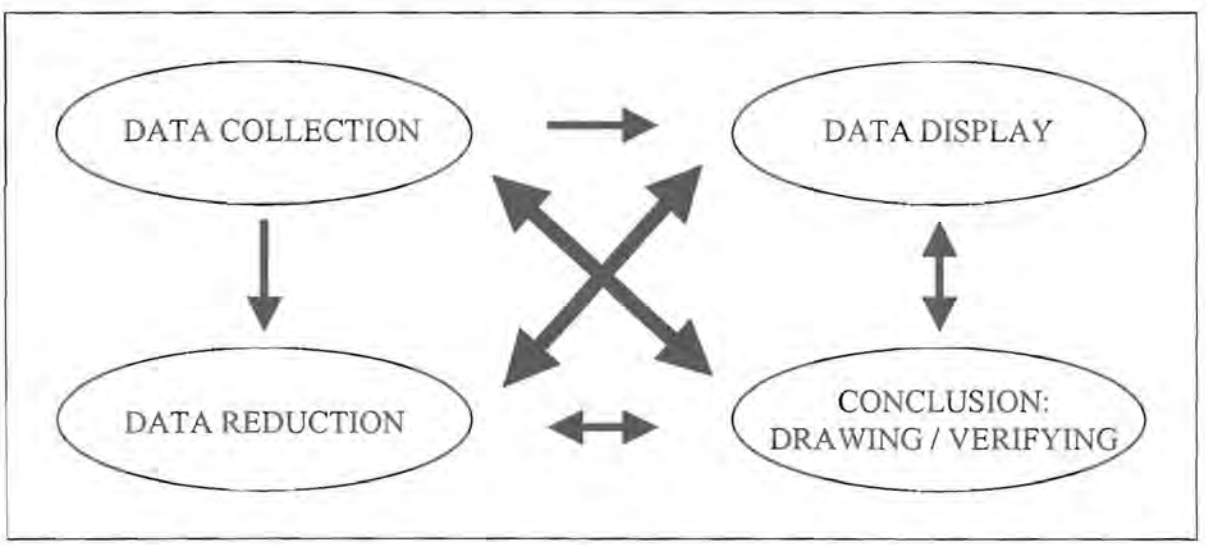

Figure 2.1: Components of Data Analysis: An Interactive Model

Source: Adapted from Miles and Huberman, (1984, 1994)

2.3.1 Data collection

Three methods of data collection were employed in the research, namely, a literature study, a survey questionnaire and in-depth interviews within the qualitative research tradition.

An extensive investigation was undertaken in order to obtain background information for execution of the research. Cozby (as cited by Smit 1995:9) remarks in this regard: "*before any research project is conducted, the investigator must have a thorough knowledge of earlier research findings. Even if the basic idea has been formulated, a review of past studies will aid the researcher to clarify his idea and to design the study*".

An examination of the literature made the following contributions to the investigation:

- It assisted in identifying the research needs
- Identified previous research that extended the knowledge boundaries regarding the research themes
- It brought the researcher up to date with reference to relevant theories, definitions and theoretical approaches dealing with democratic societies; the disclosure of business information; collective bargaining; worker participation, consultation and joint decision-making and workplace forums

The second source for data collection was the seven organisations which agreed to participate in the study. These organisations were handled as separate cases and are members of the agricultural research (case A), the tertiary education (case B), the private security (case C), the manufacturing (case D), the research and development (case E), the private hospital (case F) and the armaments (case G) sectors of the economy. All seven of these cases are located within the Gauteng Province. (See also 2.3.2.3 and 2.5).

To meet one of the criteria of good qualitative research, namely generalizability triangulation of multiple sources of data was applied, as suggested by Lincoln and Guba (1985: 20). Each organisation that indicated its willingness to participate in the study,

was requested to have two questionnaires completed, one by management representatives and one by worker representatives. All the management respondents were requested to give the view of management and the shop stewards/worker representatives the views of the workers in their respective organisations. In other words, multiple views were obtained in each case as well as multiple views across different cases in various sectors of the economy.

Further data for analysis were obtained from in-depth interviews with respondents from cases that were amenable to requests for more data. Where possible available agendas, minutes of meetings and any other documents related to participation between management and workers were also obtained.

2.3.2 Data reduction

This component of the qualitative analysis process refers to selecting and transforming the "raw" data that appear in written field notes or sources of data that could be utilised for research purposes. Data reduction occurs continuously throughout the duration of any qualitative oriented project. In the qualitative analysis process this often starts when a researcher decides which conceptual framework, which sites, which research questions and which data collection approaches to utilize. Data reduction further entails such activities as making summaries, coding, teasing out themes, making data clusters, partitioning data and writing memoranda.

2.3.2.1 Focussing and bounding the collection of data

One of the first decisions a researcher has to make, whether working from a positivist-quantitative paradigm or a naturalistic-qualitative paradigm, is to limit the enquiry. The researcher has to decide what the focus of the particular enquiry is going to be and what is to be included or excluded from the enquiry.

The conventional image of qualitative field research is one in which pre-structured and tight designs are kept to a minimum. When one is interested in some better understood social phenomena within a familiar culture or sub-culture, a loose highly inductive design is unproductive. Most qualitative research now being done lie between the two extremes of tight and loose inductive designs (Miles & Huberman, 1984:36). They also

make the following two points: the looser the initial design the less selective the collection of data. Everything looks important at the outset to someone waiting for key constructs or regularities to emerge from the site and could leave the researcher awash in data. Secondly, as much current field work involves multiple-site or multiple-case research, different field workers without a common framework or instrumentation could end up with data overload and lack of comparability across cases. The focussing and bounding activity in qualitative research generally consists of building a conceptual framework, formulating research questions, sampling and instrumentation.

2.3.2.2 A conceptual framework

A conceptual framework explains either graphically or in a narrative form, the main dimensions to be studied - the key factors or variables and the presumed relationships. A framework can be rudimentary or elaborate, theory driven or commonsensical, descriptive or causal.

One way of constructing a framework is to start with different "bins" or diagram blocks to which labels can be given. Bins derive from theory, experience as well as from the general objectives of the study. Going through the process of constructing a conceptual framework forces the researcher to be selective. Decisions have to be made as to what is more important, which relationships are likely to be most meaningful and what information should be collected and analysed. The conceptual framework thus serves a focussing and bounding function (Miles & Huberman, 1984: 28; 1994:18).

The conceptual framework used in the current study is presented in figure 2.2. The study commences with an examination and description of the development of democratic societies. From there the focus of the enquiry changes to political democracy and then to industrial democracy and worker participation.

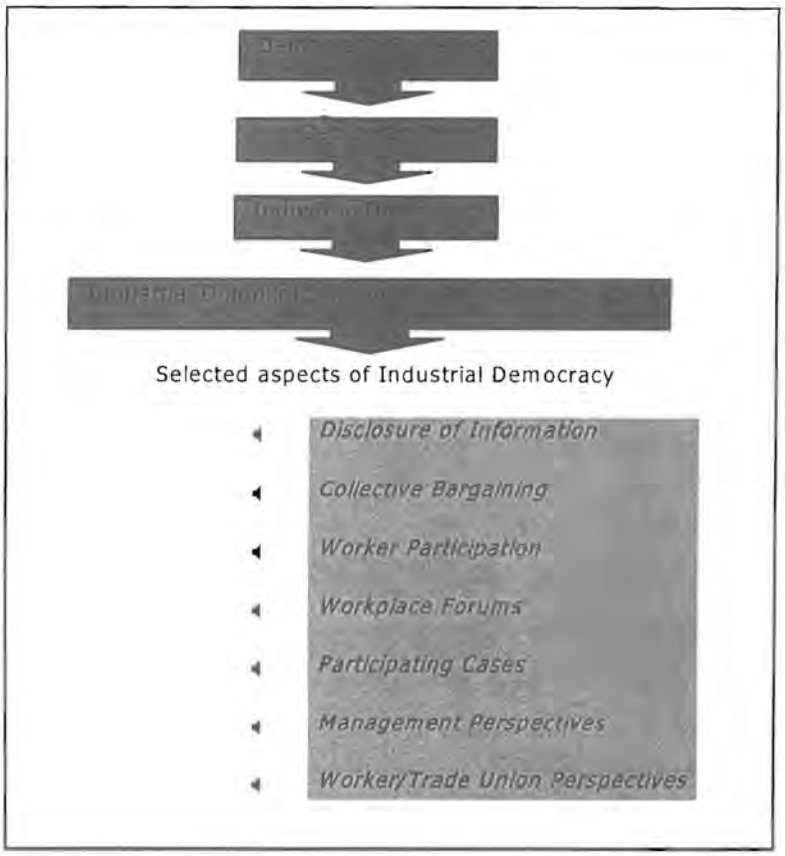

Figure 2.2: Conceptual Framework of the Study

2.3.2.3 Research questions

The formulation of research questions can precede or follow the development of a conceptual framework. They serve the purpose of demarcating those facets of an empirical domain which the researcher wants to explore most thoroughly. Research questions can be general or particular, descriptive or explanatory and may be refined or reformulated during the course of the fieldwork.

The utilization of research questions in qualitative research holds certain advantages for qualitative researchers. Firstly, they make the theoretical assumptions more explicit than they have been in the conceptual framework. Secondly, they assist the researcher in clarifying that which he/she wants to know first or foremost. Lastly, it allows for the rough setting of boundaries of analysis (Miles and Huberman, 1984:33; 1994:22-27).

From the literature studied and current labour relations practice in South Africa, four very specific areas of industrial democracy were chosen as focus areas: disclosure of business information; collective bargaining; worker participation; joint consultation and

joint decision-making and workplace forums. Each of these four aspects of industrial democracy also serve as the four research questions of the study, with each having several sub-questions which form part of the survey questionnaire (Annexure A).

2.3.2.4 Sampling: bounding the collection of data

The qualitative researcher encounters the same dilemma as the quantitative researcher in that not all facets of an important problem or social phenomenon can be studied. Decisions have to be made in this regard. Limiting the enquiry to one case as qualitative researchers often do is also not the answer, as each setting has sub-settings which in turn create endless parameters. Fixing the boundaries of a qualitative study is a challenging decision for qualitative researchers to make.

The answer to deciding which parameters to include in a study is derived from the nature of the study itself. Qualitative researchers usually work with smaller samples of people, in fewer global settings than do quantitative researchers. Qualitative samples also tend to be more purposive than random because the initial definition of the research is circumscribed.

Miles and Huberman (1984:37) cite Douglas (1976) who has described qualitative research as essentially an investigative process, similar to the process followed by police detectives. The qualitative researcher makes sense of a social phenomenon by contrasting, comparing, replicating, cataloguing and classifying the object of the study. These activities can all be regarded as sampling activities. The qualitative researcher performs these activities progressively and iteratively.

Sampling in the qualitative research paradigm may involve decisions about which people to observe or interview as well as those settings, events and social processes that to should be included in the study. The conceptual framework and research questions dictate the foci and boundaries within which samples are selected.

In the case of the current study the sampling activity commenced with reference to a report of the Commission for Conciliation, Mediation and Arbitration (CCMA) which is the institution created by the LRA of 1995 *inter alia* to facilitate the establishment of Workplace Forums (WPFs). WPFs are the vehicle of choice to institutionalise industrial

democracy in South African workplaces, with advancement of industrial democracy being one of the primary objectives of the LRA of 1995.

In terms of chapter V of the LRA, all trade union organisations that wish to establish a WPF have to apply the CCMA. Unfortunately, not all applicants have thus far fulfilled all the statutory requirements for registration and consequently failed in establishing statutorily recognised WPFs.

All the applications received are registered by the CCMA according to the nine provinces and are given corresponding case numbers. For purposes of the current study, the Gauteng Province was chosen as the setting of the investigation as it is the province with the greatest economic activity. In the CCMA report seventeen cases where registered for the Gauteng Province. One of the cases registered had incomplete organisation and contact details which rendered that particular case unusable for research purposes.

Of the original sixteen cases that were registered with CCMA only two organisations agreed to participate in the study. Reasons for the non-participation of the sixteen original cases range from some organisations no longer being in business, committed to other research, to not being interested in participating in the study. As it was felt that two cases were too few for even a qualitative study it was decided to approach other organisations that were subsequently placed on the CCMA's register or met the requirements for registration but decided not to apply for registration for various reasons. This second attempt added another five cases to the study.

2.3.3 Data display

Data display refers to organising data in such a fashion that conclusion-drawing and action-taking becomes possible. The most common form of data display in the past has been the narrative text. Unfortunately humans are very inadequate when processing large volumes of information. The human mind tends to reduce complex information into selective and simplified or easily understood configurations. Using data displays such as matrixes, graphs, networks and charts are much better means of presenting large amounts of data that are comprehensible to humans.

The first step in display of the data in the current study was to build a cross-case compilation of the management and the worker views on the four selected aspects of industrial democracy. Miles and Huberman (1994:178) refer to these cross-case displays as meta-matrixes. They are master charts that gather descriptive data from each of several cases in a standard format. Tables 9.1 and 9.2 illustrate the result of this step.

Having completed the meta-matrixes each question's data was displayed in either a list or in a table format. This was done with management representatives' responses as well and the responses of the worker representatives.

2.3.4 Data analysis: conclusion drawing/verification

From the start of data collection the qualitative analyst makes decisions on what things mean, noting regularities, patterns, explanations, possible configurations, causal flows and propositions. The competent researcher holds these conclusions lightly, remaining open and sceptical. Only in time does the conclusions become explicit and "grounded" to use the classical term of Glaser and Strauss (1967). The conclusions also have to be verified by the analyst as the analysis process proceeds. The meanings emerging from data have to be tested for their plausibility, their sturdiness, and their "confirmability" or validity.

Qualitative data analysis is a continuous, iterative process. The qualitative analyst is required to move among data reduction, data display and conclusion drawing/ verification during data collection when applying this approach to data analysis. Segments of these activities are found in chapters nine where responses of management and worker representatives are examined and chapter ten where final conclusions are drawn based on the results of the investigation.

In regard to drawing and verifying conclusions Miles and Huberman (1994:245) note that "*people are meaning-finders; they can quickly make sense of the most chaotic events*". Of the utmost importance is whether the meanings the researcher finds in qualitative data are valid, repeatable and right. The abovementioned authors have suggested a number of tactics for confirming, avoiding bias and assuring the quality of conclusions of qualitative data: noting patterns, themes; seeing plausibility; subsuming

particulars into general; factoring; noting relations between variables; finding intervening variables; building a logical chain of evidence and making conceptual/theoretical coherence. Where applicable some of these tactics were used in the analysis and discussion of the results and the drawing of conclusions in the current study.

2.4 MEASURING INSTRUMENT

Once the qualitative researcher has determined what he wants to ascertain, it inexorably leads to the next question which is how to set about to obtain the required information. That question in turn constrains the nature of the analysis that the researcher can carry out. Instrumentation may refer to something such as shorthand devices for observing and recording events.

Another related question that could be asked is how much preplanning and structuring of instrumentation is necessary. The answer could range from hardly any prior instrumentation to a great deal of well-structured instrumentation with a category referred to as *"it depends on the nature of the investigation"* in between (Miles and Huberman, 1984:42-48; 1994:34-39).

The current study favoured prior structured instrumentation in the form of a survey questionnaire for the following reasons: The researcher had determined what questions and sub-questions he wanted answered. Using an interview schedule or questionnaire prevents too much superfluous information being collected. Another reason is that the utilization of the same instrument is the only means of being able to make comparisons between cases and/or responses. A biased or uninformed researcher without some form of instrumentation runs the risk of asking partial questions, taking selective notes, making unreliable observations and skewing information. A copy of the survey questionnaire is included in Annexure A.

2.5 PROBLEMS ENCOUNTERED

Several problems were encountered during the execution of the study. The CCMA as a body established specifically through the LRA of 1995 to register and keep record of applications for the establishment of WPFs was thoroughly un-cooperative. In spite of numerous written requests to the director to gain access to their data for research

purposes, no response or data was forthcoming from the CCMA. This behaviour is in sharp contrast to the trend set by government for transparency which finds expression, for example, in the Promotion of Access to Information Act No 2 of 2000. The requisite information was eventually obtained indirectly through a well disposed official in the Department of Labour.

Once the report on the cases that applied to the CCMA for the establishment of workplace forums was received, the cases registered in the Gauteng Province could be extracted. According to the report 17 cases were registered and each given a case number. Due to poor administration one of the cases listed was unusable for research purposes as the name of the organisation as well as the contact details of this particular organisation were omitted.

The next stumbling block was that a few of the organisations had ceased operations since the time of their original application. The representatives of some organisations on the list also expressed their disinterest in participating in the study for various reasons.

As explained earlier only two of the organisations agreed to participate in the study. Through a second attempt another five cases were added which left the researcher with seven participating cases.

2.6 SUMMARY

In chapter two the method of research used in the study was discussed. The equivalent concepts to validity and reliability in the qualitative research paradigm namely: credibility; transferability; dependability and confirmability were introduced. Thereafter the concurrent processes of the Miles and Huberman approach to qualitative analysis consisting of data collection; data reduction; data display and data analysis were discussed.

CHAPTER 3

DEVELOPMENT OF DEMOCRATIC SOCIETIES

3.1 INTRODUCTION

A proper understanding of the labour movement and industrial democracy warrants the examination of the social and economic conditions that gave rise to social and economic phenomena that are often taken for granted by people of the twenty-first century. As a result of our historical roots and the influences which Britain and Europe had on the development of South Africa, this brief historical survey will focus primarily on developments in Britain and Europe through the ages.

In this chapter particular attention will be paid to the economic and social developments during different historical periods. Some of the phenomena and concepts that will be discussed are guilds, the role of the aristocracy in society, capitalism, humanism, the Industrial Revolution, liberalism, socialism and democratic forms of government. A brief history of the development of industrial relations in South Africa is also presented.

3.2 ANCIENT TIMES TO THE MIDDLE AGES

It is generally accepted that humans spent some period in their developmental history as hunter-gatherers as a means of survival. As a result of the favourable climatic conditions experienced around 10 000 BC many communities experienced a rapid growth in population which could then no longer be sustained by a hunting-gathering lifestyle. A new subsistence strategy then had to be adopted which may be divided into two developments. On the one side there was agriculture which produced particular varieties of plants in abundance and on the other side there was the domestication of wild animals.

The first urban centres came into being somewhat prior to 2500 B C in the river valleys of the Nile, the Tigris, the Euphrates, the Indus and later along the Yellow River in China. The same economic growth which made cities possible also led to the formation of great empire civilisations such as Sumer, Babylonia, Assyria, Egypt, Mycenea, Phoenicia and Crete (Clough,1968: 33-34).

With coming of the Age of Iron at the beginning of the first millennium BC the centre of economic activity shifted from the early river-valley cultures to Greece. The development of iron metallurgy and the use of iron products lead to prosperity. Like other societies which had attained positions of economic and cultural primacy, Greece generated destructive forces within itself. Through the diffusion of its superior agricultural and industrial techniques to surrounding areas it lost markets and production declined. Greece was also plagued by internal problems such as the failure to integrate politically (Clough, 1968: 35-42).

By the second century BC the Hellenistic East in turn started to show signs of economic stagnation. Social disorders were numerous and wars between parts of Alexander the Greats' former Greek empire were frequent. Finally the Romans entered the scene, sometimes by invitation of a wealthy group. Once there they used their position of power to their own economic benefit. The Romans profited from the various agricultural, industrial and commercial techniques which they acquired from Greece or inherited from an earlier civilization of northern Italy. The Romans extended their influence over Carthage, Macedonia, Syria, Greece, Egypt, all of Italy, southern Gaul and some areas of Spain. Once again, as in the case of previous economies, Roman Empire developed forces that lead to its undoing. Finally in 476 A D one of these attacks by "barbarians"resulted in the "fall" of Rome itself (Clough, 1968:42-45 and McKay, Hill and Buckler, 1995:1-236).

3.3 MEDIEVAL CIVILIZATION *c.*1300 - *c.*1450

After the fall of the Roman Empire, and following the Dark Ages, medieval civilization reached new heights during the first quarter of the 13th century. For three centuries there had been almost uninterrupted progress. The popes had freed themselves from secular rule and had won recognition as the religious and moral leaders of the Western world. Political order had been established; the tiny urban populations that had survived the decline of the Roman Empire had been greatly augmented and the middle class had grown in wealth and power. The nobility had continued to prosper in spite of the emancipation of most of the serfs. A century later all this had changed and looking back at this epoch one could describe this phenomenon as the decline of Medieval civilization.

In England the vicious King John was forced to grant the Magna Carta in 1215. The authority of the Crown to raise money was restricted, "due process" was established and a common council of tenants-in-chief and principal clergy was introduced (Finer, 1960:39).

By 1300 most of the Western European monarchies had become hereditary and disputes over royal succession that had characterised the Holy Roman Empire and the Eastern European states had declined. Nobles and townsfolk had been persuaded or forced to recognise the basic royal prerogatives and rudimentary administrative and judicial systems had developed.

Until 1295 the major constitutional developments in England stemmed from the evolution of the King's Council. The Great Council was composed of the bishops, abbots, and the major barons, as chosen by the king. (This subsequently became the House of Lords). Within the Great Council (*Magnum Consilium*) a smaller one grew - the King's Council; it contained some members of the Great Council plus the king's learned officers for treasury, military, household and judicial purposes. By the middle of the fourteenth century the House of Lords contained only the major barons. Only the eldest sons of the lords inherited the title and could attend the House of Lords. The younger sons who were excluded from the House of Lords, formed a separate class of knights, the "gentry".They represented their shires or counties in the House of Commons (Finer, 1960:40-41).

The king governed on advice from his council. These enlarged meetings of the royal councils led to the development of representative institutions, for the kings had come to realise that to exclude the less important clergy and nobility and the burghers of towns as a collective group would not be advisable. Since all the members of these influential classes could not appear in person, the king began to select a few representatives from each class to attend the royal council. The deputies were only later given instructions and power to act on behalf of those whom they represented (Major, 1967:32). The question may perhaps be asked whether Western civilization would not sooner have reached what is today referred to as modern democracy, if deputies had been elected directly by their respective constituents.

Over large parts of Europe the manor was the typical and fundamental unit of medieval

life. Given the time when central government was weak, when money was scarce, when markets were limited and where war, raids and invasions were common, the manor or something similar was probably the best way of ordering life and work. In appearance the manor was a village of small huts or cabins built of clay and wood with thatched roofs. The biggest buildings were the parish church and the manor house often built of stone. Outside the village lay large cultivated open fields cultivated by the inhabitants and grazed by their farm animals (Clough and Cole,1952: 5-12).

The manor served a number of purposes in the society of the time. As a political unit it was the holding of a lord who could be a king, great noble or an ordinary knight. A bishop, abbot or prioress might hold a manor on behalf of the Church. The lord decided judicial cases, collected taxes, and could muster the inhabitants for warfare.

As a group of people living together in a village the manor constituted a social unit. The inhabitants of the manor were bound by law and custom, married each other, worshipped in the same church and shared holidays together. The manor was also an economic unit where people tilled the same fields, grazed the livestock in common pastures, gathered wood from the same woods and paid the same dues to the same lord (Clough,1968:5-12 and Major, 1967:36-40).

In the thirteenth century, probably nine-tenths of the population of western Europe lived in farming villages, the majority organised as manors. The people varied from rich to poor and from free to unfree. The priest or the monk was bound to the church, the lord to his overlord, the villager to his lord and his land. The villager might be a freeman or a serf (Clough and Cole, 1952:12).

In the troubled times after the fifth century the slaves and the tenants of the great Roman estates became serfs, while the villagers of Northern Europe, many of whom were free, gradually sank into serfdom as they gave up freedom in return for protection. The rise of feudalism strengthened serfdom, for the hierarchy of serf, lord and overlord seemed natural. The tillers of the land were too weak to protect their land against powerful invaders. The manorial system and serfdom supplied a way in which land and labour could be effectively organised for self-sufficient production (Clough and Cole 1952:13).

Forces that brought about the decline of the manor were the gradual rise of the money economy, the increase in trade and industry which created markets and the rise of national states with national taxes and national justice. Great changes that accompanied this decline were moves towards greater personal freedom, individual proprietorship and towards less self-sufficiency and more dependance on markets where goods could be bought and sold (Clough and Cole,1952:20).

When the economic activity of Western Europe was at a low ebb in the eighth, ninth and tenth centuries, industrial production was largely an extension of agricultural activities as practised on a manor. After 1100 production in towns by freemen gradually developed in importance. This type of production may be called craft, handicraft or workshop industry. The craftsman was usually a freeman and a town dweller rather than a serf and fell outside the manorial economy. He had a small shop often located in the house where he lived and where he and his family and assistants made the goods which he sold(Clough and Cole, 1952:24).

The origin of craft guilds is a matter of much dispute. Some scholars have believed that guilds grew out of the *collegia* or craftsmen's associations of the cities of the Roman empire. Other historians have insisted that guilds arose from certain associations among the Anglo-Saxons and other Germanic people for the preservation of law and order. Some of the problems that faced individual craftsmen such as keeping prices high could only be solved if they formed groups and acted jointly. In the end the guild usually became an association of the workers in a given craft, enjoying a legal monopoly, responsible to the government and subject to it (Clough and Cole, 1952:27-29).

Already in these early times people realised the benefits of acting collectively to protect and promote their interests against opposing forces. In some towns there might be one guild representing all the different occupations. On the other hand some occupations were not organised into guilds and some towns had no guilds at all. The craft guild was also involved in social, religious and welfare activities in that members played and prayed together and cared for sick members, widows and orphans (Major 1967:38-39 and McKay *et al*, 1995:342-351). This is probably the origins of the welfare benefits provided by many modern trade unions to their members.

3.4 THE RENAISSANCE *c.*1475 - *c.*1625

The word "*Renaissance*" means rebirth. The Renaissance period witnessed an economic revival after the economic depression of the late Middle Ages. This revival was accompanied by the discovery of a sea route to India and of the American continents. Western civilisation began to expand beyond the European continent at the very moment when it started to take form. Neither the economic revival nor the wealth generated by the discoveries of "new worlds" enabled the middle class to gain power and authority; instead the aristocracy was reconstituted and remained in a dominant position almost everywhere.

3.4.1 Economic revival, Business techniques, Industry and Mining

One of the most important reasons for the economic revival that began in Europe in the last quarter of the fifteenth century was the restoration of order by the Renaissance monarchs. Once in control, the monarchs stimulated trade, industry, mining and voyages of discovery by providing incentives to those willing to risk their money and their lives in such ventures. The discovery and adoption of new techniques in business, industry and mining increased the efficiency of the merchant and the banker as well as the productivity of labour (Major,1967:122-123).

In the Middle Ages the typical large scale business enterprise had been a centralised family partnership. After the bankruptcies of the mid-14th century, most family concerns were decentralised. At the same time these family concerns increasingly began to diversify their economic activities so that failure in one area would not bring bankruptcy in another. Although bills of exchange, double entry bookkeeping, insurance and various banking facilities existed in commercially advanced Italian cities, they were slow to spread to other parts of Europe (Major,1967:123-125).

During the Renaissance the use of water power was extended and in the late 15th century the windmill was greatly improved through the invention of a turret that could be turned in the direction of the available wind. Several inventions increased the productive capacity of the important textile industry, for example, a method was developed by which the spindle used in spinning could be rotated by a treadle operated by foot, leaving the worker's hands free to manipulate the fibres. Other developments of this

period were the clock, the printing press and the discoveries of the "new world" by sea (Clough,1968:170-191 and Major,1967:125-141).

3.4.2. Capitalism and the Capitalistic Spirit

It has often been shown that this burgeoning period stimulated economic revival and the growth of capitalism because prices rose much faster than wages. The resulting increase in profits gave the merchants and industrialists incentives for greater profit as well as provided capital to invest in large-scale economic enterprises. This development is commonly referred to as the "price revolution". The result of these developments was that the upper bourgeoisie greatly improved its economic situation while the position of wage labour declined (Clough,1968:149-156).

Major (1967: 148-149) maintains that Capitalism had existed long before the price revolution and that a fully-fledged capitalistic spirit only appeared much later. For him capitalism is "*a system of private enterprise in which large sums are used in industrial, commercial and banking enterprises designed to produce further profits to investment*". A master in a cobblers' guild would not be a capitalist because of his small investment and his close contact with his journeymen and apprentices, but the Medici bank consisting of a number of part-owners investing deposits of the public, would be a capitalist enterprise. Applying this definition it becomes clear that capitalism was part of medieval times but became increasingly important during the price revolution. With the term "capitalistic spirit" Major (1967:148-149) refers to a belief that the pursuance of wealth is both justifiable and socially desirable. This theme is discussed in greater detail in 3.6.2.

3.4.3 The origins of Renaissance Humanism

To people living during the Renaissance, a humanist was someone who studied the classics. Many of the students then specialised in law, theology, philosophy, natural science and other subjects at universities. As a result, from about 1450 many scholars trained by humanists were able to combine their early classical education with their work in their chosen discipline. The early Italian Humanists enriched Christianity by discovering, translating and publishing the writings of the early Christian fathers but weakened Christianity by finding a new basis for a moral code and leading the

intellectuals to engage in secular activities. The word "*Humanism*" was however not coined until 1808 and this broadened concept of humanism had as its focus everything to do with man (Major,1967:171-177).

3.5 THE SEVENTEENTH CENTURY CRISIS *c.*1560 - *c.*1715

The age of the Renaissance was followed by a period of crisis out of which modern civilisation was born. This crisis, which began in the later part of the sixteenth century, was caused largely by the religious revival and accompanying diversity of religious beliefs. It was characterised by change and revolt in nearly every sphere of human activity. During this period of revolt, economic progress ceased and wars, plagues and famines killed millions of people. But out of the rebellions and catastrophes powerful, stable states emerged in many parts of Europe and the basis was laid for new scientific, philosophic and artistic syntheses (Major,1967:233).

3.5.1 The economic crisis and its social effects

The economic progress that had started in the late fifteenth century began to decelerate around 1560 and came to an end between 1620 and 1630. This economic stagnation that lasted for the remainder of the 17th century led to social unrest that gripped most of Europe. The Mediterranean states were especially hard hit. During the Renaissance the increased population was easily absorbed by new farms while expanding trade and industry absorbed more labour. These opportunities were no longer available in the 1600s but the population was still increasing. In England unemployment reached such high levels that a "*Poor Law* " had to be introduced to take care of the unemployed (Major,1967:261-262).

The decline of economic development caused social classes to become more stratified by limiting the movement between classes. Those members who tried to buy their way into the nobility found their attempts challenged by needy governments trying to prevent their wealthiest citizens from claiming the tax exempt status of the nobility (Major,1967:263).

Any increase in the real wages of the workers was negated by higher taxes. The failure of trade and industry to continue to expand made it increasingly more difficult for

journeymen to become masters. The guilds generally gave the few openings that occurred to the children of their members (Major,1967:263).

Given the socio-economic distress of the period any economic theory that could lead to an improvement was keenly sought. All economic theory from 1500 until well into the eighteenth century was given the term mercantilism although economic theory and practice varied from place to place and changed over time.

The mercantilist theory held that state intervention in economic matters would lead to prosperity. Unfortunately the theory was based on three fundamental errors. First, these economists confused precious metals with wealth. Since few European nations possessed natural deposits of precious metals these countries felt it necessary to export more than they imported on the assumption that the difference would be made up by money payments for their products. Secondly, they believed there was a fixed quantity of economic resources. Hence, one country could only increase its wealth at the expense of another. The third error was their failure to recognise the relationship between the quantity of food available and the size of the population and no effort was made to reduce the number of births. The doctrine of *laissez faire* and economic individualism were direct attacks on mercantilism and mark the beginning of the end thereof (Clough, 1968: 218-219 and Major,1967:263-264).

3.5.2 The Constitutional Crisis in England

The Renaissance monarchs had been successful at first in winning popular support to keep their kingdoms together. The Protestant Reformation presented them with a new problem. Nearly every ruler tried to bring about a return to religious conformity by persuasion or persecution. The sluggish economic development of the 16th and 17th century also made for social unrest (McKay *et al*, 1995:439-471).

King Henry VIII managed in 1534 to disengage England from the power and influence of the Roman Catholic Church. After him the national religion briefly alternated between Protestantism and Catholicism. When his daughter, Queen Elizabeth I died, the Tudor dynasty came to an end. She was succeeded by her cousin James Stuart, King of Scotland. One of the challenges the Stuart monarchs experienced was the dissent within the Anglican Church. The Puritans resisted the retention of the rituals and

ceremonies of the Catholic Church. The second Stuart King, Charles I, came into conflict with Parliament through his unilateral actions, even ruling without Parliament.

After a turbulent period which included a civil war and reign by Oliver Cromwell, a special Parliament called in 1688, named William of Orange and his wife Mary, daughter of James II, as joint sovereigns. This change of ruler, referred to as the Glorious Revolution marked the beginning of a chain of events that led to the establishment of a constitutional monarchy in England and the passing of a Bill of Rights in 1689 (Major, 1967:284-295).

3.5.3 Science and thought

In spite of the period of economic stagnation which Europe was entering, science was progressing with many new discoveries that overturned many of the scientific premises of the ancient and medieval worlds. Examples are discoveries by Copernicus, Kepler, Galileo and Harvey. The revolution in science was parallelled by equally momentous revolution in philosophy. The man who made the greatest contribution in conjoining science and philosophy was René Descartes. In 1637 he published his *Discourse on Method* in which he explained his new philosophy.

The sixteenth century had been marked by a conflict between authorities. The Protestants had insisted on their interpretation of the Bible against the authority of the Roman Catholic Church; noble and burgher had pitted their traditional rights and privileges against the growing exactions of the crown; the Humanist had revived Plato and hurled himself against the Aristotelians. Thoughtful men began to doubt whether any knowledge was certain and whether even certain knowledge justified the persecution and slaughter of dissidents (Major, 1967: 344).

Political thought underwent a remarkable period of development during the constitutional crisis of the 17th century. This may be attributed to the desire of the supporters of both the crown and their opposition to justify their positions and to the influence of the mathematical, deductive method of the natural sciences (McKay *et al*, 1995: 590-609). According to Thomas Hobbes, a deductive theorist (1588-1679) he constantly lived in fear and was determined to fashion a political theory that would justify a strong state to prevent further disorder in society. In 1851 he published the *Leviathan*

where he proposed the institution of a commonwealth from which all rights and faculties are derived and sovereign power is conferred by the consent of the people. For him the law was sufficient to govern the state of nature. As no institution existed to enforce this law, men had to form a community, each giving consent and agreeing to accept the will of the majority. This community then established executive, legislative and judicial authorities. John Locke (1632-1704) was another deductive theorist of the era who championed a constitutional monarchy (Major, 1967:350-351).

Everyone, including kings, was regarded as being under the divine law of God, natural law, fundamental law and customary law. The idea of the supremacy of the law was so strong that changes were only effected when important disputes occurred in society. Faced with the revolutionary period that followed the Reformation, kings required new powers to deal with such emergencies in societies. However, the nobles and the burghers were extremely reluctant to give up their privileges and consequently almost every country in Europe experienced a constitutional crisis.

At first no important theorist supported the proposition that kings needed additional power to deal with such situations. Jean Bodin (1576) in his *Six Bookes of Commonweale* was the first to argue in favour of strengthening the ruler's power to cope with change without making him a tyrant. His solution lay in the new concept of sovereignty. In terms of this concept sovereignty was the supreme and perpetual right to make laws. At about the middle of the 17th century, the arguments for supporting either the sovereignty of the king or of parliament began to change (Major,1967: 348-349 and McKay *et al,* 1995: 590-609).

3.6 THE AGE OF EGALITARIAN REVOLUTIONS *c.*1715 - *c.*1850

The scientific revolution of the eighteenth century was followed by a period of agricultural experimentation that greatly increased the food supply and made urbanisation and industrialisation possible to an extent unknown up to that time. Linnaeus (1707-1778) and Count Buffon (1707-1788) studied plant and animal life and Jenner (1749-1823) developed a vaccine against smallpox. Increased productivity led to a rise in the standard of living and enabled the middle class to replace the landed aristocracy as the group from which political leaders of the future would emerge.

The growing belief that the mind was devoid of ideas at birth gave rise to the theory that all men are created equal and were capable of being moulded by their environment. The hierarchical conception of society was discredited and replaced with the idea that social and moral progress could be created by a proper environment.

At first the proper environment was thought to be one in which everyone could exercise his natural rights and obey governmental regulation that were made in accordance with natural law. Gradually, the concept was expanded to include democracy and rights of each nationality to govern itself.

3.6.1 The era of enlightenment *c.*1715 - *c.*1800

The most famous philosopher of the period was Voltaire (1694-1778). During exile in England he became an admirer of English rights and liberties and in 1733 published his *Letters on the English*. This work did much to popularise Newton, Locke and the English way of life. He also criticised wars, religious intolerance and social injustices in society. Rousseau (1712-1778) another philosopher of the time published his *Discourse on the Origin of Inequality* in 1754. Therein he argued that man was basically good but that society had corrupted man. It was not his aim to destroy civilization but to achieve a simple, less artificial society (Major,1967:380-384).

Economists gradually abandoned the mercantilist doctrine during the Enlightenment. The world's resources no longer appeared to be finite; there were ample resources for everyone to increase his share if only he were free to do so. This situation gave rise to three changes in the economic doctrine of the time. First, man's self-interest came to be regarded as beneficial to society; second, production, not trade, came to be considered the source of wealth and third, natural laws were accepted as applicable to economic activity (Major,1967:391-392).

The belief that self-interest was useful to society was in fact a protest against the mercantilist theory and orthodox Christian doctrine. It was largely brought about by Bernard de Mannville and later developed further by Protestant thought. Ironically the Protestant Reformation helped to pave the way for the justification of acquisitive spirit, although Luther was very conservative in his economic thinking. Calvin, as also many Catholics, on the other hand was less willing to countenance usury and other aspects

of capitalism.

Richard Cantillon (1680-1734) disagreed with mercantilist doctrine that precious metals were the only embodiment of wealth. He believed that production could also lead to wealth creation. The Marquis of Mirabeau (1715-1789) and Francois Quesney (1694-1774) together with other kindred spirits were greatly influenced by Cantillon's ideas and became known as the Physiocrats. The Physiocrats popularised the phrase *laissez-faire* (non-interference) that was to become the watch-word of the new economic liberalism (Major,1967:391-394 and Clough, 1968:218-235).

This emphasis on *laissez-faire* received a tremendous boost from Adam Smith with the publication of his "*An Inquiry into the Nature and Causes Of the Wealth of Nations* " (1776). Smith combined the economic thoughts of the Physiocrats and other contemporaries into a single system. He assumed the existence of a natural economic order that required a system of natural liberty for its operation. He argued that wealth was produced by labour in both agriculture and industry. To increase its wealth, a nation must increase its productivity. To increase its productivity it must effectuate a division of labour. The *laissez-faire* economic view greatly advanced the emergence of capitalism (Major,1967:394-396).

From a broad historical view the French Revolution (1789) may be viewed as part of a larger, middle class revolutionary movement that swept through most of the Western world. This revolutionary movement began with small uprisings in Germany, Austria and Italy, extended to the revolts of the thirteen British colonies in North America and continued intermittently until the middle of the nineteenth century. The underlying causes were ideas of the Enlightenment as well as the social change brought about by the economic revival that began in the eighteenth century. At times, this revolutionary spirit ran counter to the cosmopolitanism of the Enlightenment. However by 1918 the middle class was triumphant and Rousseau's liberty, equality and fraternity, the three ideals of the French Revolutionaries, were ascendant in most of Europe and North America (McKay *et al* 1995:691-707).

3.6.2 Capitalism and the Industrial Revolution *c.*1760 - *c.*1850

Capitalism was not a new economic system. There had been elements of capitalism

in existence right back to the beginning of civilisation. Christians were taught that avarice was a cardinal sin, that the accumulation of wealth implied avarice (Clough, 1968:49). After the Protestant Reformation it was more acceptable to amass capital.

As the name of this economic system implies, capital plays a large role in the ordering of material things. Although in all previous economic systems capital, defined as an accumulation of goods or surplus, was mostly in the form of improved land, timber, both private and public buildings, roads and canals. Consequently this capital could produce only a limited amount of goods in any given period. Under modern capitalism, capital came from "savings" of a substantial part of annual production and increasingly consisted of machines, money and negotiable securities. With a greater supply of money, a store of wealth and a measure of value, the entrepreneur could acquire the means of production. This capital in the new system was also more mobile and flexible in its employment.

The means of production came to be increasingly in the hands of the owners of capital instead of in the hands of the workers as before. This allowed for a greater scale of production but may have taken away some of the workers' motivation to produce. The economic relationship among men became more impersonal than in the past as everything was regulated by a price system. The emphasis on individual well-being in this system and the desire for profits led at times to the disregard for the general welfare of society. With the tendency towards mass production of the Industrial Revolution large investments of capital for machines, factories and labour was required. Bankers amassed the savings of many persons in order to have amounts of capital large enough for financing vast undertakings (Clough,1968:192-195).

The industrial changes that began to take place in England around 1760 have long been referred to as the Industrial Revolution. These changes were characterised by the substitution of the power of water, wind and human exertion by steam power. A series of innovative inventions started off the industrial revolution e.g. the steam engine by James Watt in 1769. Steam power and the resultant big machines meant that neither the guild system nor the home workshop was suitable for large scale manufacturing.

The immediate occasion of the development of the English textile industry was the popularity of Indian cotton goods. As a consequence great quantities of raw cotton, a

substance hitherto unknown in Europe was imported into Lancashire. The cotton mills were powered by water power and the first challenge was to cut labour costs. The solution lay in Crompton's invention in 1979 of mechanised spinning and Kay and Cartwright's invention in 1784 of the mechanised loom. Although these inventions led to increased production, there remained the problem of a new source of power. Coal was used in England since before Roman times but until the Middle Ages mining was limited to small surface workings. As the demand increased, deep drift and shaft mines were developed. In 1702 Newcomen built a coal driven pumping machine for draining these deep mines (Parkyn, 1979: 15-19).

To mine coal and build factories large amounts of money were required. The person who furnished the money, the capitalist/financier, therefore owned the factory, the machines, the raw material and sold the finished products. To operate the machines the capitalist or his manager employed workers by paying them wages. This "new" practice differed greatly from the guild system which at this time began to show signs of disintegration. No longer did the owner work and live with his employees as was the custom under the guild system. Consequently the relationship between employer and employee would never be the same as before. These developments led to the financier also becoming the employer of labour and formed the beginning of capitalism in industry and prompted the rudiments of the trade union concept of collective bargaining (McKay *et al*, 1995:728-752).

3.7 THE AGE OF ROMANTICISM *c.*1815 - *c.*1850

While the conservative statesmen of Europe were mustering their armed forces to overthrow Napoleon, a new intellectual movement was developing, especially in Germany, to combat the ideas of the Enlightenment. This movement shifted emphasis from the senses as the most important source of knowledge to the emotion, feelings or what may be called inner experience. Since the emotional natures of individuals differ widely, the new movement had a wide variety of manifestations and was usually referred to as Romanticism.

The monarchs, the aristocracies and the churches depended directly or indirectly on land for a large part of their wealth and power. However, two developments gradually weakened their position. One was the opening of vast tracts of land to small

independent farmers in the western United States, in parts of the British Empire and to a lesser extent in Russia and Latin America. These people not only improved their economic destiny but also became the breeding ground for democracy, as they removed themselves from the control of conservative forces. The second development was the industrialisation that began around 1760. By 1850 a middle class had developed in England that could compete with the rural aristocracy, cities emerged and the average Englishman was a factory worker and no longer a farm tenant.

3.7.1 Liberalism and Nationalism

Another force of change in the early nineteenth century was the growth of liberalism. Its advocates shared the conviction that man should be freed from restraint as much as possible. An influential and wealthy Liberal, Jeremy Bentham (1748-1832) believed that every custom should be judged by its utility. These utilitarian liberals advocated constitutional government and insisted on freedom of religion and expression. They emphasised every aspect of individual liberty and individual initiative and were the leading exponents of individualism. The liberals reacted to the bitter experience of France during the republican and Napoleonic regimes by seeking to limit the powers of government. Most of them believed in a constitutional monarchy, partly because they felt that a king would add stability to the government and check popular excesses. The idea that a man ought to be permitted to do as he pleased as long as no one else was harmed was succinctly propounded by John Stuart Mill in 1859.

The typical liberal denied government any right to interfere with the people's freedom of speech, action and belief or to make economic regulations or to legislate for social welfare. In continental countries which did not follow the liberal tradition of England, the liberals pushed for new constitutions that guaranteed the rights of the individual. The utilitarians were amongst the earliest advocates of universal suffrage, a concept which is essential for a democratic system.

A further force for change in the nineteenth century was nationalism. Both Romanticism and Nationalism appealed to the emotions and both involved an effort to discover and re-establish the traditional culture of a people. The Liberal supporters of nationalism believed that freedom could be achieved only by those nations which governed themselves. Each people should therefore have its own country and no state should attempt to rule other peoples (Maior 1967:530-538).

3.7.2 The Protest of Labour and Utopian Socialism

Another group desiring change consisted of industrial workers and those who sympathised with their cause. At first, the most noticeable of this group were workers employed under the old domestic system whose hand-made goods were being undersold by machine-made products. In anger and frustration they rioted and smashed machines. The name of "Luddism" has been given to these disorders, derived from the name, or pseudonym of "Ned Ludd" above whose signature the declaration for action was issued (Pelling,1984:28). However, it was not long before the workers in the new factories also began to protest. The conditions in the factories were oppressive and the workers justifiably could claim that they were not receiving their fair share of the fruits of their labour. Help with their plight came from three different sources.

The first was in the form of labour unions. The guilds originally fulfilled the function of a labour union during the Middle Ages but the workers in the domestic system had been so dispersed that it was difficult for them to organise. The few labour unions that existed by 1815 were weak, small, secret organisations, outlawed in nearly every country. The industrial revolution, however, caused a dramatic increase in the number of industrial workers and brought them together in factories where they could readily be organised.

Secondly, help came from landed aristocrats who transferred their traditional paternalistic interests in the rural poor to the inhabitants of the new cities. As a group, they disapproved of the upstart factory owners and were not attracted by the *laissez-faire* doctrines of the Liberals. As members of the legislature and advisers to rulers they were in a strong position to influence factory legislation.

The third source of help was a small group of radical intellectuals who were called the Utopian Socialists. They accepted the majority opinion of the day that man was not evil by nature and was capable of a higher moral development within a proper environment. This environment was not being provided by the then prevailing economic system which brought great wealth to a few and left the remainder in relative poverty. They advocated the social ownership of industry, accompanied by a more equitable distribution of income. Some faint traces of what was later to be called industrial

democracy were already apparent in some of their ideas (Major,1967:537-539 and McKay *et al*,1995:728-752).

3.8 THE AGE OF REFORM: GREAT BRITAIN *c.*1815 - *c.*1850/65

Even after the overthrow of the French monarchy in 1792 there was very little conflict between the crown and the aristocracy in Britain. Disunity held definite dangers for both groups. Radical leaders aroused by the French example were beginning to form left-wing societies, organise labour unions, hold mass meetings, advocate universal suffrage and propagate the concept of a republic. Fearful of these developments, the king and the aristocrats joined forces in a policy of repression: Pitt's reform programme was discarded, *habeas corpus* was temporarily suspended, trade unions outlawed and suspect societies were suppressed. As a result, demands for the reform of Parliament became more widespread. This pressure left the crown and the aristocracy with a choice of trying to withstand the popular tide at the risk of a revolution or making a few concessions in the hope of satisfying the more moderate reformers. They wisely chose the latter course and beginning in 1822 the cabinet became less conservative and a number of reforms were introduced.

While reforms of the 1830s did much for women, children and slaves they did little for the male industrial workers. Although efforts were made to organise, trade unions were remarkably unsuccessful. The formation of the London Working Men's Association in 1836 to secure equal political and social rights for all classes in society gave industrial workers new hope. They demanded a new Reform Bill to include the six points of a "People's Charter" that they had prepared. One of the points was the demand for universal suffrage, being the foundation of any true democracy (Major,1967:560-569 and McKay *et al*,1995: 776-782).

It is interesting to note the close connection between the demands for social reform and the demands for labour reform. A similar process also manifested itself in South Africa in its transition to democracy. In 1973 widespread strikes by black workers over wages erupted in Durban and rapidly spread to other centres. The government, still attempting to discourage black trade unions, responded with the Bantu Labour Relations Act. This Act was aimed at settling disputes through works or liaison committees. Demands for social reforms continued and came to an eruption with the

Soweto uprisings in 1976. On the labour front some bold reforms followed from the Wiehahn Commission's report in 1979. The 1980s were characterised by the labour movement's continued demands for political change. In 1990 then President de Klerk announced the release of Nelson Mandela and the unbanning of various political organisations. By forming an alliance with the labour federation, COSATU, the ANC won the election in April 1994. This paved the way for the transition to political and industrial democracy in South Africa. Demands for labour and socio-political reforms eventually found embodiment in the Constitution of South Africa and in new human rights and labour legislation passed by the post-1994 government.

3.9 THE RE-EMERGENCE OF WESTERN CIVILISATION *c.*1850 - *c.*1914

The romantic era during the first half of the nineteenth century proved to be only a temporary setback to the spread of ideas and values espoused during the Enlightenment. The second half of the nineteenth century witnessed the triumph of the empirical over the emotional. Materialism was once more emphasised in thought and naturalism in art. The conception that men were shaped by their environment received extensive affirmation sanctions from the Darwinian theory of evolution and in the twentieth century from the growing influence of Marxian socialist thought.

Despite the tendency of nationalists and conservatives to collaborate in some countries, rapid industrialisation so strengthened the middle class that by 1914 it was gaining power. With the growing influence of this class, the egalitarian aspirations of the preceding period were largely achieved without violence. Among these aspirations were Liberalism, with its constitutional guarantees of free speech, equality before the law, trial by jury and democracy with ministerial responsibility and extended suffrage.

3.9.1 The triumph of Liberalism

By 1871 every country on the European continent had a constitutional form of government except Russia, the Ottoman Empire and Montenegro. Parliaments as representatives of the citizens and the consent of the citizens to taxation were the rule. In some countries kings still exercised considerable authority and in others they had been reduced to figureheads. Actual power was wielded by parliaments through responsible ministers and fundamental human rights were observed.

By 1914 universal male suffrage was no longer the exception. Public voice voting was abandoned and the secret ballot was adopted to ensure that enfranchised workers were not unduly influenced by their landlords or employers. The cause of democracy was also furthered in many countries through efforts to reduce the power of the hereditary house in the legislature and to establish the principle of ministerial responsibility to the lower house. Women had to wait until after 1918 to receive the right to vote (McKay *et al*, 1995:854-856).

There were, however, six threats to Liberalism according to Major (1967:640) that came about as a result of the evolution of the middle class itself. These threats were the development of joint stock companies and combinations, the movement away from *laissez-faire*, the growth of the labour unions, the emergence of Marxism, Christian Socialism, anarchism and syndicalism. For purposes of the focus of the current study only the first four threats will be covered in the sections which follow.

3.9.2 Joint-stock companies and combinations

The typical industrial enterprise prior to 1850 had been individually owned or held in partnership. These business forms could only obtain a limited amount of capital because few people would invest in a firm in which they had no control and where failure could mean the loss of their other assets to pay creditors. Due to greater prosperity the amassing of large-scale capital for industrial enterprises became possible and the big limited liability company replaced the small individually owned concern as the typical industrial unit. With limited liability only the amount invested in stock could be lost if the enterprise failed.

Many early corporations failed, but those that survived grew larger by ruthlessly destroying their competitors. As justification some businessmen argued that economic progress, analogous to biological progress, depended on the survival of the fittest. Others believed that competition was wasteful and sought agreements with their competitors. Thus pools, cartels and mergers came into being. In some respects combinations held certain benefits such as better utilization of machinery resulting in increased productivity, less exposure to business cycle fluctuations and more secure employment for employees. However, large combinations were considered harmful in that wealth and power became concentrated in fewer and fewer hands. The older

economic Liberalism thus became threatened by the very industrial combinations it had created.

Furthermore the big industrialists, who were already distanced from the majority of the middle class by their greater wealth, began to associate more and more with the aristocracy and in Great Britain even joined the same political party. The less prosperous members of the middle class also began to abandon their adherence to *laissez-faire* as they increasingly came to view big business as the new common enemy. This movement constituted the second threat to Liberalism (Major,1967;640-644).

3.9.3 Labour unions

The third threat to Liberalism came from labour. The greater use of machinery had increased the danger of working in certain industries and the new assembly line techniques had increased the monotony of work. Furthermore although the industrial revolution brought about a higher standard of living for workers, they believed that business leaders were getting more than their fair share of the profits. Industrialisation which enlarged the middle class also increased the number of workers and clustered them in factories so that it became physically possible to organise them in labour unions. Collective bargaining between labour and employers in fact only became possible after industrial activities were grouped into various industries. This situation contributed to the repeal of anti-labour union laws in most countries between 1864 and 1890 (McKay *et al*, 1995:858-860).

The first successful unions were associations of skilled workers organised on a craft basis. The local union of a given craft then joined with local unions in the same trade in other areas to form a national union but considerable authority remained vested at the local union level. The British Amalgamated Society of Engineers, which was founded in 1851 became the model for other crafts. The next steps were to secure cooperation between the various unions. This was achieved in Great Britain by the Trade Union Congresses which began to be held in 1869, the formation of the Federation of Labour in the USA in 1881 and the establishment of the originally non-racial South African Trade Union Congress (SACTU) in South Africa in 1924 (Finnemore, 1996:27).

On the whole, craft unions at the time accepted the capitalist system. They were content to secure higher wages, shorter hours and better working conditions for their members. In England and in Germany the unions formed cooperatives which enabled members to buy goods at lower prices. Recently labour cooperatives have also been proposed by Theron (1999:6-14) as a means of alleviating the high level of unemployment and to advance the empowerment of workers in South Africa.

3.9.4 Marxist socialism

In spite of having a doctorate Karl Marx was regarded as too much of a radical at an early age and consequently could not procure a university teaching position. On the eve of the Revolution of 1848 he published his *Communist Manifesto* in collaboration with Friedrich Engels. The first volume of his three volume *Das Kapital* appeared in 1867. As a student Marx was influenced by Hegel's idea that as a society matures it creates antitheses and out of the clash of opposites a new society is spawned. Marx believed that the feudal age had been based on agriculture and out of it had developed its antithesis, urban industry and the bourgeoisie. The bourgeoisie of his day were in the process of overthrowing the feudal aristocracy and replacing it with ideas of economic and political Liberalism.

The bourgeoisie according to Marx had sown the seeds of its own destruction by unifying the state and thus making future revolutions easier. The capitalist class also brought workers together in factories which enabled its antithesis to assemble and organise opposition. By concentrating the ownership in the hands of fewer people the lower middle class could not compete and they thus became more sympathetic to the causes of the working class in the struggle against the capitalists.

Marx further believed that the bourgeoisie would be destroyed by having the means of production seized from them. The conflict between manual and intellectual labour would disappear and a classless society would emerge. He was a materialist at heart and believed in the ideas of progress and human perfectibility. What was unique about his doctrine was his insistence that the proceeds of labour should go to the workers not to the bourgeoisie whom he accused of getting all the benefits of the increased productivity brought about by technological improvement.

The impact of Marx's doctrines was immense. The earlier Utopian Socialism was replaced by Marxist Socialism. Marx gave the labouring masses the promise that one day they would receive social justice. Workers flooded to Marxist labour unions and by 1914 a Marxist oriented political party had been established in Germany (Major, 1967:645-648 and McKay *et al*, 1995:857-860).

3.10 THE GROWTH OF THE DEMOCRATIC FORM OF GOVERNMENT IN BRITAIN

In Great Britain it was the Tory (or Conservative) Party that was the first to undergo change. The Conservatives were seriously divided in 1848 when Peel persuaded them to vote for the repeal of the Corn Law. It was only through exceptional leadership that Disraeli managed to return the landed gentry to the conservative fold. The Whigs (also called the Liberals) were in power during most of the time during the two decades following the repeal of the Corn Law. In 1866, however, the Conservatives under Disraeli assumed office. To win the support of the working class he extended the suffrage and implemented a programme of social reform. After 1867 there was no longer any doubt that Great Britain would be a parliamentary democracy with a cabinet system of government.

To the surprise of the Conservatives, the industrial workers voted for the Liberals in 1868 and Gladstone became prime minister. As a result of the extension of the suffrage many illiterate persons were permitted to vote, making improved public education a priority. To protect the new voters from being unduly influenced by their employers and landlords, the secret ballot was adopted. In 1874 Disraeli again returned to power and continued the attempt to improve the lot of the urban worker through, for example, the Public Health Act (Major,1967:655-659).

Rejected by the major parties, representatives from labour unions joined a group of intellectuals known as the Fabian Socialists to form a Labour Party in 1900. Their programme called for the working man to use his newly won vote to capture the House of Commons and to enact legislation that would benefit labour. At first, the Labour Party made little progress but two events boosted the party. In 1901 the House of Lords, as the Highest Court ruled in the Taff-Vale case that labour unions were subject to injunctions and could be sued for damage done by their members. This decision made employment of the strike weapon virtually impossible. Secondly, the economic position

of workers had steadily declined. In reaction to these circumstances the Labour Party gained seats in the Commons. The Liberals realised that to retain the support of the workers they had to abandon *laissez-faire,* reverse the Taft-Vale decision and a Working Man's Compensation Act and a National Insurance Act were passed. Britain had thus become a democracy in the true sense of the word by legislating for the benefit of all levels of society (Major,1967: 660-662).

The Great Depression of 1929 continued for almost ten years and only abated in much of the world with the onset of the Second World War. The social and economic consequences of the prolonged economic collapse were immense. The depression shattered the fragile optimism of political leaders in the late 1920s. It became a period during which people were willing to support radical attempts to deal with the crisis by democratic leaders as well as dictators (McKay *et al*, 1995: 955-962).

The total defeat of the Nazis and their allies in 1945 laid the foundation for one of Western civilization's most remarkable recoveries. A battered western Europe dug itself out from under the rubble and managed a great revival in the post-war era, which lasted into the 1960s. In 1968 the established order tottered in both communist East and the capitalist West but did not fall. The revolutionary surges were broken and diffused as a new and different era emerged.

The post-war era concluded during the late 1960s and early 1970s. The end of the post-war era also signalled renewed efforts to reduce cold war tensions in Europe and to liberalize communist eastern Europe. With a revitalized West Germany taking the initiative the efforts for social change achieved success from the early 1970s and reached fruition after 1985. During this time the Soviet Union also entered a period of sweeping change. Communist rule collapsed in its satellite states in Europe in 1989 and in the Soviet Union itself in 1991 (McKay *et al* ,1995:1044-1071). The people's desire for democracy could not be thwarted and finally became a reality in many countries where democratic rights were unheard of in the past.

3.11 A BRIEF HISTORY OF SOUTH AFRICAN LABOUR RELATIONS

Before the discovery of diamonds in 1867 and the discovery of gold in 1886 South Africa was largely an agrarian society. Merchants and craftsmen plied their trades to the

surrounding communities. It is therefore safe to say South Africa missed the European Industrial Revolution (*c.*1760 - *c.*1850) and its consequences on society as discussed above. Employment relationships in the Cape Colony were governed by the Master and Servants Act of 1841. This Act governed the rules of work, particularly of non-white workers. There were no collective labour relations or any planned attempts to organise workers. Some workers in the printing industry did show interest in establishing forms of collective representation and a few strikes even occurred before 1870 (Bendix,1996:77). Industrialisation and trade unionism were hardly known in the Cape Colony of the time.

The Dutch settlement at the Cape had imported slaves from East African from approximately 1658. By the end of the following century slavery had become an important component of the local economy. The trekking farmers took with them these ideas of labour division – that manual work had to be done by non-whites – when they moved into the hinterland and wherever they established themselves (Finnemore,1998:20).

The industrialisation that followed the discovery of diamonds and gold required skilled and semi-skilled labour which was not readily available locally. Employers could only satisfy this need for skilled workers by recruiting them from Europe at a wage premium for scarce skills. The white skilled workers thus began their working lives in South Africa as ones of privilege. With the skilled workers also came their experiences and ideas of trade-unionism in society. The first documented trade union founded in South Africa was the Carpenters' and Joiners' Union in 1881 (Finnemore,1998:21).

The unskilled labour supply was also of concern to employers as most of the blacks were still subsistence farmers and tribesmen. After clashes with white settlers many tribes such the Sotho and Griquas were dispossessed of their land and had to look for work on the mines. As mining became more labour intensive pressure was placed on the government to assist with the supply of labour. This led to laws requiring black subsistence farmers to pay hut and poll tax. To pay these taxes young males were obliged to seek employment. The demand for unskilled labour in the mines continued. In 1913 the Land Act was passed which reserved approximately ten percent of the country for black ownership and prohibited black farmers from renting land from white farmers (Finnemore, 1996 and 1998:21-23). This Act forced many blacks from rural

areas into towns and cities and could possibly be viewed as the start of the squatter situation of today.

Employers in the mining industry in 1886 formed the Witwatersrand Chamber of Mines and agreed upon a low maximum wage for black workers. The compound system of providing primitive accommodation for black workers was also introduced more or less at this time. This ensured control of black workers and social separation between black and white workers.

White workers also perceived their interests as being threatened by black workers when attempts were made to reduce the white skilled workers' wages and to replace skilled white workers with semi-skilled whites or blacks. Skilled workers responded to these changes by converting from craft unions to industrial unions to accommodate semi-skilled white workers. The result was a power build-up along racial lines. During 1910 white trade unions began to realise that to protect their interests, they had to become actively involved in politics. The result was the formation of the South African Labour Party. This is an example of the interaction of labour relations and politics (Nel and Van Rooyen, 1993:58).

In spite of the limited political power of the white workers the Government passed the Mines and Works Act of 1911 which reserved thirty two job types exclusively for white workers. According to Tustin (1991:80) the idea of work reservation was brought to South Africa by British skilled miners who had experience of protecting their jobs in their country of origin.

The end of the first World War left South Africa with foreign debt, rising cost of living and an economic depression. To contain costs the mine owners responded with large-scale retrenchments of white workers and revoked the established ratio of white supervisors to black workers. Discontent continued and eventually erupted in the so-called 1922 General Strike, also called the Rand Rebellion. During this uprising 1247 people died in the skirmishes when military force was use by the government against the strikers. In the opinion of Nel and Van Rooyen (1993: 57-60) this rebellion marks the turning point in labour relations in South Africa. This conflict set the table for the system of conciliation that was to be introduced. In response to these unhappy occurrences the Smuts government introduced the Industrial Conciliation Act in 1924. Shortly thereafter

the white electorate which included the white working class, used its political strength to vote a new government into power (Bendix, 1996:77-80; Finnemore, 1996:21-23).

During this early period in the country's labour relations history the black workers had limited power. Black workers did not begin to organise themselves into trade unions on the mines due mainly to factors such as the compound system that kept them apart from organised white workers. Support from the experienced white workers was not forthcoming and tribal allegiances were also factors working against greater solidarity amongst black workers. In other industrial sectors the situation was more conducive to union formation and black workers managed to establish the Industrial and Commercial Workers Union in 1919. This union under the leadership of Clements Kadalie is widely regarded as the first black union in South Africa. The labour relations system during this period is typified by the State, as a neutral outsider, only intervening in conflict situations between employers and employees and playing no active role in regulating the relationship. Tustin (1991:8) describes this phenomenon as bi-partism.

During the 1920s secondary industry began to grow rapidly. As a result of mass production technology, industry required fewer skilled craftsmen but more semi-skilled workers who could be paid less. Many black males and white females now began to be employed in industry. Several industrial unions were also registered during this period. In order to form a united front against employers, moves were made towards non-racial unions. Non-racialism was taken to the extent that the South African Trade and Labour Council was established in 1930. However, this development did not last. Artisan unions feared de-skilling and replacement by cheap black labour and towards the end of the 1930s they began to oppose this trend towards open industrial unions. Black workers formed the Council for Non-European Trade Unions in 1941 and by 1945 had approximately 158 000 members. The fears of the conservative white workers and changes in the labour scene in general, contributed to the National Party coming to power in 1948 (Bendix,1996:82-85). A similar strategy to make use of the working class to gain political victory was used by Disreali and the Conservative Party in Britain in 1866.

With the National Party in power the separation of black citizens, and black workers in particular, was possible. In 1950 the Suppression of Communism Act was passed and many trade union leaders were arrested or banned. In 1953 the National Party

government enacted the Bantu Labour (Settlement of Disputes) Act of 1953, later known as the Black Labour Relations Regulation Act of 1953. It was the aim of this Act to avert trade unionism among blacks by making provision for the establishment of workers' committees for black employees (Bendix,1996:86). These committees were to be established at the request of black workers themselves. (This requirement is similar to the principle found in regard to present day Workplace Forums in that the initiative for their establishment must also come from the workers through their representative trade unions).

These workers' committees were poorly accepted by the black workers and by 1973 only 24 committees were formally registered out of possibly 110 committees that were in existence. Where these committees were operating, employees lacked the expertise to represent themselves. Consequently there was limited scope for proper participation in decisions that concerned workers. Representation was also ineffective as only one workers' committee of 5 members per plant was permitted. Other problems with this system were that these committees met irregularly and tended to deal mainly with grievances of workers. In spite of these shortcomings the committee system remained the only legitimate system of black worker representation until 1979 (Bendix,1996:96; Finnemore, 1996:23-30).

In 1956 the Industrial Conciliation Act was amended (later known as the Labour Relations Act of 1956) *inter alia* prohibiting the establishment of mixed unions and introducing job reservation to protect white workers from competition by other race groups. This Act became the basis for labour legislation dealing specifically with collective bargaining issues.

In 1954 the South African Trade Union Council (SATUC) was founded and in 1962 changed its name to the Trade Union Council of South Africa (TUCSA). For a limited period black union affiliation was allowed. This came to an end when the government forced TUCSA to expel its black union members. In the meantime the black unions had been getting themselves better organised into a national federation with the establishment of the South African Congress of Trade Unions (SACTU) in 1955. Many SACTU leaders were listed under the Suppression of Communism Act and after Sharpeville killings in March, 1960 many leaders were banned. The remaining federation leaders fled into exile. Consequently black trade union activity disappeared

from the workplace during the 1960s and created a deceptive appearance of calm amongst black workers during this period (Finnemore,1998:28-29).

This tranquil period came to an abrupt end in 1973 with the outbreak of strikes in the Durban area which soon spread to other parts of the country. Ironically no trade unions were behind these strikes that erupted spontaneously among the workers. The power of black workers was however clearly demonstrated. The shortcomings of legislation of the day for black workers as well as the absence of formal negotiating structures and procedures also became quite evident.

The government responded swiftly and passed the Black Labour Relations Regulation Act of 1973. This Act provided for the establishment of liaison committees at plant level as an alternative to workers' committees already in existence. Liaison committees consisted of an equal number of representatives of the employers and workers of each plant. These committees could consult on any of matter of mutual interest to the parties concerned. By 1976 the government was forced by the threat of sanctions and disinvestment and black worker militancy to take action about the labour situation. This led to the appointment of the Commission of Inquiry into Labour Legislation in 1977, better known as the Wiehahn Commission (Bendix,1996:93-96 and Finnemore,1998:29-30).

Under pressure from the right wing the government reacted with caution to the recommendations of the Commission and in 1979 introduced the Industrial Conciliation Amendment Act (later called the Labour Relations Act). Full freedom of association was extended to all employees and the registration of all unions was then possible for the first time in South Africa. In 1981 further labour reforms were introduced with amendments to the Industrial Conciliation Act which was re-named to the Labour Relations Act but still retained the 1956 date. What this meant was that full trade union rights were extended to all workers and racial restrictions to trade union membership were completely done away with (Bendix, 1996:91-100; Finnemore,1998:30-41).

It is interesting to note that in spite of the legislative changes introduced by government to accommodate changes on the labour front, there was a significant percentage of black workers who preferred not to be part of the government's labour relations system. This was done mainly to avoid being seen as co-operating with the Apartheid

government.

As a result of this refusal a system of recognition agreements negotiated between unions and employers emerged during the 1980s. In practice this meant that there was then a dual labour relations system in the country. The official one introduced by the government through legislation and the black unions' own system of recognition agreements through which an employer and a union representing the workers could agree that the union would represent the interests of the workers of that particular employer. As a large number of employers were also covered by Industrial Council agreements many companies then found themselves having to negotiate twice with virtually the same group of people. This amounted to a dual system of collective bargaining.

The political system in South Africa has been heavily influenced by developments on the labour front. In April 1994 this culminated in the labour movement playing a significant role in bringing the African National Congress (ANC) to power through the ANC-SACP-COSATU alliance. As reward for support in the election the ANC-led government was obliged to provide legislation showing greater support for workers. The Labour Relations Act No 66 of 1995 is an example. This Act introduced many changes to the way in which labour relations would in future be practised in South Africa. Some of the changes introduced by the Act, which aim to democratise the workplace, are provisions for the disclosure of information, new collective bargaining structures, consultation and joint decision-making and workplace forums. These topics will be examined comprehensively in the chapters that follow.

3.12 SUMMARY

This chapter traversed the development of European democratic societies. Medieval civilisation was discussed with particular reference to the medieval state, medieval society, the economy of the time and the establishment of guilds. While the nobles had gained certain privileges from the king, the majority of the people remained in serfdom and had no democratic rights. Guilds were formed by diverse groups such as merchants and artisans to promote and protect the interests and rights of their respective members. These associations are early examples of people acting collectively for their common benefit.

The Renaissance period which followed comprised many great discoveries, inventions and advances in trade, industry and mining which led to economic revival after the decline experienced in the late Middle Ages. With increased productive capacity business flourished. Merchants and industrialists were making greater profits. Prices of commodities rose faster than wages resulting in capitalists and the middle class improving their economic situation while that of wage earners deteriorated. Political power in the 16th century lodged with the king and the aristocracy while working class citizens enjoyed none.

The economic progress of the Renaissance period came to an end early in the 17th Century and stagnated for the remainder of that century. Trade and industry no longer expanded while population growth continued unabated. Unemployment increased. It reached such high levels in England that a "Poor Law" had to be introduced to provide some relief to the unemployed. The economic stagnation led to social unrest throughout Europe. Governments increased taxes to compensate for the decline in their revenue. The raised taxes negated the hard-earned increases in real wages which workers had attained.

Despite the period of economic stagnation, science continued to advance which in the 18th Century led to further discoveries and inventions that greatly increased food supplies and made urbanisation and industrialisation possible on a scale never known before. The resultant increase in productivity gave rise to higher standards of living, mainly for the middle classes and industrialists whose profits were boosted.

Prior to the discovery of diamonds and gold South Africa was largely an agrarian society. The industrialisation that resulted from the discoveries necessitated the importation of skilled and semi-skilled labourers who brought with them ideas and experiences of trade-unionism. As even more labour was required by the mines, laws were changed which forced young black males to seek employment.

White workers perceived their interests as being threatened by black workers when attempts were made to reduce white skilled workers' wages and to replace skilled white workers with semi-skilled white and black workers.

After the First World War mine owners attempted to contain costs by large scale

retrenchments of white workers and revoked the established ratio of white supervisors to black workers. The discontent that followed eventually erupted in the so-called 1922 General Strike. This conflict set the table for the system of conciliation that was to be introduced through the Industrial Conciliation Act in 1924.

During the 1920s secondary industry began to grow rapidly with mass production technology requiring more semi-skilled workers who could be paid less. Many black males and white females were employed. Non-racialism was taken to the extent that the South African Trade and Labour Council was established in 1930. Fears of the conservative white workers and changes in the labour scene contributed to the National Party coming to power in 1948.

In 1953 the National Party government enacted the Bantu Labour (Settlement of Disputes) Act, later known as the Black Labour Relations Act. Its aim was to avert trade unionism among black workers. In 1956 the Industrial Conciliation Act was amended (later known as the Labour Relations Act of 1956) *inter alia* prohibiting the establishment of mixed unions and introducing job reservation to protect white workers. Many black trade unionists were banned under the Suppression of Communism Act which created a deceptive appearance of calm amongst black workers during the 1960s.

In 1973 this tranquil period came to an abrupt end when strikes broke out in Durban and spread to other parts of the country. In 1977 a Commission of Inquiry into Labour Legislation was appointed and led to the Industrial Conciliation Amendment Act (later called the Labour Relations Act) being introduced in 1979.

As a significant percentage of black workers preferred not be part of the Apartheid government's labour relations system, a system of recognition agreements were negotiated between employers and trade unions during the 1980s.

In April 1994 the labour movement played a significant role in bringing the ANC to power through the ANC-SACP-COSATU alliance. As a reward for support in the elections the ANC-led government was obliged to provide legislation showing greater support for workers. The Labour Relations Act No 66 of 1995 is an example.

CHAPTER 4

DEMOCRACY, INDUSTRIAL DEMOCRACY AND WORKER PARTICIPATION

4.1 INTRODUCTION

This chapter commences with an explanation of what is meant by the term "democracy". The direct and indirect approaches to democracy are discussed. From democracy the discussion proceeds to industrial democracy. Some of the well known theorists' views on democracy and definitions are then examined. This is followed by a review of the different forms or models of industrial democracy. The last section deals with the recurrent interest in workers' participation.

4.2 DEMOCRACY

There are few words more widely used by so many that is so little understood by such a large number of users, than the word democracy. If we look at the derivation of the word "democracy" we find that it comes from the Greek word *demos*, the people and "*kratia*", power. Democracy therefore refers to people's power, "*in contrast to monarchy, single rule, oligarchy, rule by the few and aristocracy, the best man's power*" (Parkyn, 1979:50). Parkyn goes on to argue that the acceptance or acquiescence by the people is very different from the will of the people. In the first instance, the people subject themselves to the arbitrary and irresponsible tyranny of the ruling class. In the second instance each citizen decides that the government shall be controlled in accordance with the common will of the people.

The Concise Oxford Dictionary defines democracy as "*a system of government by the whole population, usually through elected representatives*".

Most democracies find themselves somewhere on this continuum between the arbitrary decisions of the ruling class and government through the common will of the people.

Although the ultimate source of power is technically known as the sovereignty, in every community there is one particular person or group of persons who has the authority to make or change the law - the so-called *actual legal sovereign*. This actual legal sovereign (e.g. a parliament) has the authority, but it is not the real source of power.

The real source of power is the opinion of the governed. Behind the actual legal sovereign in any community lies an *ultimate general sovereign.* This public opinion may be tolerant of different forms of actual legal sovereignty, for example, of a tyrant or an aristocracy.

It is accepted that the perfect democracy is one in which each individual citizen resolves that government should be a reflection of the common will of the people. There are two ways to reach this objective. One is the ultimate sovereign (the people) can merge with and become the actual legal sovereign (the government) or alternatively, the ultimate general sovereign controls the appointment and the deposition of the actual legal sovereign, but remains separate from it. This first approach refers the participatory or direct theory of democracy and the second to the representative theory of democracy or indirect democracy.

4.2.1 The theory of direct or participatory democracy

The theory of direct democracy (Parkyn,1979:50) argues that each member of a democratic society has the natural right to participate equally in the direct government of society. This notion has its origin in the ideas of Rousseau, who like Hobbes, developed the concept of the social contract. In the development of man from his primitive state of anarchy there arrived a time when it was beneficial for individuals to join forces for their mutual self-preservation. The problem was to find a form of association in which the individual could enjoy the benefits of this collectivity yet remain free as an individual. Rousseau published his Social Contract in 1762, in which he considers participation in decision-making as central to the establishment and maintenance of democratic policy. His concept of democracy is a democracy where there is direct participation of each citizen in government. His Social Contract further demands that whoever refuses to obey the general will, shall be forced to do so. He continued that unless each individual is forced through the participatory process into socially responsible action, there can be no law which ensures everyone's freedom. Rousseau believed that direct participation enables individuals to be and remain their own master. Direct participation in his view would increase feelings of belonging among the citizens of a community - that no man or group would be master of another and all would be equally dependent on each other and would accept laws arrived at through democratic processes (Parkyn,1979:53 and Pateman, 1970:22). What may be said in

defence of Rousseau's ideas is that his concepts were formulated against a backdrop of a much less complex society than today and in which enormous cities with large populations were relatively unknown.

The direct or participatory view of democracy is also referred to as the radical approach to democracy. Besides Rousseau other contributors to this view were Mill and Cole. Mill specifically points out the integrative function of democratic participation with his words: "*Through political discussions the individual becomes consciously a member of a great community and that whenever he has something to do for the public he is made to feel that not only the common will is his will, but it partly depends on his exertions*" (Pateman, 1970:33). Mill's main contribution to the participatory theory of democracy is contained in his view that it should also be extended to industry. Mill saw some form of co-operation in the workplace as inevitable, particularly as employees acquired more rights in society (Mill,1965:792).

G D K Cole believed that the path to greater democracy lay through industry. His theory is based on his view that society is a complex of associations held together by the will of its members and he argues that human beings must participate in the organisation and regulation of their associations (Pateman, 1970:36).

4.2.2 The theory of indirect democracy or the liberal democratic view

Liberal democratic theorists like John Locke have suggested that individuals in society have to surrender their power to a number of individuals who govern and make decisions on their behalf (Mitchell, 1998a and b :18). This concept of limited democracy is also shared by theorists like Dahl, Eckstein and Schumpeter. Schumpeter criticised popular decision-making in that it was based on an empirically unrealistic foundation. For him democracy was a process of arriving at political decisions in which individuals acquire the power to make decisions through a competition for the peoples' vote (Schumpeter,1943). This view of democracy confirms the participation of the citizens in voting for leaders and in discussing political issues. Therefore for the liberal democratic theorists there is no central role for direct participation in democracy.

Direct rule-making by individuals as proposed by the theory of direct democracy, is only possible in small units, whilst in large units, rules must be made by the elected

representatives, writes Nel (1984:4-5). In a representative democracy the rules are determined by the voting of the elected representatives and not directly by individual voters. In Western democracy citizens are usually able to vote freely for any representative from any political party which functions in accordance with the laws of the land. Overt characteristics and mechanisms of political democracy stem from underlying philosophy of individual and social freedom and equality (Nel,1984:5). Bendix (1980:38) is of the view that social and economic market mechanisms form the functional basis of Western democracy. In other words, the market system makes the Western form of democracy possible. It could therefore be argued that democracy in the Western style will have difficulty in a society where the social and economic systems are not supportive of the political system.

Parkyn (1979:53) writes that since the mid-nineteen-sixties there has been a world-wide increase in support for classical or indirect democracy. This is apparent from the development of populism, the growth of student power, industrial sit-ins and the demands for worker control. To the politically innocent the grand concept of direct participation in either industrial or national communities is a goal both desirable and achievable.

Parkyn (1979:54) believes that persons who support direct participatory democracy "*fail to differentiate between the prescribed and the discretionary components of work and indeed living* ". In a civilised society laws are made which provide human behaviour with clearly defined limits. Lawmaking or policymaking in a democratic polity is executed by groups of people or their representatives. Direct decision-making without either law or policy is anarchy and leads to chaos.

In Parkyn's opinion (1979:54) the theory of participatory democracy is based on three erroneous assumptions: that all members of the polity *want* to participate; that all members of the polity have *similar* intellectual, emotional and moral capacities; and that where there is ready agreement on the desired *end* to be achieved, there will also be agreement on the means to achieve that end.

Parkyn (1979:55) disproves the first assumption by pointing to the low percentage of actual voters. This same trend is also observed in South African communities and organisations e.g. in municipal elections where low percentages of eligible voters bother

to vote.

The second assumption made by supporters of direct democracy is that all members of the polity have similar intellectual, emotional and moral capacities. We know from our own experience that people are not born with equal physical or intellectual capacities. The supporters of the view further argue that because under natural law everyone has the right to live, all should have equal rights to participate in the making of direct decisions that will effect their lives. In a typically mixed ability group two things can happen. Either two or three leaders will emerge and gain support of the majority, or the majority, unable to comprehend the relationship of specific issues to other issues, may make popular short-term decisions. The former leads to totalitarianism and the latter to mediocrity.

The third false assumption made by those who support participatory democracy is that where there may be ready agreement on the desired end to be achieved there will also be ready agreement on the means to achieve that end. From our own observations we know that this cannot be true, as is illustrated by the example that as a society South Africans agree that something should be done about crime and violence. However, there is little agreement on exactly what should be done.

In Parkyn's view (1979:59) industrial democracy, like national democracy can only be some form of representative democracy, where the ultimate general sovereign controls the appointment and deposition of the actual legal sovereign, but remains separate from it. Unlike participatory democracy, which is an attempt at an ideal theory based on *a priori* considerations, representative democracy is essentially pragmatic.

Both the liberal and the radical democratic theories explain the characteristics of democracy which constitute the basis for employee participation in decision-making. However, the weakness of indirect or representative democracy, as advocated by the liberal authors, is that it ignores the importance of popular participation. Even so the radical and the participatory theories of democracy provide a sufficient philosophical basis for industrial democracy and employee participation in decision-making in the workplace.

As a democratic state the Republic of South Africa (RSA) adheres to the principles of

democracy. The Constitution, as the supreme law of the RSA, entrenches democratic norms in every sphere of life as is shown in the preamble to the constitution which reads "*We ....Adopt this constitution as the supreme law of the Republic so as to heal the divisions of the past and establish a society based on democratic values, social justice and fundamental justice.*" (Constitution of the Republic of South Africa Act 108 of 1996). It may therefore be concluded that democratic values have to be applied in South African society as well as in specific sectors of society such as workplaces. Section 23 of the Constitution supports this view by providing for comprehensive labour relations rights which will encourage a democratic ethos in the workplace between employers and employees.

4.3 INDUSTRIAL DEMOCRACY

4.3.1 Industrial Democracy defined

When attempting to define industrial democracy one is faced with the same dilemma as when trying to define democracy, that is, that there is no generally accepted agreement as to the meaning, processes or demarcations of these two concepts. King and Van de Vall (1978:3) hold the view that industrial democracy means different things to different supporters of the same underlying idea. Street (1983:519) writes that "*industrial democracy has many believers, but there is no one church and a confused clergy*". Kahn-Freund (1977a) puts it even stronger when he says that the term industrial democracy is beyond definition. Despite these rather pessimistic views about the definition of industrial democracy a number of definitions of the term will be discussed in the following paragraphs.

As already stated the concept "*Industrial democracy* " has different meanings for different categories of people and even publications of the International Labour Organisation (ILO) (1981) do not provide a crisp definition of the term. Meanings assigned to the concept range from management consulting with workers prior to taking decisions, to worker participation or employee involvement (which also have different interpretations), to co-determination of work-related matters, to outright workers' control (the Marxist interpretation).

Salamon (1998: 353) describes industrial democracy (or workers' control) as "*a socio-*

political concept or philosophy of industrial organisations which focuses on the introduction of democratic procedures to restructure the industrial power and authority relationship within organisations...". The central objective in this instance is the introduction of employee self-management in the organisation of which the ownership will be held by the employees or the state and the managerial functions are handled by a group of elected employees.

Salamon asserts that large scale change to this type of industrial democracy "*would require a significant, if not complete, change in the economic, social and authority relationships not only within organizations but also in society*". He then goes on to quote Hyman and Mason who wrote that this was an unlikely scenario in contemporary market- driven economies where worker concerns with achieving industrial control have been supplanted by efforts to protect individual employment and worker rights.

Nel (1984:6) writes "*in a wider sense industrial democracy is practised where workers voice their opinions and make suggestions to the employer on issues which affect them. The employer gives serious consideration to these opinions and suggestions, but reserves the right to undertake the final decision-making. In the narrow sense, it means that both parties share equally in all decisions which affect the attaining of organizational goals. Workers and employers are then held jointly responsible for the outcome of such decisions .*"

Bolweg (1976:91) writes that to his mind industrial democracy constitutes "*the extent to which workers and their representatives influence the outcome of organisational decisions* ". This definition has two central elements according to Nel (1984:6): (a) the opportunity to influence decisions, which indicates their power within the workplace; and (b) the impact of employees' involvement in the decisions in the workplace, which refers to the number of organizational decisions they exert influence on and their importance from the employees' position.

Nel (1999:21-23) reviews the writings of authors such as Elliot and Bolweg and makes the point that industrial democracy implies the participation of workers in the decision-making process of organizations and genuine concern for their rights, giving them the opportunity to influence the decision-making processes as well as the actual outcome of such decisions. This concept of democratisation is clearly one of the aims of the

Labour Relations Act of 1995.

Writing about industrial democracy Bendix (1992:128) believes that as a result of socio-political and economic transition and changes in individual values and attitudes, the labour relationship can no longer be viewed as an economic relationship in which one party is the decision-maker and the other the executor of such decisions. The labour relationship is more of a socio-economic partnership where both parties have equal rights and the decision-making process is shared between managers and employees.

This new interpretation of the labour relationship has resulted in management's traditional prerogative to manage and make decisions regarding the workplace and employees being challenged increasingly.

The aspirations to implementing industrial democracy are said to fall into two groups: "*control through ownership*" and "*control against ownership*"(Mitchell,1998aand 1998b). Control through ownership means that employees could be become joint owners of the company together with the shareholders. By so doing the employees are able to have direct control of the workplace. Share ownership schemes introduced in some South African companies in the 1980s are local examples of this course of action. The measure of control that employees will enjoy will depend on the percentage of shares they hold. In all the South African examples the percentage of shares owned by employees was always so insignificant that one could seriously call into question the motives of the shareholders and management as to whether they were earnest about ever truly sharing decision-making power.

The control against ownership view does not accept that shareholders have the right to control the workplace. It wants to extend the right to control the workplace to the employees through disclosure of information, consultation, joint decision-making and the creation of workers forums' for this purpose. At exactly what level in the organisation employees participate in the decision-making process is also an important consideration. This level is dependant upon the directness of the control and the matters on which employees participate in making decisions (Mitchell,1998a and 1998b).

Although industrial democracy is about sharing of decision-making in the workplace,

South African trade unions have been for a long time against sharing this responsibility with management and have constantly challenged the concept through collective bargaining. Van Niekerk (1995) writes that unions distrust management initiatives in seeking agreement on co-operative processes and are concerned that such processes will be used to challenge union power and undermine collective bargaining. They also fear co-option by management. This may be one of the reasons why workplace forums are so slow in getting off the ground. Unions have to initiate the establishment of workplace forums but mistrust co-operative processes and fear the undermining of collective bargaining. Sharing in decision-making calls for an altogether new style of behaviour – something South African unions are perhaps not ready for yet.

The importance of industrial democracy has been translated into legislation through the Labour Relations Act of 66 of 1995 of which section 1 provides: "The purpose of the Act is to advance economic development, social justice, labour peace and the democratisation of the workplace by fulfilling the primary objects of this Act... ." From this it is evident that the LRA seeks to entrench democratisation in the workplace, in particular, by providing for employee participation in decision-making.

Although the Act is in support of the spirit of industrial democracy, the term industrial democracy does not appear in the LRA of 1995. What is however referred to in the Act as one of the purposes of the Act, is section 1(d)(iii) which provides for "*employee participation in decision-making in the workplace*". This idea of participation in decision-making is taken further in Chapter V of the Act which deals specifically with the introduction of workplace forums (WPFs) as a means of achieving this participation in decision-making in the workplace.

The drafters of the Act wished to extend the government's intention of democratising the country to the workplace in a similar way as found in a number of other countries, most notably Germany and the Netherlands whose systems were used as models for the LRA.

For purposes of this study industrial democracy is circumscribed as those aspects dealing with participation in decision-making as is found in the LRA, namely disclosure of information, collective bargaining, joint-consultation and joint decision-making and Workplace Forums.

4.3.2 Arguments for democracy

In Kiloh's opinion (1986:14) arguments for industrial democracy can be divided into two groups. One grouping consists of those one might call "democrats" while the others are supporters of industrial democracy from a managerial perspective.

The first group contends that it is at work and with work-related activities that people spend most of their time and where people can contribute most to decision-making and are most affected by the results of such a decisions. However, with the increasing size of firms, the concentration of economic power and centralisation of decision-making, management has become more remote and modern workers have become less able to shape their own economic existence compared to working people in pre-industrial societies (Mill, 1965). As a consequence a feeling of powerlessness and alienation has set in which in turn caused ordinary people to adopt "*an essentially passive, fatalistic and dependent kind of outlook* " according to Poole (1978). The argument continues that even if there is a democratic political system the ordinary person is essentially "*disenfranchised* " by having little or no influence over political decisions and none at all over economic ones with the result that control remains in the hands of a minority. Advocates of industrial democracy maintain that if the democratic idea is to fulfil the ideal of full participation, then social institutions, starting with the workplace, should be democratised. Industrial democracy will, it is claimed, produce better, more moral citizens and improve the quality of democratic government in a variety of ways.

Support for this argument is based on an evolutionary view of the progressive development of individual relations and a belief that there is an increasing demand for more participation in decision-making within society in general and the workplace in particular (Kiloh, 1986:15). (See also Pateman,1970 and Bullock, 1977). According to this line of reasoning, improvements in education and the level of economic prosperity and security have led to rising expectations. This has caused a crisis of legitimacy so that the workplace, being one of the last bastions of undemocratic behaviour in a democratic society, is under siege. Kiloh writes (1986:15) that evidence of this groundswell of democratic fervour is somewhat thin. Most surveys point to a preference for day-to-day involvement in on-the-job decisions rather than a demand for widespread democracy. The preferences of South African workers in respect of either involvement or job-related decision-making are unknown at the time of writing. However, avenues

are opening up e.g. legislation now provides that workers as well as students at universities must have representation at the highest decision-making structure, namely the university council.

Kiloh (1986:15) writes that the belief that a demand for greater democracy exists, seems to correspond with a change in trade union policy in the early 1970s from hostility to one of more positive attitudes towards certain forms of industrial democracy. It appears unlikely that South African trade unions have made this switch from hostility to greater cooperation judging by the small number of workplace forums which have been established. Workplace forums are essentially cooperative structures.

During the 1960s and 70s a second group of proponents of industrial democracy, the "managerialists", became interested in industrial democracy for totally different reasons. Similar to the democrats, they recognise the role played by alienation and dissatisfaction but are more interested in the effects of this on economic performance. Industrial democracy is advocated by them as a means of promoting employee commitment and improving industrial relations (Kiloh, 1986:16). It may be argued that if the work was advantageous to workers, it surely would not be necessary for management to artificially contrive to gain the commitment of the workers.

A closely related argument emanates from the "human relations" school of industrial psychology of Maslow and Likert, which explains motivation in terms of a hierarchy of needs. This view holds that many of the problems such as absenteeism, high labour turnover, low productivity, poor quality workmanship and strikes, have as underlying cause an over-authoritarian management style. Participation in decision-making is therefore important not in terms of genuine power-sharing but in terms of individual psychological needs or group dynamics. Industrial democracy therefore has as objective improved job satisfaction and hence job performance and efficiency.

The official view of British industry as expressed by the Confederation of British Industry is that industrial democracy should not go further than discussion, information-sharing and the encouragement of a consensus perspective on capitalist production. In recent years the Commission of the European Community has proposed directives supporting disclosure of information and the involvement of worker representatives in decision-making. In the UK all four major political parties have also developed policies that

emphasize the immediate benefits of the participative aspects of industrial democracy in terms of industrial efficiency and industrial relations (Kiloh, 1986:16).

4.3.3 Weber, Marx and Durkheim's ideas of industrial democracy

Weber's view :

Although Max Weber's interest lay less in the field of democratic theory than in organisational theory and the theory of competing elites, his contribution has had a significant impact on the ideas related to industrial democracy. In his translated "Economy and Society", Weber (1968) makes the distinction between value and purposive rationality which have been important components of many modern theories of industrial democracy. He observed that there has been a gradual replacement of value rationality by the narrowly focussed objectives of purposive or instrumental rationality process - reflected in the emergence of the bureaucratic forms of administration. This had obvious affinities with the emphasis on effectiveness within the equilibrium model of democracy. Weber's conceptual categories are also seen in the analysis of social stratification. Changes in class, status and political party partially explain any change in democratic administrative procedures. The emphasis on power in organisations has been of importance in explanations of participation in the workplace. Hence almost all integrative schemes for industrial democracy have been designed to seek new modes of legitimacy when earlier types of domination have been challenged.

Weber's analysis of the conditions for direct or participatory democracy and the way in which representative participation in committees can be undermined by organisational and bureaucratic conditions have obvious implications for industrial democracy. From his analysis it could therefore be argued that direct democracy could only operate in small organisations, with simple administrative structures, amongst people of similar social positions and of minimum training. The growing complexity of administrative tasks and sheer expansion of the scope of these tasks have excluded workers with limited training and experience from participation. This introduces a potential problem in democratising the workplace in South Africa, as the majority of workers have extremely low levels of education. Weber's rationale for the growth of bureaucracy in capitalist enterprises and his dismissal of decentralisation and direct democracy can be and have been used as arguments against the adoption of alternative, more democratic systems

of management (Kiloh,1986:18).

Marx's view:

The Marxists' sociological perspective includes notions such as alienation, the labour process, the class accommodation thesis, the relationship between industrial democracy and major transformations in the technological economic bases as well as in the political and socio-cultural conditions of industrial societies. Marx's "Economic and Philosophical Manuscripts" of 1844 have been widely cited for the four principal forms of alienation: lack of control over the means of production, deprivation in actual work activities, estrangement and a lack of concern for industrial democracy.

The advancement of structural-type analyses within Marxism together with the knowledge that the concept of alienation had been modified in Grundrisse and Nichols' (1973) foreword to Marx, have led to considerable doubts about the validity of the term "alienation". In the 1970s Braverman (1975) took the debate forward with his identification that control of the labour processes is crucial to capitalist development.

The most sophisticated version of Marxism, based upon the relationship of industrial democracy to materialist changes in modern societies, is that of Brannen, Batstone, Fatchett and White (1976:245-262). In their view modern capitalism is still influenced by market forces and the pursuit of maximum profit, but concentration, new technologies, attempts to control the market and the increasing role of the state have together ensured that labour is the most important production factor. Through militant industrial action labour is in a position to cause substantial damage to employers. This possibility encourages strategies for institutionalisation of conflict resolution including collective bargaining, conciliation, mediation, arbitration and workers' participation in management.

Durkheim's view :

Another interpretation of industrial democracy has come from the sociology of Durkheim. Factors mentioned by him are anomie, the forced division of labour, the role of justice and the relationship between the state and corporations. From the perspective of industrial democracy, anomie is seen as the result of the breakdown of the normative order in society. Where Durkheimian theorists focussed upon social integration, the Marxists see participation in terms of systems integration. Fox and Flanders (1969:151-

180) thus attributed the disintegration of collective bargaining machinery to: the unprecedented rise in the price level; expansion of some industries; the acceleration of technological and organizational change and the creation of new classes of work and workers; and the rapid spread of union organisation and labour scarcity at the time, brought power to and awakened the aspirations of the working classes.

In the 1970s Fox (1974:314-369) changed his view of Durkheim's work moving to the radical side of Durkheim's ideas on the forced division of labour. Normative disorder was understood in terms of social inequalities and differences in life and the unequal aspects of collective bargaining were seen as fundamental barriers to social justice. Poole (1982:190) writes that Fox's "*high trust* " solution to industrial discord implied a fundamental shift of values, institutions and philosophy and a re-examination of the relevance and fairness of the numerous conventions governing decision-making and rewards in the work organisation.

4.3.4 Different views of democracy and industrial democracy.

In Poole's view (1982:181) good studies of industrial democracy are usually based on one or more of the general theories of democracy. Democratic theory can be classified into the liberal democratic theorists, who see private property as the cornerstone of social order, and the socialist democratic theorists who view private property, and the political system which sustains it, as hampering true economic and political democracy (Kiloh,1986:17-18). MacPherson (1977) has provided a very useful framework for democracy according to which he divides democracy into protective, developmental equilibrium and participatory types. His framework and views of utopian democracy are used in the sections that follow.

4.3.4.1 Utopian democracy

Before the 1800s, and in the works of Jean Jacques Rousseau and Thomas Jefferson, democracy was understood to mean participation in decisions. Given the developmental stage in which Western civilisation found itself at that time, this was possible in that class divisions and economic inequality were not too great. "*Both writers saw private property as a sacred individual right and the independent worker-proprietor as the essential bulwark of the just society* " (Poole,1982:182). Both these elements are even

today accepted as essential for a modern democracy.

4.3.4.2 The protective creative perspective of democracy

The protective view of democracy was based on the Utilitarianism of writers such as Bentham and James Mill and Thomas Hobbes' ideas of natural rights. Supporters of this view accepted class divisions and the idea of a capitalist market economy and the laws of classical political economy (MacPherson,1977:24). Democratic political forms are advocated by liberal democrats as a necessary means of protecting individual rights against the tyranny of the state on the one hand and revolutionary demands from the lower classes on the other (Kiloh, 1986:17-19). Kiloh is of the opinion that the so-called "*new right* " in the UK also uses the protective view of democracy when utilising democracy as a formal device to safeguard the liberty of the individual and certain inalienable property rights.

4.3.4.3 The developmental perspective of democracy

The developmental approach regarded participatory institutions as essential in the developing of active and public-spirited citizens. John Stuart Mill's writings form part of this approach. The educational function of participation and the focus on co-operative principles are central to this approach. The idea of a universal law of exploitation and inequalities of the market society were questioned. The emerging labour classes were seen as a danger to private ownership and militancy of organised workers together with increased literacy were all regarded as threats to the society of the time by supporters of this developmental paradigm (Pateman,1970 and MacPherson,1977:44-47).

J. S. Mill saw democracy as a means of self-development for citizens and as a means for community development. He believed that man as an active, creative and developing being, can achieve higher levels of economic, political and social behaviour. The productive and consumptive aspects of human existence were also recognised (Mac Pherson,1977:61). Other theorists who supported this school of thought were Carlyle, Maris, Ruskin, Marx, Dewey, MacIver, Laski and Cole. This view of human potential encouraged the idea of co-operatives with the potential to change society for the better. Economic organisation along these lines are related to Cole's concept of participation and regulation of associations founded on the principles of guild socialism (Poole, 1982:

182-183).

4.3.4.4 The equilibrium perspective of democracy

This perspective is also referred to as the pluralist-elitist view. The equilibrium model had its beginning in the middle decades of the twentieth century after the publication of Schumpeter's *Capitalism, Socialism and Democracy* in 1943. The supporters of this model of democracy were in essence the successors of the protective democracy of Bentham and James Mill, but with some changes such as the abandonment of developmental democracy and with the competitive struggle for the votes of citizens now incorporated into this particular view of democracy.

The central theme of Schumpeter's view was the role of the people in establishing a government from among competing political parties but not actively participating in the actual day-to-day governance of a country (Schumpeter, 1943). His point of view is thus in support of the indirect form of democracy.

Schumpeter's concept was further developed in other writings on democratic pluralism. Dahl's theory of polyarchy emphasised the processes by which ordinary citizens exert a relatively high degree of control over political leaders. Lipset contributed ideas on legitimacy, effectiveness and conflict. Eckstein also examined durability, legitimacy and effectiveness. Down viewed political parties in democratic politics as analogous to entrepreneurs in a profit-seeking economy (Poole,1982:183).

Pluralist writers on democracy were particularly concerned with establishment of institutional checks against the concentration and misuse of power. Olsen saw social pluralism "*as counterweight to totalitarianism and as an attempt to ensure the decentralisation of powers in a variety of political and organizational milieus*". In the industrial democracy literature this perspective is particularly influenced by the writings of Clegg and Dahrendorf. In Clegg's *Industrial Democracy and Nationalization*, the theory of democracy as free cooperation in pursuit of common aims is shown to differ from the idea of "*a mechanism for securing popular choice of policies and political control over government*".

In Clegg's opinion (1955: 142) this view was only suitable for activities of small societies and could only exist if it is accommodated "*within a larger democracy of opposition*" .

Clegg believed that industrial democracy was part and parcel of trade unionism. Trade union opposition was seen as essential in large nationalised industries, as they were too large to function as democracies of common purpose without opposition. Applying this argument to the South African economy it would mean that trade unions have a substantial role to play in the state enterprises such as Telkom, Transnet and Eskom.

In *A New Approach to Industrial Democracy*, Clegg postulated the position that opposition as a check on the concentration of power, was a basis for the modern understanding of democracy. This supported his three central principles: that unions must be independent of both state and management, that only the unions represent the interests of industrial workers and that the ownership of industry was irrelevant to good industrial relations (1960: 21).

Dahrendorf took a structural approach in his analysis of democracy. For him the oppositional concept was founded on the notion of "*dichotomous distribution of authority*" in the workplace and on the necessity for oppositional parties to represent the interests of subordinates to criticise and oppose management but to take no direct part in the processes of decision-making (1959:257-267). In Dahrendorf's view works councillors were seen as part of the ruling class of industry and the role of the labour manager was regarded as a position of domination in the workplace. Many years later in 1973 Dahrendorf observed that co-determination could be an obstacle to organisational change. Delegative types of participation were seen as preventing effective decision-making and as procedures limiting participants in their decision-making (Poole, 1982:184).

4.3.4.5 The participatory perspective of democracy

Pateman's (1970:103-119) contrasting notion of participatory democracy conjoined the ideas of the early Utopians, namely, the developmental emphasis on the unfulfilled capacities of working people in the productive sphere and the democratic socialist view of workers' control. In addition her contribution emphasised the educational potential of participation, the special importance of developments in industry to the theory of participatory democracy and the view that the establishment of a democratic polity was necessary for a participatory society.

In assessing Pateman's contribution to the debate Poole (1982:182) refers to the following aspects: Active participation was identified as essential for political efficacy, for fostering of the democratic character and for underpinning and enriching the wider institutions in the polity. A participatory society was seen to depend on the relationship of the individual to authority structures in a society and the human results of participatory democracy were regarded as of primary significance. The tendency of active participation in the one sphere to underpin effective involvement in the decision-making in a work context also reinforces the notion of the desirability of a participatory society.

4.3.5 Models of industrial democracy

King and Van de Vall (1978:3) write that since the Industrial Revolution, few ideas have been pursued by a larger and more diversified group of supporters than industrial democracy. The concept has engaged such varied groups as Utopian Socialists in France, the Fabians and Guild Socialists in Britain, Social Democrats and Communists in Germany and Trade Unionists and "*Human Relationists* " in the United States. Such diversities in background and interest have produced varied and opposing models. In current conceptions of industrial democracy there are fundamental distinctions in goals and strategies between those versions which provide a greater or less direct participatory role in company decision-making, as is prevalent in Europe, and those comprising a "participatory" managerial style which is consistent with the "human relations" theory, as developed in the United States industry. There is also the conception, developed partly in defence of a "pragmatic" trade unionism in the United States and Canada, that collective bargaining procedures which entail the negotiation at plant-level of agreements and individual grievance arbitration provide a road to industrial democracy.

It is noteworthy that the opposing approaches perceived in direct and indirect democracy is also found are industrial democracy as can be seen from the various forms of industrial democracy that could range on a continuum from direct participation to indirect participation in decision-making in the place of work. At least one common element among the various roads to industrial democracy is the provision of mechanisms by which workers can have a real or sensed participation in managerial decisions.

In the following sections a summary is presented of an extremely useful analysis made by King and Van de Vall (1978) of European forms or models of worker participation that will be utilised to obtain a better understanding of how industrial democracy is practised in its various forms. The development periods of the different forms of industrial democracy are graphically presented in Figure 4.1. This analysis should also provide a better understanding of one of the South African versions of industrial democracy as it finds expression in Workplace Forums (WPFs).

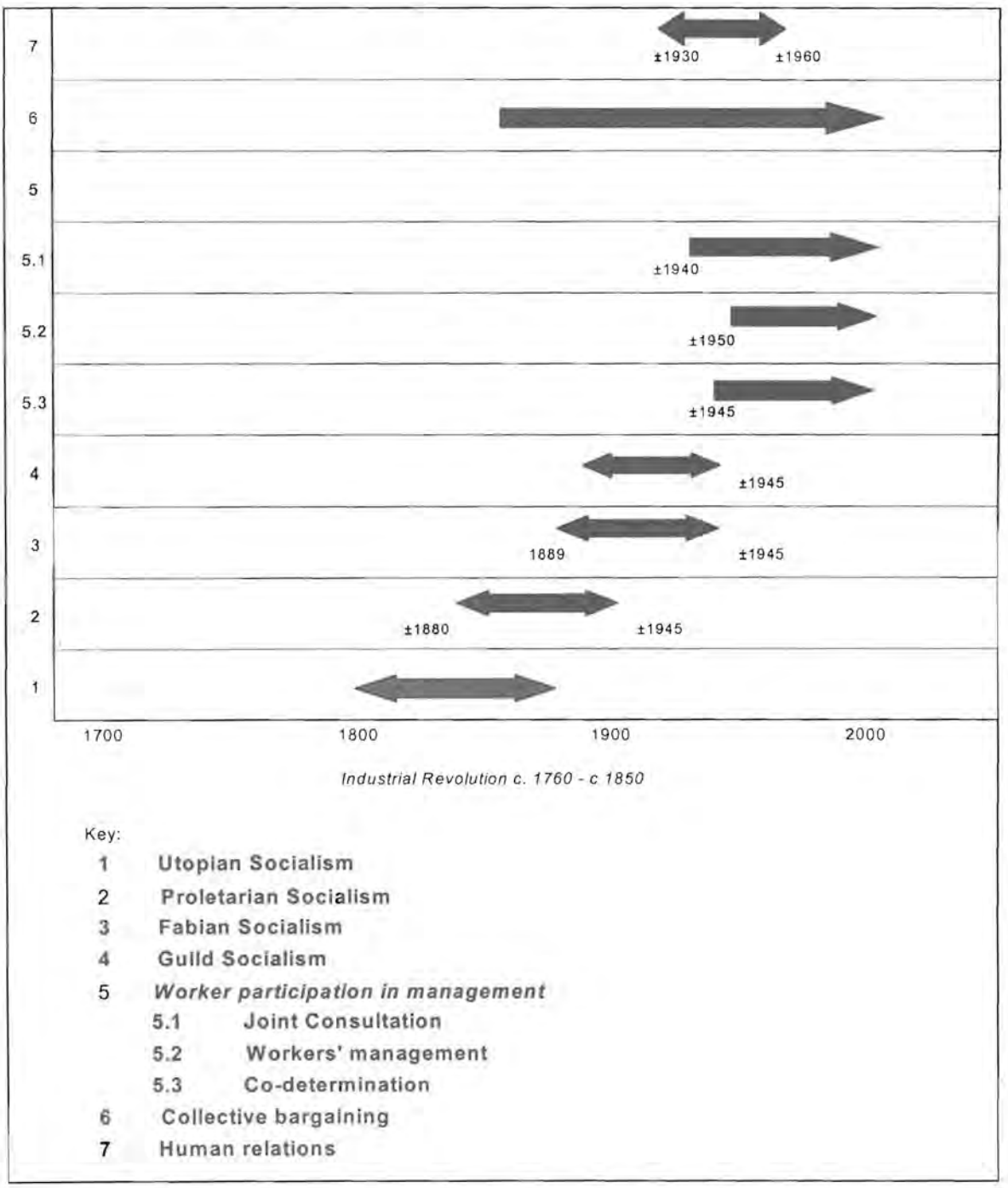

Figure 4.1: The development periods of different forms of industrial democracy

4.3.5.1 Utopian socialism

The earliest traces of this school of thought have their origins in several countries. In early nineteenth century France, the idea that the principles of democracy should be applied to the world of work was first voiced by the "Utopian Socialists" such as de Saint Simon, Comte and Fourier. At about the same time in Britain, Robert Owen started several cooperative production experiments and established the industrial community of New Lanark. In Germany a number of liberal reformers wrote articles about a society with a happier future where workers and entrepreneurs would work in harmony, satisfying the needs of all workers of the industrial "Gemeinschaft".

In each of these early movements, the mere suggestion that industrial relations should be regulated by democratic principles represented an almost revolutionary break with practice in the nineteenth century factories. The utopian nature of the ideals is highlighted by such vague and ambitious schemes as the universal abolition of property rights, the establishment of production communes and the reaction to exploitation merely by promotion of a general goodwill. It is not therefore surprising that most of these plans never reached implementation (King and Van de Vall, 1978:4-5). (See also 3.7.2)

4.3.5.2 Proletarian socialism

The writings of this group of Socialists, among them Karl Marx and Michael Bakunin, had a much greater impact on the industrial environment. This was mainly due to the technology of production that had changed since the beginning of the Industrial Revolution. In this period industrial capitalism had moved into mass production and the exploitation of industrial workers had become more severe.

Marx and Bakunin agreed on the need to expropriate the means of production, thereby eliminating the bourgeoisie resulting in control being relinquished to the workers. They were however not in agreement on how to reach this goal. For Marx the proletariat had to make use of their political organisations to gain economic and political control. Bakunin was more of an anarchist and believed in the use of trade unions and strikes and even terrorist tactics as effective means of social revolution and eventual workers' control.

The ideas of Marx and Bakunin led to two worldwide antagonistic political movements. Many of the ideas of Marx became the theocratical foundation of the Communist movement and, as revised by Bernstein, they were incorporated into the programmes of political parties. Bakunin's ideas gave rise to the Syndicalist workers' movement. The "*trade unions socialists* " as they were called believed that revolutionary trade union action was the proper means not only of creating the new society but also of governing this new society. In the USA the Syndicalist ideas found their expression in the Industrial Workers of the World which was established in 1905 and exerted influence on the American labour movement for several decades (King and Van de Vall, 1978: 5-6).

4.3.5.3 Fabian socialism

In 1889 a distinct British version of industrial democracy was formulated with the publication of the Fabian Essays on Socialism. The Fabians were a small group of intellectuals, writers and scholars whose ranks included Sidney and Beatrice Webb and George Bernard Shaw, the playwright. In their book " *Industrial Democracy* ", published in 1897, the Webbs drafted a concept of democracy that was less revolutionary than that of the French or the German Socialists. In their view a democratic system of industrial relations would emerge not through workers' control but when management accepted the trade unions as partners in a continual relationship of industry-wide and national collective bargaining. In later years the Fabians turned this moderate design into a more radical industrial relations model which in addition to collective bargaining involved the nationalisation of basic industries, the appointment of trade union representatives on controlling boards of nationalised industries and the participation of workers themselves on various councils and committees at plant-level.

After World War 2 when the British Labour Party came to power the idea of full nationalisation was abolished and the determinative participation of workers in the formulation of company policies became restricted to a consultative role in the exploratory stages of managerial decision-making. King and Van de Vall (1978:7) raise a very important issue by pointing out that none of the Socialist groups had ever been able to indicate how industrial democracy should be achieved in industrial relations. None of the Socialist theorists had been able to provide a model in which workers would control their working conditions without themselves being dominated by powerful

trade unions and party political leaders. Awareness of the dilemma of autocratic pressures in large democratic organisations grew especially after Robert Michels analysed the problem in his famous *"Law of Oligarchy* " based on research of the European Socialist movements around the turn of the nineteenth century. Twentieth century Socialists had to admit that powerful trade unions were not in themselves an assured guarantee of democracy in industry.

4.3.5.4 Guild socialism

For a period a splinter group of the British Fabians, called the Guild Socialists, seemed to have discovered a solution to the dilemma of the anti-democratic centralist tendencies of modern political and economic organisations. They recognised the threat which centralised authority poses to a democratic system of industrial relations. Under the historian G D K Cole, the Guild Socialists drafted a model of industrial government in which the control of various sectors of nationalised industry would be delegated to various craft unions or "Guilds". The basic idea was that representatives of the workers in each particular craft would take part in the management of "their" industrial sector. King and Van de Vall (1978:7) cite Schneider who pointed out that this programme would have reversed two pronounced trends in modern industry. One is that the guilds were in the true sense a pre-factory type of productive system and the other is that in the development of trade unionism the trend has been away from craft unions towards industrial unions.

The proposed model proved equally unworkable and after its peak at World War 1, the movement quickly lost its attraction. Guild Socialism suffered a fate similar to other branches of Socialism and by about 1940-45 had become not much more than another ideological stage in the multi-faceted history of industrial democracy. Very different forms of workers' control were on the ascendence as means to industrial democracy models of workers' participation in Europe and to plant-level bargaining in the USA.

4.3.5.5 Workers' participation in management

About the time of the decline of Guild Socialism, labour leaders in Britain, but also on the Continent began to re-assess the goals of organised labour in the light of the emerging political and economic organisation of society. Many of the traditional craft

unions were being replaced by industrial unions headed by more pragmatic union leaders.

In King and Van de Vall's opinion (1978:9) this led to a threefold re-evaluation of the concept of industrial democracy in Britain as well as in Germany. One of the most fundamental aspects of this ideological change was the transition from the nineteenth century idea of full workers' control to the more moderate concept of shared control. This new willingness to cooperate with the old capitalist foes was a sign of more fundamental ideological changes that were taking place. These shifts indicated a gradual acknowledgement by Socialist leaders of post-war capitalism as an imperfect but viable economic system.

(It is noteworthy that a similar re-conceptualisation of industrial democracy also took place within the union movement in South Africa after the first democratic election in 1994. Prior to 1994 there were often statements made in support of nationalisation of industry and total worker control. Since 1994 there appears to be less and less support for this extreme form of industrial democracy in South Africa.)

Another change was the extension of the concept of industrial democracy from the macro-social to the micro-social level. This shift was effected in order to make the rather vague and abstract ideal of industrial democracy a more realistic alternative for industrial workers. This resulted, in West Germany especially, in the proliferation of Works Councils in local companies and plants.

A third ideological change occurred in the understanding of how workers would participate in industrial decision-making. Labour leaders were very aware of the dilemma of improving workers' wages and fringe benefits on the one hand and achieving increased responsibility in company decision-making on the other. In this dilemma between industrial conflict and industrial cooperation, the solution was to combine a continued emphasis on conflict with a modified concept of labour participation in management. Subsequently there was a gradual modification of attitude by the British and West German unions from participation as a determinative say in management to a consultative voice in company affairs.

4.3.5.5.1 Joint Consultation

In Britain, after World War 2, the threefold re-evaluation of industrial democracy opened the door for the broadening of joint consultation throughout industry. Its acceptance by management and trade unions was encouraged by good experiences with joint production committees during World War 2. So when the Labour Party adopted Joint Consultation as policy all conditions were favourable for widespread adoption of the system. The system also spread to industry in Scandinavia and in the Low Countries.(See also 7.5)

4.3.5.5.2 Workers' management

After being expelled from the Comintern in 1948 Yugoslavia found itself in a political no-man's land between the Capitalist and Soviet blocks. Under these circumstances the Yugoslav Communists developed their own unique model of industrial relations. Their system probably had more in common with the early nineteenth century Utopian Socialists than any contemporary model of industrial relations. The Yugoslavs created a more highly developed model of participation by introducing the principle of "full" workers' control. That made it the only operating national system of industrial management in which a council of worker representatives, democratically elected by the labour force, managed and made decisions at the highest level of an industrial organisation.

4.3.5.5.3 Co-determination

In Germany, Works Councils had been widely adopted in the period between the two World Wars. Although the National Socialists dissolved the councils in the 1930s the ideas did not perish. In 1945 the Social Democrats incorporated these ideas into a system of workers' participation. Comparable to the consultative model it was called co-determination.

As a result of the urgent need for coal, iron and steel in post-war Europe, the trade unions in the Ruhr industries were in a stronger bargaining position than others and able to negotiate a more highly developed participative system called Qualifizierte or "Special" Co-determination.

Special Co-determination has the characteristic that it brings representatives of workers into management positions. It is a model in which the Works Council performs both negotiating and consultative functions and in which workers are represented at several levels of the company management. In some circles the system of Special Co-determination is viewed as one of the steps towards more democratic industrial relations.

4.3.5.5.4 Collective Bargaining

After it was formulated by the Webbs, the concept of collective bargaining as a route to democracy had gained some support in the USA by the beginning of the twentieth century (Derber,1966:261). This bargaining or "conflict" model of industrial democracy is mostly found in the USA where under the influence of "pragmatic" or "business" unionism, such phenomena as local unionism, shopfloor bargaining and individual grievance arbitration have developed. The bargaining model of industrial democracy is based on the experience that in local union bargaining and grievance mediation the workers and their representatives do participate to some degree in decisions on company policy.

Theorists of the bargaining model of industrial democracy compare the negotiated agreement between union and management to a "constitution" for company government. In addition to the constitution that comes up for revisions every two to three years this form of governance, in the same way as its political counterpart, has agencies to enforce its "laws". The attempt to emulate the political democracy model in the workplace is unmistakable. This model of participation is obviously different from the other models previously discussed in this section. Through their continuous involvement in collective bargaining workers are better able to prevent and correct decision-making that may be harmful to their co-workers in comparison to the other models of participation discussed thus far.

King and Van de Vall (1978:12) believes collective bargaining to be very different from other forms of participation and cite Walker who refers to collective bargaining as a "disjunctive" form of participation. In the collective bargaining model, bargaining and grievance solving are both predominantly conflict-oriented procedures, while participation in a Workers' Council or National Economic Board includes a willingness

among labour and management to engage in cooperation. Thus while the collective bargaining model is basically oriented towards conflict, the European participative systems are oriented towards both conflict and cooperation.

4.3.5.5.5 Human Relations

This approach to viewing behaviour in organisations was partly in reaction to the preoccupation of the American unions with industrial conflict, which induced a number of management theorists in the USA to develop a "cooperative" model of labour/ management relations which became known as "Human Relations". The distinct flavour of a managerial bias has persisted in Human Relations theory since it emanated from a theory developed by Elton Mayo of Harvard University. The "democratic" underpinning of Human Relations theory can be traced to ethical-religious conceptions of individual dignity and reverence for life which seem far removed from the practical management techniques which have developed.

Drawing conclusions from their own research, such Human Relations specialists as Argyris, Bennis and McGregor, have developed convincing arguments against the so-called "autocratic syndrome" in industrial government. King and Van de Vall (1978: 14-15) cite the following examples from proponents of this school of thought. Argyris advocates measures for producing more "authentic relationships" and greater "entrepreneurial competence" in order to create more egalitarian relations, to improve communications and to facilitate organisational change. McGregor developed a theory of "industrial humanism" including his "Y" model of industrial man as preferable alternatives to the prevailing "survival of the fittest" approach in labour/management relations. Bennis contributed "T Groups" and a number of "power equalizing" techniques which would lead to a wider acceptance of democratic values in industrial organisations. Blake and Mouton developed the so-called Grid techniques, which aim at equilibrium between management's concern for efficiency and the interests of those engaged in production.

The apparent duality of objectives of human relations i.e. improving the organisation's effectiveness and at the same time meeting individual "needs" for participation makes it difficult to assess the real contribution of the Human Relations movement to industrial democracy.

4.4 THE RECURRENT INTEREST IN WORKERS' PARTICIPATION

Since the Industrial Revolution (c.1760-c.1850) writers have been considering the question of workers' participation in the management of their workplace, in other words, industrial democracy. Following the end of the Second World War various countries have planned and implemented programmes with the objective of having employees participate in the management of the organisation in which they are employed. The ILO's publications *Consultation and Cooperation between Employers and Workers at the level of the Enterprise* (1962) and *Participation of Workers in Decisions within Undertakings* (1967) give an account of some of these attempts in a number of countries.

The recurrent interest in participation is not incidental. It may be seen as one of man's responses to the modern conditions under which work is performed since the advent of the Industrial Revolution. The most widely accepted reason for workers having a right to influence decisions regarding their work, is founded on the belief that in post-industrial times the nature of work is based on the division of labour which contributes to the unhappiness of the working masses. (See also Adam Smith's contribution in 3.6.1) Bendix, R. (1956: vii-viii) points out that the idea that work in modern times has a negative influence on the individual as well as on society has enjoyed the interest of both conservative and radical writers of which de Tocqueville and Marx serve as examples.

It was Marx who pointed to the alienating effects that modern technology, increased division of labour and capitalist property institutions had on the modern worker. Marx clearly distinguished between two elements in the alienation of work: the alienation of the worker to the products of his labour and "*self-alienation* " - the relationship of the worker to the process of production, within the productive activity itself (Marx in Bettamore, 1963: 124-126).

What Marx and others had in mind was the contrast between the old and the new worker. In the past the pre-industrial worker dominated technology, had a sense of purpose in his work and was part of the production system. The modern worker is dominated by factory technology and organisation, the division of labour has removed him from responsibility and he is unable to develop a sense of purpose connecting his

job to the overall productive process. The result is that the worker experiences a feeling of powerlessness. There is no sense of cooperation with his employer who has hired him solely to perform a specific job and he therefore does not identify with the goals of his workplace. The Marxists' solution for eliminating the alienating effect of modern work, was the inevitable establishment of a communist social order in which there would be no division of labour forced on workers by capitalism.

This belief that modern production methods were responsible for a crisis in human relations, that it caused a decline of individual creativity and human fraternity enjoyed common acceptance among conservatives, humanists and radicals of the 19th century. The conservatives even suggested a romantic and reactionary idea of 'back to the land'.

Rosenstein (1969:1-11) writes that the thinkers of the time accepted that industry was there to stay and suggested several means through which the alienating effects of modern industry could be ameliorated. There was a belief that the unskilled and the semi-skilled workers could not enjoy meaning and satisfaction in their work and therefore their free time had to be made meaningful and rewarding — the so-called "*Leisure Solution*". Other solutions related to the components of work itself — such as redesigning the job and increased automation.

Another solution proposed by the thinkers of this era, was the idea of introducing procedures in industry which would enable employees to influence managerial decisions in the place of work. The "*Participation Solution*" seeks neither to change the after-work activity nor the technical content of work. What the supporters of this idea had in mind was to change the status of the worker in the hierarchical order of the workplace. By permitting workers some control over decision-making without affecting control of the work process and technical aspects, the powerlessness dimension of alienation could be addressed.

By advancing arguments in favour of the participation solution, social thinkers and certain social scientists — especially the Human Relations School — have moved closer to each other. In addition to the original humanist intentions of socialists — to abolish the division of labour and rationality in the organisation of the economy — social scientists have added the proposition that equalisation of power in organisations would bring about not only increased satisfaction but also improve performance in the

organisations (Rosenstein, 1969: 1-11).

In the following paragraphs further reasons and justifications for greater worker participation are examined in an attempt to explain the continued interest in workers participation.

According to Schregle (1970) the most far-reaching effort to associate workers directly in the decision-making process, was found in Yugoslav enterprises where a fully-fledged system of worker self-management was introduced in 1950. Ownership of plants were in the hands of the public and management was exercised by the workers in the plant. The main authority for decision-making was exercised by a collectivity of all workers employed in the enterprises. The collectivity acts through various bodies, the most important being the workers' assembly at workshop level, consisting of all workers and the works council comprised of elected representatives. The workers' council in turn elected the management board. The traditional workers/management relationship in the normal sense did not exist. A similar system was also found in Algeria and to some extent in Poland.

In other countries worker participation takes the form of admitting worker representatives as full members of supervisory or management boards together with representatives of the shareholders. In the larger mining and steel firms a 50-50 representative basis was introduced. The supervisory boards which are vested with general policy guidance and supervision consists of five representatives each of the shareholders and of the employees plus an independent eleventh member. The Management Boards normally consist of three members and, must by law include a "*labour director*". In other countries such as Austria, France, Spain, the Netherlands, Ireland and United Arab Republic the supervisory or management boards also contain worker representatives, usually in a minority position.

If one examines the traditional directive, autocratic style of managing business organisations and the people employed in them, it is not difficult to hear the cries of managers questioning why they should become more participative. To answer this question Vaughan (1983) presents three powerful arguments in support of worker participation. These are firstly, the increased motivation argument which holds that participation will lead to increased worker satisfaction and consequently, improved

motivation and enhanced productivity. Secondly, the improved decision argument which holds that management decisions will be improved if workers are also involved in the decision-making process. Thirdly, the industrial democracy argument which holds that workers have an inalienable right to participate in decisions which affect their lives.

According to Hofmeyr (1992) at a micro level our knowledge of individual and organisational behaviour asserts powerfully that the advantages of participation include: the greater likelihood that people understand something they have contributed to; people are more committed to something which they have been involved in, in formulating; the experience and insights of the people at whom the process is directed can be tapped. If participation leads to empowering of people, it releases the potential of individuals to perform effectively.

Doucoliagos (1992) examined the effects of participation on productivity of two forms of business. Labour-management firms - LMFs - (worker-owned firms in which labour exercises ultimate and democratic decision-making power, with one vote per person) as well as Participatory capitalist firms - PCFs - (firms adopting one or more participatory schemes involving employees such as Employee Stock Ownership Plans (ESOPs), quality circles, gainsharing, profit sharing and autonomous work groups) were included in the study.

There are several theoretical reasons why PCFs and LMFs differ in respect of the channels through which various forms of participation function and the effects they have on productivity. In PCFs strategic decision-making power rests with owners and senior managers. In the LMFs the locus of strategic decision-making power rests with and is diffused throughout the entire membership. Workers control determines the degree of participation in decision-making; profit sharing and ownership are under their control and so is the impact of these variables on productivity. Supporters of participation argue that participation in decision-making, profit sharing and worker ownership has positive effects on the firm.

Doucoliagos (1992) found in 64% of the eleven studies examined that in LMFs democratic worker participation in decision-making was positively correlated but not always significantly correlated with productivity. In the case of PCFs 20% of the studies found a negative association between worker participation in decision-making and

productivity.

Thorburg (1993) refers to the Work in America Institute's "*the participative leader from autocracy to empowerment* " study which cites the virtues of partcipative programmes and some companies that report impressive results. The programmes discussed in the Institute's study occurred in both union and non-union settings. Surprising as it may seem, partnerships between management and workers were found to work best in union settings when the top level of union management are involved. Some unions are even training their representatives to work in a cooperative partnership process. The secret for achieving success with Workplace Forums (WPFs) will perhaps be in this particular approach of involving the top leadership of unions as opposed to the local union officials, as has been done in some companies in the US. This would also require managements of South African organisations to adopt a more cooperative and participative philosophy and style in dealing with their workers.

In the debate on the value of cooperative employee participation programmes there is also another view held by Kelley and Harrison (1992) in their book "*Unions, Technology and Labour-management Cooperation*" that employee participation in a non-union environment is a waste of energy. These programmes do not contribute to higher productivity, better quality of work life (QWL) or greater job security. The only relationship they found between employee participation programmes and productivity, job security and QWL was with QWL in a union environment. They also believe that in a non-union environment participative programmes expect employees to supply ideas to enhance productivity or performance but they receive very little or meagre benefits or rewards in return. Interestingly, Kelly and Harrison propose a works council system such as found in Europe to be adapted to the US environment to enable workers in non-union settings greater say in their work. This idea of an American version of the German works council system is also supported by Kochan and McKersie and Weiler as cited by Wever (1994).

According to Thorburg (1993) unions in the US believe they can work cooperatively with management without selling out. Only time will tell if unions in South Africa would be able to make this immense transition from adversarialism to cooperation.

4.5 SUMMARY

Once democratisation of the workplace has taken place, democratisation of a society is almost complete. The South African society is well on its way to becoming a true democracy. However democratisation of the workplace has only begun. Democracy can be viewed from different perspectives. Just as scholars of democracy have different views of democracy so do scholars have different perspectives of industrial democracy.

The search for democracy is perhaps the most critical cause for political instability and change of societies today. It has become a sought-after political model throughout the world. The desire for democracy is also felt in the workplace and it seems only natural that the same principles found in society at large should also apply to the workplace.

The desire for industrial democracy has led to the recurrent interest in workers' participation in decision-making. This interest persists in spite of the contradictory evidence as to the advantages which workers' participation might have for employers and employees.

With the increase of true democratic societies in the world it is inevitable that the pressure to extend democratic rights to the workplace should intensify.

Pressure for industrial democracy will continue until full worker rights have been gained. At the same time there are compelling economic reasons why organisations should adopt a participative style of management.

Whether one supports the direct theory of democracy where members of a unit are directly involved in decision-making or the indirect theory of democracy were decision-making for a unit is done by elected representatives, both approaches require information to be available to make informed decisions.

Industrial democracy, which is the application of democratic principles in the workplace, entails that the workers as members of the particular unit, participate in decision-making. As in the case of democracy, the quality of decisions would depend on the information available to decision-makers in the workplace.

It is therefore only logical that decision-makers have access to information through information disclosure. In Chapter Five the discussion will focus on the disclosure of information without which participation in decision-making and the achievement of industrial democracy are impossible.

CHAPTER 5

DISCLOSURE OF BUSINESS INFORMATION

5.1 INTRODUCTION

In this chapter the disclosure of business information is discussed commencing with an examination of the disclosure of business information in the United States and the United Kingdom. Thereafter the reasons for the disclosure of information are discussed. The remainder of the chapter examines the disclosure of information in South Africa in terms of the LRA of 1995.

Democracy is undoubtedly one of the major political models in the world. In a true democracy the whole population shares in the government through elected representatives. On a social level all members of society may share in the benefits of that society and also have a responsibility to act in the interests of that society. All members may also freely take part in economic activities, provided these are not harmful to the larger society. If democracy is also applied in the world of work, it would mean that employees are entitled to participate in decision-making especially in those decisions that concern them. Successful participation by employees would necessitate that relevant information is disclosed to them for joint decision-making. Information disclosure is an essential element of participation in decision-making and in labour relations processes such as dispute resolution and, as will be discussed later, in collective bargaining and consultation.

Disclosure of work-related information is one of the means through which industrial democracy can find expression. However, not all information which may be disclosed would be of interest to employees but on the other hand effective worker participation in decision-making without disclosure of business information would be impossible. Streek (1994:90) believes constructive involvement of workers is only possible if they are familiar with the employer's plans and decisions.

Legislation and judicial rulings dealing with information disclosure emerged at different times in different countries. In the United States it dates back as far as 1936 when the National Labour Relations Board (NLRB) (similar to the CCMA) recognised that information disclosure was important for collective bargaining purposes. In the United

Kingdom legislation was introduced in 1971 which compelled employers, when requested, to provide trade unions with such information without which collective bargaining would be impeded. Most European countries have a works council system with statutory provisions for disclosure. In Sweden after the Second World War, the disclosure of information was regulated by a voluntary national agreement between the Swedish Confederation of Employers' Organisations (SAF) and the Confederation of Trade Unions (LO). This arrangement was replaced by the Joint Regulation of Working Life Act in 1977 which provides for wide ranging statutory rights to information (Ballace and Gospel, 1983).

On an international level organisations such as the International Labour Organisation (ILO), the Organisation for Economic Co-operation and Development (OECD), the United Nations Commission on Transformational Corporations and the European Community/Union have all contributed to a greater awareness of the importance of disclosure of information to the representatives of workers (Roberts and Liebhaberg, 1977).

Parties involved in industrial relations have taken different views on information disclosure. Some governments and international agencies view fuller disclosure as contributing to good industrial relations as expressly stated in the Employment Protection Act of 1975 in the UK (Legislative Series, 1975). Depending on the country disclosure of information is encouraged as contributing to the "*orderly collective bargaining or the smooth* "operation of works councils.

Trade unions view information disclosure as a way of furthering their objectives by extending negotiations and joint regulation into areas that were previously the exclusive domain of management. European unions also regard disclosure of information as a means of broadening industrial democracy (Ballace and Gospel,1983). On the other hand some employers regard statutory obligations on disclosure to trade unions as a threat to their management prerogative. Their objections are based on the need for commercial secrecy and confidentiality and fear that effective decision-making will be impeded. Other more progressive employers welcome greater disclosure as a channel of communication with their employees.

In this chapter the following aspects pertaining to the disclosure of information are discussed: reasons for information disclosure, development of a culture of information disclosure, relevance of business information, limitations to disclosure and disputes regarding business information disclosure.

5.2 INFORMATION DISCLOSURE IN THE UNITED STATES, THE UNITED KINGDOM AND SOUTH AFRICA

5.2.1 The United States

The disclosure of information to unions in the US is based on the employer's statutory duty to bargain in good faith which has its roots in the interpretation of the National Labour Relations Act (NLRA) by the National Labour Relations Board (NLRB) and the Federal Courts. In 1936 the NLRB held that "*communication of facts peculiarly within the knowledge of either party is of the essence in the bargaining process* ". The Board found that refusal to disclose the information constituted bad-faith bargaining (NLRB, 1936).The substantive scope of bargaining was circumscribed by the Supreme Court in the Borg-Warner case when the range of potential bargaining subjects was categorised and labelled as mandatory, permissive or illegal items (Ballace and Gospel,1983).

Mandatory subjects for bargaining by virtue of section 8(d) of the NLRA were listed as "*wages, hours and other terms and conditions* ". Issues that fall outside this definition are the so-called permissive items. No party can compel the other to negotiate about permissive items and neither may industrial action be employed to persuade the reluctant party. The request to disclose information must be initiated by the union and must be sufficiently specific. In Ballace and Gospel's (1983) view the union has a right to receive information which is "*relevant and necessary*" to bargaining and to the union's administration of the contract. Wage related information is presumed relevant and a union is not required to prove their need for the called-for information. The NLRB and the courts were required to determine whether the requested information is relevant to an issue which is the subject of negotiations between the employer and the union.

Ballace and Gospel (1983) note that many of the refusals by employers to disclose information are based on objections to the manner in which employers are expected to

provide the information. Information requested might not be available in the format that the union has requested. The information may also be of such a volume that compliance would place an unnecessary burden on the employer. In other situations employers have raised objections based on confidentiality related to the need to protect business secrets or individual privacy. The NLRB will determine whether the company's interest in refusing to turn over the information is "*legitimate and substantial* ". If the employer is found to have such an interest, the NLRB will seek to determine whether the employer had made a "good faith" effort to provide the union with data requested in an alternative form designed to protect the employer's interest while meeting the union's needs.

In the US employers are required to file numerous detailed reports with government agencies such as the Securities and Exchange Commission, the Office of Federal Contract Compliance Program and the Occupational Safety and Health Administration. Under the Freedom of Information Act any record within the control of a federal agency is accessible upon request to any person (Ballace and Gospel, 1983). Through accessing these public records a fair idea of the company's activities may be gained.

In South Africa the Promotion of Access of Information Act of 2000 makes similar access to the records of public bodies possible.

5.2.2 The United Kingdom

Disclosure of information in the UK is regulated by the Employment Protection Act of 1975. Section 17(1) of this Act makes it mandatory for the employer to disclose information (a) without which the trade union to a material extent would be impeded in carrying on collective bargaining, and (b) which would be essential in accordance with good industrial relations practice for purposes of collective bargaining. Section 17(2) provides that bargaining must be about matters in relation to categories of workers in respect of which the trade union is recognised by the employer (Ballace and Gospel, 1983). In other words, the trade union cannot expect blanket disclosure or demand information for employees outside of their bargaining unit.

The Advisory Conciliation and Arbitration Services (ACAS) (similar to the CCMA) has issued a code of practice as well as a list under a number of headings of items that might be relevant to collective bargaining. If a union considers that an employer has

failed to fulfil his statutory duty it has recourse to an elaborate complaints and enforcement procedure. This enforcement procedure is clumsy and seldom used. White collar unions were the most prominent among the unions making use of this provision of the Act, probably because their bargaining position is weaker (Ballace and Gospel, 1983).

Ballace and Gospel (1983) also note that the success of employers' defences for refusing to disclose information has shown that checks and exemptions in the Act are extensive and restrictive. As an example, employers have used section 18(2)(a) to exempt them from disclosing original documentation; section18(2)(b) for exemption from disclosure where disproportionate work is involved and section 18(2)(c) to aver that the information was communicated in confidence. All these sections of the Act have been used successfully by employers to refuse disclosure.

On the other hand, more union claims are rejected due to a narrow interpretation of the Act according to Ballace and Gospel (1983). The following points demonstrate this position. First, the question of legal recognition for bargaining purposes: unions are restricted to their area of recognition in terms of their members or subject matter. Second is the narrow interpretation of the concept of "*good industrial relations practice*" which has generally been of little use to unions for disclosure purposes. Thirdly, the requirement that disclosure of information "*without which the trade union representatives would be to a material extent impeded* " in collective bargaining has hampered the union considerably in obtaining information without which it had managed in the past.

Ballace and Gospel (1983) note that the Act's direct influence is slight due to its terms, the manner in which it is interpreted and the resultant decline of interest on the part of trade unions in its use. Indirectly it may have created an atmosphere conducive to disclosure and unions may have become more aware of the importance of information as important tools in the bargaining process.

Judging from the above, it appears that information disclosure to trade unions has been far more successful in the US than in the the UK. One explanation for this could be the terms of the relevant Act and its interpretation in the UK, which places more restrictions on the trade unions desiring information disclosure than is the case in the US.

5.2.3 South Africa

Several studies have investigated the importance of trust in the workplace (Elangovan and Shapiro, 1998, Jones and George, 1998 and Kramer and Tyler, 1996). Many organisations in South Africa still treat many of their employees as if they are immature, untrustworthy children, even when it comes to the disclosure of non-confidential business information. As a result of non-disclosure of general business information, the great majority of employees perceive themselves as not truly part of the organisation in which they are employed. Some employees may believe that their superiors mistrust them. Without relevant business information employees are often in no position to generate ideas or make suggestions which could be of benefit to the organisation and themselves. This reticence by agreement to disclose business information misses the opportunity to empower employees and for the employees to experience a sense of involvement and participation in the activities of the organisation.

Since 1994 the South African government has actively attempted to foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information. Section 8 of the Constitution "*provides for the horizontal application of the rights in the Bill of Rights to juristic persons to the extent required by the nature of the rights and the nature of those juristic persons* " as quoted in the Promotion of Access to Information Act of 2000. Furthermore section 32(1)(a) of the Constitution provides that everyone has the right of access to information held by the State and section 32(1)(b) " *provides for the horizontal application of the right of access to any information held by another person to everyone when that information is required for the exercise or protection of any rights*". Section 32(1)(b) means that employees and trade unions now have constitutional support when they demand information from their employers in order to exercise or protect their rights. The Constitution requires the government to enact national legislation to give effect to the rights in Section 32 of the Constitution and this has taken the form of the Promotion of Access to Information Act of 2000.

Landman (1996:22) is of the opinion that the rationale for disclosure of information can be divided into two aims: the employee-centred aim and the company-centred aim. He writes "*Parliament believes that employees and their agents will be able to perform their monitoring functions, exert influence on managerial discretion and make decisions on*

a higher and more informed perhaps even rational basis if they are provided by employers with relevant knowledge and information." Based on his research Grosett (1997:37) provides the following reasons for business information disclosure and writes that "*employee-centred aims are based on more "ethical" considerations such as the organisation's responsibility to keep its employees informed and the desirability of employees' representatives to be given information to support the role of joint consultation and other forms of participation in decision-making* ".

In dealing with their employers, employees today regard access to business information as essential in order for them to gauge the employer's financial position, as well as the employer's ability to meet their demands. Some employers in turn regard the disclosure of business information as a further opportunity to increase their influence and control of the workplace. In this regard Grosett (1997:37) writes that the aim with information disclosure is to "*reinforce management's influence and control of the organisation .... achieved by increasing employee involvement and identification with the interests of the organization*". However, not all employers view disclosure of information as an opportunity - some see this as a definite threat to their "*management prerogative*" and fear that it could lead to an escalation in demands from employees.

Grosett's (1997:38) research of South African organisations found the following benefits of information disclosure as indicated by employers. Employers believe that information disclosure leads to improved employee cooperation because information enhances the employees' understanding of the organisation and decisions made within it. Employers were also of the opinion that shared information leads to improved collective bargaining and reduced conflict. Employers also reported increased employee involvement in decision-making because employees had access to relevant information. A further reported benefit was increased levels of job satisfaction.

The disclosure of information in collective bargaining and the consultation process has long found acceptance in other countries. Brand and Cassim (1980:250) writes "*The progress of collective bargaining in the United States and Europe has been characterised by the move away from uninformed and irrational bargaining towards sophisticated and intelligent bargaining. In the USA this process has been facilitated by a recognition that, integral to the duty to bargain, is the requirement that an employer furnish relevant information in its possession to the union. The purpose of this is to*

enable the union to bargain intelligently, to understand and discuss issues raised by the employer's opposition to union's demands and administer a contract. "

Jordaan (1996:1-2) quoting a report issued by the Advisory, Conciliation and Arbitration Services in the UK writes that a lack of information has been shown to handicap the ignorant party when it comes to the bargaining and consultation process. Disclosure of information to works councils in Germany and the Netherlands is common practice.

The International Labour Organisation (ILO) also recommends that disclosure of information should be part of the collective bargaining process. The ILO's Collective Bargaining Standards Recommendation 163 (1981) reads "*measures adapted to national conditions should be taken, if necessary, so that parties have access to information required by meaningful negotiation*".

The need for the development of a culture of information disclosure in South Africa must be seen against the background of a system of government which prevailed for decades and over time resulted in a secretive and unresponsive culture in public and private bodies and which in turn led to abuse of power and even to human rights violations.

The provisions for information disclosure contained in the new LRA, the doctrine of discovery in law practice, i.e. the obligation on opposing sides to disclose documents that they may have in their possession and the Constitution of the RSA have all contributed to the development of a culture of information disclosure. Johannessen (1995:45) identified the following reasons for access to information under section 23 of the Constitution of the Republic of South Africa Act 200 of 1993 (the Interim Constitution): Access to information is a right identified in the chapter on fundamental human rights in the Constitution. Allowing citizens to obtain information is an essential part of democratic participation and the free flow of information supports the participatory form of democracy. Access to information also encourages accountability in a democracy and access to information encourages better administrative decisions.

The reasons for gaining access to information mentioned above, reflect the importance of information disclosure in any constitutional democracy. This right to access to information is of such importance that it is specified in the final Constitution. Section 32

of the Constitution of South Africa Act No 108 of 1996 deals specifically with this very important right. In his commentary on section 32, Devenish (1998:80) writes "*Its inclusion endorses the pervasive theme of accountability and transparency of government and administration that runs like a golden thread through the entire Constitution and forms part of a new political morality*". It follows that without disclosure, employees would find it impossible to hold employers accountable for actions that are detrimental to employee interests.

In South African labour law the right to disclosure of information has developed through the principle of good faith bargaining and the Industrial Court decisions regarding retrenchment. Under the LRA 28 of 1956 the unfair labour practice jurisdiction of the Industrial Court was utilised to induce parties to the bargaining process to engage in meaningful bargaining. In addition, the Industrial Court was able to order access to an employer's premises and the disclosure of relevant information. In the Atlantis Diesel Engines v NUMSA case (1995) the Labour Appeal Court dealt with the matter of good faith bargaining and disclosure of information to the trade union when retrenchments were considered. Kahn-Freund (1997b:21) has written that "*Negotiation does not deserve its name if one of the negotiating parties is kept in the dark about matters within the exclusive knowledge of the other which are relevant for agreement.*"

5.3 DISCLOSURE OF INFORMATION UNDER THE LRA 66 OF 1995

Disclosure of information is provided for in section 16 in order for the LRA to achieve its objectives of promoting collective bargaining and employee participation. Section 16(1) specifies that disclosure of information can only be claimed by a majority union. Minority unions may however act together to achieve a majority and then exercise their right to disclosure. Section16(2) requires that the employer must disclose to a trade union all relevant information. Du Toit *et al* (2000:176 and 1998:114) write under the heading "Disclosure of Information" that "*Once a union has acquired this right, the onus is on the employer to disclose the required information, even in the absence of any request from the union.*"

In this context "this right" means the trade union concerned achieving representative status. The "required information" refers to disclosure of relevant information to the union that will allow its representatives to effectively perform their functions and enable

it to engage effectively in consultation and collective bargaining in terms of the relevant sections of the LRA.

The spontaneous disclosure of information by employers during collective bargaining and participation by employees in decision-making may be the action required to improve and strengthen the trust relationship between employers and trade unions in South Africa .

Successful consultation and joint decision-making processes depend largely on the knowledge the parties have about the issues being discussed. It is for this reason that the legislature has granted Workplace Forums the right to information in section 89 of the LRA. The employer must disclose to the Workplace Forums all relevant information that will allow the Workplace Forums to accomplish effective consultation and joint decision-making. Disclosure of information is mandatory and therefore the Workplace Forums need not first have to request the information specified in the relevant sections of the Act. According to section 89(1) the disclosure is intended to allow the Workplace Forums to take part effectively in consultation and decision-making. It therefore seems logical that such information should be made available before these processes begin in order to allow parties time to prepare.

An employer with a functioning Workplace Forum has to disclose all relevant information. The relevance of the information is determined by reference to the matters listed for consultation in section 84 and for joint decision-making in section 86. The Workplace Forums may request further disclosure except in respect of information that is legally privileged and information that cannot be disclosed as such disclosure would contravene the law or an order of the court. Disclosure of information that may cause substantial harm to an employee or employer and private and personal information is also excluded.

5.3.1 Relevance of information

Everingham (1991:217) suggests that in general the following information should be disclosed: Information on the financial status of the organisation; information on absenteeism, industrial relations and productivity; and lastly, information on the employees' contribution to the planning the organisation's future. This suggestion

includes the typical information found in annual reports of companies. It is doubtful whether disclosure of this type of information which is designed to meet the requirements of the shareholders will contribute to more constructive collective bargaining and greater employee participation in decision-making .

Based on the research of information disclosure to employees, Grosett (1997: 39-40) lists the following items of information for disclosure: productivity information; information on morale; information on wages and benefits; safety information; information on company performance; information on wealth sharing and information on the organisation's future.

In regard to disclosure to representative trade unions under section 16 of the LRA, the question of whether or not information is relevant, is determined with reference to the circumstances of each case. Furthermore the relevance of information must be determined by the purpose for which it is sought and it must be pertinent to the issues in question.

According to section 16(2) the information must be relevant to the duties to be performed by a trade union representative or a shopsteward which include such activities as representing employees in grievance and disciplinary hearings; monitoring the employer's compliance with provisions of the Act and collective agreements and reporting alleged contravention of workplace-related provisions of the former; and to perform any other functions agreed to between the trade union representative(s) and the employer. Section 16(3) provides for the disclosure of information so as to allow the trade union to engage effectively in consultation or collective bargaining. In a retrenchment context the Labour Appeal Court in the National Union of Metal Workers of SA v Atlantis Diesel Engines case (1993) recognised relevant information as that which concerned the retrenchment process. A further consideration is advanced by Du Toit *et al* (1998:115) who write that as far as collective bargaining is concerned "*In the collective bargaining arena relevant information includes all information necessary to adduce, defend or refute negotiating claims.... information that might, but not necessarily must, advance the other party's case should be disclosed* " .

5.4 LIMITATIONS TO DISCLOSURE

Organisations may make their own assessment of what and how much information they would disclose in the interest of the parties concerned, provided they comply with the legal requirements. In the section that follows the limitations on disclosure of information as found in the LRA of 1995 are examined.

Section 16(5) stipulates that an employer is not required to disclose the following types of information: Information that is legally privileged; that cannot be disclosed without contravention of the law or an order of court; that is confidential; and private and personal information unless the employee concerned consents to such disclosure.

5.4.1 Legally privileged information

What is regarded as legally privileged information may not always be clear. The Appellate Division in Bogoshidi v Director for Serious Economic Offences provided the guideline that only confidential communication between attorney and client for the purpose of obtaining legal advice, is privileged. Jordaan (1996:3) however suggests that in labour law: "*Industrial relations advice as well as information obtained for example for collective bargaining strategy purposes, should also be considered to be legally privileged* ". In the workplace the second opinion would be of greater use to both employer and employees.

5.4.2 Prohibitions imposed on the employer by any law or order of the court

This means that disclosure of certain information is prohibited by law, e.g. information that may harm national security. Where there is a court order prohibiting disclosure based on the rights of a third party, any disclosure would constitute contempt of court.

5.4.3 Private personal information.

This refers to information concerning a particular individual in his or her private capacity which is not related to the employment relationship and is not public knowledge. An example of this would be a person's HIV/AIDS status. This is based on the right to privacy which is protected by the Constitution of the RSA.

5.4.4 Confidential information that may cause substantial harm to an employee or employer.

On the question of confidentiality of information in the workplace, the potential for conflict becomes very significant. On the one hand there is the employer wishing to disclose as little as possible in order to protect his ownership rights. On the other hand there are the employees wanting to enforce their right to be informed. Parkinson (1977:72) proposes that the arguments against full disclosure of information could be grouped into two categories. "*First, the possible leakage of confidential information to workers and trade unions may undermine management's positioning in collective bargaining, and second, information is a source of power - providing unlimited information to workers and trade unions may undermine management's position in collective bargaining*". It is debatable whether the second argument is very sound in reality because management, purely by reason of its role in a company, would always have more information at its disposal than the employees and their representatives.

The employees on the other hand rely on the principle that no limitation should be placed on their procedural rights to make use of all information in their possession in order to present their case. This dichotomy has led to the courts often having to determine how much confidential information needs to be disclosed to the opposing party.

The LRA specifies in terms of section 16(4) that the employer must notify the trade union representative or the trade union in writing if any information disclosed in terms of sections 16(2) and 16(3) is confidential. Section 16(5)(c) provides that an employer is not required to disclose confidential information which may cause substantial harm to an employee or the employer.

In the context of workplace forums Khoza (1999:153) writes that although the limitations to disclosure are similar to those under section 16, he believes WPFs are entitled to more generous disclosure of information than a representative union. Firstly, the information to be disclosed is defined under the issues for consultation and joint decision-making, thus removing the employer's discretion in deciding what to disclose. Secondly, the employer, in terms of section 90, is obliged to allow the WPF to inspect any documents containing information in terms of section 89 or at the request of the

WPF. The employer should also provide copies of the information to the WPF. If the WPF does not ensure the confidentiality of the disclosed information the right may be withdrawn by a commissioner of the CCMA. Thirdly, beyond the consultation and joint decision-making matters, section 83(2) prescribes that the employer must have regular meetings with the WPF as discussed in Chapter Eight of this thesis.

From an examination of the information to be disclosed it appears that the workplace forum, as representatives of all the employees, will be given an opportunity to get a better understanding of the company's operations. This information must be provided in such a manner that maximum understanding can be achieved. Where employees have difficulty in understanding complex information, expert assistance may be obtained to make the information more comprehensible.

5.5 SUFFICIENT DISCLOSURE

Employers' and employees' representatives are unlikely to agree on when sufficient information has been disclosed. Some clarity on the matter is provided by the LRA in section 16(2) as well as in the limitations mentioned in section 16(5). Section 16(2) provides that all relevant information that would allow the trade union representative to perform effectively his/her duties must be disclosed by the employer. During the process of consultation and bargaining the employer must disclose to the representative trade union all relevant information that will allow the representative trade union to effectively take part in consultation or collective bargaining. Unfortunately relevant information is not defined and this could lead to disputes.

To determine sufficiency of disclosure the Labour Appeal Court in the Atlantis Diesel Engines (Pty) Ltd v NUMSA (1995) case used the limitation specified in section 16(5). In NUMSA v Metkor (Pty) Ltd (1990) Roth AM stated that :" *It seems to me to be lawful, just and equitable that management should be obliged to disclose only such information as would reasonably enable employees to consider the consequences that information held for them* ".This 1990 opinion has been criticised by Du Toit *et al* (1998:150) when read in terms of the provisions of the LRA of 1995. When determining sufficient information disclosure, the purposes of the Act cannot be ignored because the LRA makes provision for more information disclosure than ever before. This is a vital requirement for the processes of collective bargaining and consultation.

5.6 DISPUTES REGARDING BUSINESS INFORMATION DISCLOSURE

With disclosure of information a contentious issue, disputes between management and employees are inevitable. If a dispute arises about the disclosure of information the issue must be resolved by the Commission for Conciliation, Mediation and Arbitration (CCMA). Section 16 prescribes that the CCMA must first determine whether the information that is sought is relevant and also whether disclosure will result in harm to the employer. The CCMA must attempt to resolve the issues through conciliation and if unresolved it should attempt arbitration. The CCMA can either order disclosure of all information sought by a registered trade union or a WPF or order limited disclosure to limit potential harm as a result of the disclosure.

In this section a brief but useful comparison is made between the LRA and legislative provisions in Germany and the Netherlands in regard to disputes about information disclosure. According to section 80(2) of the Works Constitution Act 15 of 1952 in Germany, the employer must provide the works council with comprehensive information in good time in order for it to perform its duties. This section is also supported by other specific rights to information which are not directly linked to other participation rights. For example, section 90 specifies that the employer has to inform the works council timeously of plans with regard to construction, alteration or extension of production, technical equipment, work procedures and routines or jobs (Halbach, 1994).

In regard to the confidentiality of disclosed information section 79(1) stipulates that members and substitute members of works councils shall not divulge or exploit trade or business secrets which come to their knowledge through their membership of the works councils and which the employer has explicitly described as confidential. There is some concurrence with the provision in the LRA in that a works council member only breaches confidentiality if the information has been specified as confidential.

In the Netherlands Chapter 4 section 31(2) of the Works Council Act of 1979 provides that the management board should provide information at the request of the works council. (Under the LRA the employer is expected to disclose information without a request from the WPF or the representative trade union(s).) Information to be disclosed in the Netherlands must have reference to the legal and factual organization of the company, the names and addresses of the executives, the financial statements,

budgets, the expectations which the management board has for the future, investment plans, long term plans (twice a year) and the employment situation and social policy (once a year) (Ottervanger, 1996:399). In terms of Chapter 2 section 20(1) the members of the works council are compelled to observe secrecy regarding matters of which they learn in their capacity as council members. In the LRA only matters labelled confidential are treated as such. In both the Dutch and South African situations consultation with and report-back to their constituent employees by works councils and workplace forums are limited by the confidentiality provisions. This raises the question of whether either works councils or workplace forums can be effectively accountable to their constituencies. Extensive secrecy provisions do not contribute to effective employee participation in decision-making.

5.7 SUMMARY

The disclosure of information and particularly disclosure of business information cannot happen in isolation – the surrounding environment or climate in the organisation must support this activity. Therefore a culture change first had to take place in South Africa before functional information disclosure could occur. This culture change was brought about by changes such the Constitution of the RSA and other legislation such the LRA of 1995.

Some available literature provides guidelines on the types of information that may prove useful to meet requests for information disclosure. The conclusion drawn is that information to be considered for disclosure must be relevant to the matter at issue. If the matter facing the employer is, for example, one of dismissal for operational reasons, all information regarding the employer's motivation for such action could be regarded as relevant. From an employee/trade union perspective all information regarding severance pay, retraining, recall procedures etc. would be regarded as relevant for proper consultation.

An organisation cannot be expected to disclose all business information. It is shown that Section 16(5) of the LRA is quite specific in the prohibition of disclosure of defined types of information.

Bearing in mind South Africa's past where secrecy rather than information disclosure

was the norm, some parties may fear and resist any attempt at information disclosure. It is also evident from the LRA that there is sufficient provision made in the Act to deal with situations where the disclosure of business information is disputed.

It will be shown later that of the participants in the investigation four of the management representatives and four of the worker representatives preferred to resolve disclosure disputes in their organisations internally through negotiations between the employer and the trade union rather than making use of external agencies such as the CCMA.

Collective Bargaining in which disclosure of information is vital, will be discussed in the following chapter.

CHAPTER 6

COLLECTIVE BARGAINING

6.1 INTRODUCTION

The potential for conflict within the labour relationship is immeasurable. Conflict is, *inter alia,* manifested in disagreement about the division of profits and benefits. On a sophisticated level conflict centres on such matters as role and status definition, decision-making powers, accountability structures, flexibility and control as well on in a conflict of personal values and goals, beliefs and ideologies. The employees in the early industrial environment soon realised that the only effective means at their disposal to improve their wages and working conditions against the powerful employers were to combine their forces and so in due course trade unions were founded. Instead of each worker having to negotiate or bargain individually, the trade union would negotiate collectively on behalf of all its members thus establishing the process now known as collective bargaining.

Conflict in the labour relationship will become dysfunctional if it reaches destructive proportions, is not balanced by cooperation and is not handled in a proper manner. In the labour relationship it has long been accepted that conflict is endemic - consequently processes have been devised to handle and contain conflict. This has led to the institutionalisation of collective bargaining as a predominant process within the relationship.

For Thompson (1996) collective bargaining *" represents an important, perhaps the most important, means of participation in industrial life for many employees. It also carries with it seeds for more sophisticated and participatory forms of workplace and social regulation...It also serves to broaden the base of democratic pluralism*". In a similar vein Cordova (1982) writes that collective bargaining is the form of employee participation most in evidence internationally.

Thus both collective bargaining and cooperation have a place in managing the conflict that is inherent in the labour relationship. By their nature both processes would also contribute to participation by employees and therefore promote democratisation of the workplace.

Flanders (1965) notes that employers participate in collective bargaining for two major reasons: market control through which they attempt to remove wages from competition and managerial control through which behaviour at work is regulated by means of procedural arrangements. Managerial control is the means used to ensure more predictable workplace behaviour and therefore improve work output. Collective bargaining also provides a sense of legitimacy to the rules and substantive conditions of employment by virtue of the participation of both employer and employee parties in the negotiating process. The market control objective has been achieved best under conditions of centralised or multi-employer bargaining. Cameron (1989:10) suggest that trade unions are attracted to centralised bargaining as a "*forum where negotiations on industrial matters may take place on a systematic basis*".

Lord Wedderburn (1983:270) writes that collective bargaining concerns "..... *all negotiation by employees carried on collectively through their representatives. The resulting agreement between union and employer is at once an industrial peace treaty and a source of rules; it encompasses the terms and conditions of employment, remuneration and other benefits, the distribution of work and the control of jobs.....more than (it) leads to 'joint regulation' at the place of work.*"

For Rycroft and Jordaan (1992) collective bargaining fulfils several functions: economically it serves as a means of regulating workplace relations and institutionalising conflict; socially it establishes a system of industrial justice protecting employees from arbitrary management action; and politically it is a means of extending democracy to industrial life.

As indicated above Flanders (1965) suggests that employers participate in collective bargaining for two major strategic reasons: market control and managerial control. Both objectives are quite natural for any profit-motivated enterprise. However, market control is only possible in situations were a number of employers together bargain with the representatives of labour. Sisson (1987) argues that only employers in highly competitive industries are likely to see any advantage in this approach. Managerial control strategies on the other hand serve to secure rules through which workforces might more easily be managed through procedural agreements and substantive contracts. One of the biggest threats to enterprises is uncertainty. Both forms of control seek to create some degree of certainty. Employers prefer predictability of labour

conditions because it eases the burden of planning and managing the enterprise. Collective agreements emanating from the collective bargaining process not only provide some degree of certainty for a specified time but such agreements also bestow some legitimacy to management control because the process of bargaining is a joint process as opposed to other types of unilateral decisions made by employers. Sisson (1987:6) summarises this point by saying "In brief then, providing for rules which are jointly made, collective bargaining is held to contribute to managerial control by legitimating rules and by institutionalising conflict."

Greater influence in the workplace, made possible by collective bargaining not only benefits employers, but trade unions also stand to benefit by shifting the determination of terms and conditions of employment and employment rules away from arbitrary and/or unilateral decision-making on the part of the employer. Storey (1983) believes that in practice this means that organised labour can encroach upon the traditional management prerogative through use of the collective bargaining process.

Small enterprises may decide to act together when they are confronted by powerful trade unions and when they perceive it in their interest to control the undercutting of wages and conditions of service by others and also to contain union pressure for higher wages and better service conditions. These circumstances are often found in industries which experience low profit margins, high level of dependence on labour, weak or small employers facing large, centrally organised unions and intense competition both domestically and internationally. On the other hand, employers prefer bargaining individually where production units are large, capital to labour ratios are high and product competition is intense (Sisson, 1987).

6.1.1 Collective bargaining in Europe and Britain

In Western Europe employers opted for a multi-employer approach for the reason that it can contribute to neutralising the effects of direct union activity. Once terms and conditions have been set at sectoral level, individual employers have considerable freedom in decisions affecting their own operations. One of the perceived advantages of multi-employer bargaining for large employers is that wages and service conditions must be achievable for even the smallest employer in the forum. This fact circumscribes union demands for higher wages and better conditions. The advantages of the multi-

employer bargaining for small employers lie in the fact that they are shielded from direct union bargaining because bargaining takes place at a central forum level. In South Africa small employers often complain that wages and service conditions bargained in bargaining councils i.e. in multi-employer forums, are more suited to the larger employers and do not take into account the circumstances of small employers. The effectiveness of a multi-employer centralised bargaining system is compromised in cases where trade unions use the forum only to establish sectoral minima and then pursue a second round of bargaining at individual member companies to gain further concessions. This has occurred in various instances in South Africa (Sisson, 1987).

The ILO (1989) reports that in Western Europe enterprise (plant) level bargaining has increased while inter-occupational negotiations have declined. In a detailed review of industrial relations developments in Europe, Ferner and Hyman (1992) point out that there have been trends towards decentralised bargaining across Europe for some time. This has manifested itself in various forms. In Sweden, it has meant a move from national inter-occupational to industry level bargaining. In countries such as Britain, Italy and the Netherlands there has been a shift from sectoral to enterprise level bargaining according to Thompson (1996) and Gladstone (1989). For Gladstone these changes are not so much shifts from one level to another than an extension of bargaining across different levels. What is actually occurring is that there is a debate on the appropriate place for bargaining of different items. Some items will be bargained in central structures and other items at enterprise level.

Ferner and Hyman (1992) report that pay bargaining in Denmark has moved from a national multi-industry process to individual sectors. In Sweden there has been more of a see-saw process of national and industry bargaining with employers favouring enterprise bargaining. In the 1980s inter-occupational bargaining was discontinued in Denmark, Sweden, Norway, Ireland, Italy, the Netherlands and Spain. The ILO (1989) report that during the same period enterprise (plant) level bargaining increased in France, Germany and Norway.

Africa is not known as a continent with a strong collective bargaining tradition mainly due to low levels of industrialisation and state corporatist approaches by various governments. Only about ten percent of the workforce is in formal wage employment and few workers are unionised. Little collective bargaining takes place and the right to

strike is very restricted. Of course the exception to the above is South Africa of which more follows later.

The International Congress of Free Trade Unions (ICFTU,1989) reported a variety of collective bargaining arrangements. Botswana, Ghana, Mauritius and Uganda permitted collective bargaining at central and enterprise levels. In Burundi and Zaire a multi-tiered bargaining approach is followed but only through the auspices of a single union federation. In other countries such as Benin, Burkina Faso and Gabon industry bargaining is disallowed with only enterprise level collective bargaining being permitted. However, in most African countries centralised bargaining is preferred as it forms part of the unitary nation-building programme of those countries.

The system of collective bargaining that developed in Britain, in accord with trade unions, employers and the state, was one of "industrial self-government" advocated by the Whitley Committee and "voluntarism " in which they sought as far as possible to avoid legal intervention in the relationship (Wedderburn, 1986). Trade unions in Britain made progress through the removal of legal obstacles and not so much through acquiring positive rights as was the case in the rest of Europe.

Following the recommendations of the Whitley Committee for improved labour-management relations after the First World War, joint industrial councils were established in all organised industry for collective bargaining purposes. To cover industries not organised the Trade Board Act was extended to fix minimum wages and this gave rise to trade boards consisting of labour and management representatives. Between the wars many industrial councils fell into disuse, but the Second World War saw many of them receiving a new lease of life.

Local bargaining was however steadily gaining ground. In 1968 the Donovan Commission reported that the British industrial relations system was in fact a dual system consisting of a centralised system alongside a local or workplace bargaining system in the same industry. In the Commission's view the informal system was threatening the formal one through the fact that the gap between agreed wages and actual enterprise wages was widening. A consequence was that a system of formal centralised bargaining as well as a system of informal enterprise or local level bargaining became established. A similar difference between centrally agreed wages

and actual wages paid by individual companies also occurred in the metal industry in South Africa.

From 1980 the Conservative Government steadily curtailed the gains achieved by the powerful trade unions. In 1980 the Employment Act restricted the closed shop arrangement and picketing, removed compulsory arbitration in recognition disputes and reduced employee rights in unfair dismissal cases. In 1982 the Employment Act made trade unions liable for damages in cases of unlawful action, made solidarity action and secondary and sympathy strikes unlawful and further limited the closed shop. In 1990 the Employment Act removed protection for pre-entry closed shops and made refusal of employment of non-union members unlawful and empowered employers to dismiss employees engaged in unlawful strike action and removed immunities for shop stewards when mobilising to assist strikers. In 1993 the Trade Union and Employment Act prohibited check-off if a new agreement was not negotiated every three years; permitted employees to join a union of their choice and employers to offer financial inducements to employees to resign from trade unions. Wage Councils were abolished ending determination of minimum wages and support for collective bargaining through the Arbitration Commission was also removed (Gold, 1996; Visser and Van Ryssenveldt, 1996 and Salamon,1998).

The trade union movement fell from a density of fifty three percent in 1979 to thirty seven percent in 1992 and had also lost its grip on the Labour Party due to the new leadership turning away from its traditional allies, the unions. By the 1990s the British labour movement had lost its traditional power, collective bargaining no longer extended its cover as widely as in the past and enterprise level industrial relations was in fashion (Visser and Van Ryssenveldt, 1996). What had taken place in British labour relations was that the system of centralised collective bargaining was slowly being replaced by a system of local or enterprise level collective bargaining.

Jackson, Leopold and Tuck (1993:160) note several reasons for this trend towards decentralisation in Britain. Attempts by the government during the 1980s to deregulate the market led to moves away from national wage determination and in that way increased flexibility through enterprise level pay bargaining. Employers initiated strategies which had a major impact on the thinking about collective bargaining and pay levels. In terms of these strategies remuneration had to be linked to performance.

There were also efforts to devolve managerial responsibilities to lower levels in the enterprise.

Remuneration bargaining became more closely linked to the operational levels of the enterprise. This resulted in local worker representatives rather than union office bearers becoming more involved in the business activities. Managers believed that this decentralised process made the ownership of agreements easier for labour to accept. Through this decentralised approach "customised" agreements were possible and employees' representation was fundamentally changed. Enterprise level bargaining lends itself to productivity exchanges, which is not always possible with centralised bargaining. Business strategy, rather than labour markets, determined the withdrawal of employers from multi-employer bargaining (Jackson *et al*, 1993:161). Where in the past multi-employer bargaining attempted to control the labour market the emphasis shifted to control of work at enterprise level.

In this chapter Collective Bargaining (CB), perhaps the oldest form of employee participation in workplace decision-making, will be examined further. Although Collective Bargaining relies on adversarialism as opposed to cooperation which is generally associated with different forms of participative behaviour, it is nevertheless a means through which employees can take part in decision-making in the workplace. Historically it was the only means available to workers to protect and promote the interests of the working person. In the examination of the role of collective bargaining in enhancing employee participation in decision-making the following aspects are covered: theories and definitions of collective bargaining; the development of collective bargaining in South Africa; centralised collective bargaining; voluntarism; the duty to bargain and bargaining units.

6.2 DEFINITIONS AND THEORIES OF COLLECTIVE BARGAINING

The Concise Oxford Dictionary defines Collective Bargaining as "*negotiation of wages etc. by an organised body of employees* "(1995:258). The term, coined by the Webbs, first appeared in print in their now classic *Industrial Democracy* (1902) and was used to refer "*to negotiations concerning pay and conditions of employment between trade unions on the one hand and either an employer or an employer's association on the other* ".

Davey, Bagnanno and Estenson (1982:2) describe Collective Bargaining (CB) as "*a continuing institutional relationship between an employer entity (governmental or private) and a labour organisation (union or association) representing exclusively a defined group of employees (appropriate bargaining unit) concerned with the negotiation, administration, interpretation and enforcement of written agreements covering joint understanding as to wages or salaries, rates of pay, hours of work and other conditions of employment*".

Flanders (1968:1-26) has argued that the Webbs were mistaken in their view of the nature of CB. According to him they viewed CB as a collective version of individual bargaining. This view he referred to as the classical view of CB. For Flanders CB is purely a "rule-making" activity which regulates but does not replace individual bargaining. Flanders identified a number of differences between CB and individual bargaining. Firstly, individual bargaining is about the buying or selling of a particular commodity whereas CB does not involve the buying or selling of anything. Secondly, individual bargaining usually stipulates in detail the terms and conditions of trade, whereas in CB only the minimum terms and conditions are specified. Thirdly, individual bargaining is essentially a market activity and CB a political activity where power is used without wishing to cause permanent damage to the ongoing relationship without which none of the bargaining partners can function. Fourthly, that since CB is more of a political than an economic activity, different factors have to be considered; CB is often performed by professional negotiators who recognise the importance of maintaining the relationship between the parties and therefore refrain from driving too hard a bargain. Fifthly, collective bargaining is not restricted to a discussion of economic matters, but is also concerned with other issues, for example, service conditions, health and safety matters etc.

The views of a number of other writers in the field correspond with Flanders' views. In his 1968 article (18-19) Flanders examined the work of two other well-known contributors to the area of study. In their work Chamberlain and Kuhn held the view that there are three theories about the nature of CB. The first, which is very similar to Flanders' so-called classical view, sees CB as consisting of contracting for the sale of labour. The second view regards CB as a form of industrial government where it is the objective of collective bargaining to lay down the rules. The third theory holds CB as a management approach that emphasises the functional relationship between employers

and trade unions as representatives of the workers, to the benefit of both parties. Flanders believed that the managerial theory of CB had much to offer the understanding of the interaction between employers and trade unions. It stressed that labour is not only interested in the negotiated wages but also in the management of the enterprise. Flanders warned that the impression might be created that the trade unions were set on taking over or becoming part of management. This interpretation was later denied by Chamberlain. Flanders' view could be interpreted as implying that unions were considering the idea of participation in decision-making or industrial democracy in whatever form. Jackson (1992:137) comes to Flanders' defence when he suggests that Flanders' warning must be understood only as an attempt by trade unions to place limits on managerial action.

Flanders' position has in turn been cited by Fox (1974:151-174) where he argues that Flanders' criticisms of the Webbs' notion of CB is incorrect for a number of reasons. Firstly, Flanders used MacIver and Page's definition of individual bargaining. Fox presents an alternative argument, that individual bargaining should be viewed as having three elements: first a bargaining process consisting of an argument, evidence and threats made by the respective parties; second, this element may or may not end in an agreement after both buyer and seller have had to make compromises and third, this element may or may not result in the parties entering into a contract between them. Fox believes that it is wrong to suggest that individual and collective bargaining are different because the one ends in a contract and the other in rules made through a bargaining process.

Fox's second point of disagreement with Flanders' understanding of CB is that the latter differentiates between individual and collective bargaining in that only CB is seen as political process involving "*the diplomatic use of power*". Fox argues that this also applies to individual bargaining. The difference between individual and collective bargaining is precisely what the Webbs said that it was – "*a difference of the disparity of power* ".

The third disagreement refers to Flanders' assertion that a refusal to bargain in an individual case is taken at face value but as a bargaining ploy if applied to collective bargaining. Fox argues that the differences between the individual and collective refusal are more convincingly seen as ones of contingency rather than principle.

The main criticism by Fox of Flanders' work however relates to his general approach. According to Fox, Flanders saw the main function of CB and trade unionism as political rather than economic. With this line of reasoning Flanders supported Chamberlain and Kuhn's notion of "*managerial bargaining*" through which workers try to influence decision-making in the organisation and the idea that workers joined trade unions mainly for non-economic reasons. In other words, Flanders believed that CB could be employed to enhance industrial democracy and participation in decision-making in the workplace. Fox admits that the reasons why unions undertake bargaining and why workers join unions are contradictory and inconclusive, yet he believed that the economic motives should not be underestimated in the collective bargaining process.

6.3 DEVELOPMENT OF COLLECTIVE BARGAINING IN SOUTH AFRICA

The development of Collective Bargaining is discussed in different time periods in order to examine the context of South Africa's developmental history. Industrial Relations developments cannot be divorced from the social, economic and political change taking place in a country.

6.3.1 The period 1652 to 1870

Labour relations during this period consisted mainly of master/slave interaction. Employee representation did not exist. Between 1652 and 1866 the relationship between employer and employee was mainly of an individualistic and paternalistic nature. Over time more and more black persons were employed by white colonists which required that measures had to be introduced to regulate the employment of such black persons and their movement in certain areas. In 1828 a pass system was introduced in the Cape Colony which allowed blacks in white areas solely for employment purposes (Tustin, 1991:5-6).

6.3.2 The period 1870 to 1924

The discovery of diamonds and gold led to an influx of labour to Kimberley and the Witwatersrand and to the establishment of other industries to support the mining industry. Skilled European immigrants had to be imported and these workers brought with them trade union experiences especially the British brand. In 1911 the Mines and

Works Act was passed which effectively reserved thirty-two job categories exclusively for whites.

A number of strikes by black workers between 1904 and 1910 forced the government to introduce the Black Labour Relations Act No 15 of 1911 in order to regulate black labour. However, this Act made no provision for collective bargaining or negotiating between employers and black workers.

In 1915 the Transvaal Chamber of Mines agreed to recognise white trade unions. Partly as a result of World War 1, a period of relative labour stability followed. This cooperative spirit between employers and employees did not last especially when the gold price declined in 1920. In an attempt to save costs employers wanted to replace white workers with cheaper black labour. This policy of the mine owners eventually gave rise to the 1922 strike. One result of the strike was that the government realised that statutory machinery for collective bargaining and the settlement of disputes was urgently required. The outcome of this was the promulgation of the Industrial Conciliation Act of 1924 (Bendix, 1996: 78-80).

6.3.3 The period 1924 to 1956

The Industrial Conciliation Act of 1924 defined employees in such a manner that black workers were excluded from the ambit of the Act. Thus black workers could not participate in collective bargaining. Other legislation such as the Wage Act No 27 of 1925 was also introduced to provide for minimum wages and to regulate working conditions (Nel and Van Rooyen, 1993:60-61).

Tustin (1991:9) writes that the Industrial Conciliation Act of 1924 gave rise to an era of tri-partism because the state then actively became involved in the regulation of conflict between labour and employers while recognised trade unions were permitted to function in an orderly manner.

Nel and Van Rooyen (1993:61) record that because of the steady growth in white and black trade unions and the large migration of labour to urban areas, as a result of the Great Depression in the early 1930s, it was decided to up-date the Industrial Conciliation Act which was eventually replaced by the "new" Industrial Conciliation Act No 36 of

1937. This Act provided for labour peace through self-regulation and negotiation mechanisms such as arbitration, mediation and conciliation. The Act also provided for the recognition of some black workers through the definition of an "employee". Thus racially mixed trade unions became a possibility in South Africa for the first time.

Soon after coming to power in 1948 the National Party government appointed the Botha Commission to examine labour legislation and the Commission eventually recommended separate labour legislation for whites and non-whites. This meant that black workers would in future be excluded from the conciliation mechanism provided for in the Industrial Conciliation Act of 1937.

The Botha Commission report resulted in two Acts which were to form the foundation of South Africa's dualistic system of labour relations.

The Black Labour Relations Act No 48 of 1953 was aimed at creating a system of labour relations to run parallel with the Industrial Conciliation Act of 1937. The main difference was that the black workers could officially belong to a union but were excluded from the Industrial Council system. As substitute a system of work committees was introduced to negotiate with employers.

The Industrial Conciliation Act No 28 of 1956 replaced the Industrial Conciliation Act of 1937 and contained several discriminatory aspects such as prohibiting the registration of new mixed trade unions. A characteristic of the labour relations of this period was the protection which white workers enjoyed through legislation. The alternative system of works committees introduced for black workers led to the dualistic system that formed part of South African labour relations for many years. This system of works committees was a failure due to the undemocratic and paternalistic manner in which non-white workers' interests were represented (Nel and Van Rooyen,1993:64-65)

6.3.4 The period 1956 to 1979

This period was characterised by initial labour peace and the establishment of a well organised labour movement. However, labour relations are dynamic by nature and the labour legislation of the time did not reflect the changes that were taking place in the labour relations practice. Labour legislation between 1953 and 1956 clearly reflected

the dualistic system of work representation: Black workers were only allowed representation within their employing organisation, while representation of white workers outside the workplace was recognised by statute. It was also during this era that the South African Confederation of Trade Union (SACTU) and the Trade Union Council of South Africa (TUCSA) were formed (Nel and Van Rooyen,1993:13).

After the strikes on the Witwatersrand especially in 1976 it was clear that legislation dealing with black workers' representation was due for an overhaul. The Black Labour Relations Amendment Act No 84 of 1977 was passed amending Act No 48 of 1953 and creating a mechanism for negotiation by black workers for the first time. This Act made provision for the establishment of liaison committees between management and workers as well as coordinating works committees in companies. Black workers also obtained the right to occupy positions previously exclusively reserved for white workers as well as with right to strike under certain conditions (Tustin,1991:13).

6.3.5 The period 1979 to 1995

The discriminatory nature of the Black Labour Relations Regulation Act of 1977 and the Industrial Conciliation Act of 1956 gave rise to numerous labour relations problems. Two factors contributed to the formulation of a new manpower policy and up-dating of labour legislation: (a) the changing international climate against the racial policies of the country concomitant with the pressures that resulted from this, and (b) the rapid industrialisation which required more skilled workers. Labour legislation fell short of providing for this need and for black trade union aspirations and contributed to black labour/white employer confrontation (Bendix, 1996:101-103).

A White Paper on a new manpower policy based on the Wiehahn Commission's recommendations was published and covered aspects such as freedom of association irrespective of race for permanent residents of South Africa; job reservation was terminated; closed shop agreements were allowed and the Industrial Conciliation Act and the Black Labour Relations Regulation Act were to be combined to eliminate dualism. (Nel and Van Rooyen,1993:70-75)

The Industrial Conciliation Act of 1924 had excluded from the definition of employee any "pass-carrying" persons. Through this restriction the majority of workers in South Africa

essentially had been denied access to the formal labour relations system of trade union organisation and registration and the collective bargaining system. The Wiehahn Commission's recommendations led to amendments to the Act between 1979 and 1981, resulting in the removal of racial reference in the Act, thus granting freedom of association to all employees and removing barriers to non-racial trade unionism.

During 1981 the Industrial Conciliation Act No 28 of 1956 and the Black Labour Relations Act Regulations Act No 84 of 1977 were replaced by the Labour Relations Amendment Act No 57 of 1981. Only registered trade unions were permitted to use the collective bargaining mechanism. Changes included provisions that unregistered and registered trade unions were placed under the same regulations, racially mixed unions could register and works committees received a new spurt of life. Some employers viewed these committees as a transitional phase to full trade union representation (Nel and Van Rooyen, 1993:80-81).

Further amendments to labour legislation became necessary as there were practical problems with the implementation of the Labour Relations Amendment Act No 83 of 1988. Prior to and after the implementation of the Act on 1 September 1988 the South African Coordinating Council on Labour Affairs (SACCOLA), the Congress of South African Unions (COSATU) and the National Council of Trade Unions (NACTU) held several meetings with government representatives to discuss changes to the Act.

SACCOLA, COSATU and NACTU sent a joint letter to the Director-General of the Department of Manpower objecting to six sections of the Act. This led to a process of consultation and negotiation between the government, trade unions and employers and the introduction of the Labour Relations Amendment Act No 9 of 1991 (Nel and Van Rooyen, 1993:32). It is significant that for the first time employers and organised labour acted collectively to persuade the government to change labour legislation. This collective action gave rise to what Tustin (1991:101) refers to as "tripartite groups" consisting of the government, employers' organisations and trade unions.

The unbanning of the African National Congress (ANC), Pan Africanist Congress (PAC) and the South African Communist Party (SACP) on 2 February 1990 by the then president FW de Klerk had a significant influence on labour relations in the country. The ANC, PAC and SACP in turn influenced trade union policies and structures as well as

shopfloor representatives (Tustin, 1991:17-18).

By 1981 collective bargaining had rid itself of racial prescription but many employees in sectors such as agriculture, the public service, domestic services, parliamentary workers and tertiary education staff were still excluded from taking part in collective bargaining. In order to modernise the labour relations framework the government attempted to cover those affected employees through the Public Service Act of 1993, the Education Labour Relations Act of 1993 and the Agricultural Labour Relations Act of 1993. This resulted in a fragmented body of labour legislation.

The system of collective bargaining through industrial councils had its birth in the Industrial Conciliation Act of 1924 and lasted until the introduction of the Labour Relations Act of 1995. Since the early 1980s black unions were permitted to register as trade unions thus entitling them to make use of the formal system of dispute resolution through industrial councils and conciliation boards.

After initial resistance to participation in these centralised industrial councils, the independent unions reversed their stance. Some of the objections raised were that the industrial councils were controlled by undemocratic unions, employers and the state and that there was a need to encourage shopfloor participation and build the independent union movement (Friedman,1987). Webster (1983) describes this reversal in union stance as a strategic shift in recognition of the advantages that centralised bargaining held for unions.

Several other events in the political sphere impacted on the trade unions, for example, the decision of the ANC to disband the South African Council of Trade Unions (SACTU) and to support COSATU. The violent struggle between the ANC and the Inkatha Freedom Party (IFP), the repeal of the apartheid laws and the establishment of the Convention for a Democratic South Africa (CODESA) all influenced the trade unions. Trade unions and the political organisations began to realise that they had to act in concert in order to increase their power and therefore formed the alliance between COSATU, SACP and the ANC.

Anstey (1997:312) writes that in 1992 the ILO sent a delegation to South Africa in spite of the fact that the country was no longer a member of the organisation. The ILO commission recommended that there be less control by government over trade union

funds and that their political activities had to cease and that labour rights had to be extended to farm and domestic workers.

6.3.6 Collective bargaining structures: 1995 to present

Since the late 1980s South African labour laws were in need of real reform. The legal framework and the institutions that regulated the labour market had to be modernised. The reform of the laws governing labour relations was the first step in this process.

After the 1994 elections the ANC-led cabinet of the Government of National Unity appointed a legal task team, which in July 1994 identified the following problems with existing labour law: the multiplicity of labour laws; the lack of an integrated labour law framework; contradiction and clashes with policy; *post hoc* creation of rules; the extent of discretion of administrators and mediators; haphazard collective bargaining; ineffective conciliation mechanisms and procedures; the cost of dispute resolution; the cost of the unfair dismissal law; transgression of international law and lack of compliance with the new Constitution.

A Labour Relations Bill was tabled in parliament and accepted in September 1995 after extensive consultation at NEDLAC (National Economic Development and Labour Council). The new Labour Relations Act No 66 of 1995 (the LRA) was designed to harmonise labour relations through conciliation, mediation and arbitration as well to provide clear guidelines on trade union recognition. Two new structures provided for in the Act for the regulation of collective bargaining are Bargaining Councils and Statutory Councils.

The LRA of 1995 required that Industrial Councils change to Bargaining Councils in order to represent all sectors of the economy. Thus the aims of the Reconstruction and Development Programme (RDP) and the government's commitment to shopfloor bargaining were advanced. (Government Gazette, No 16861,1995:127).

In addition to the LRA's provisions for private sector organisations, provision is also made for a national bargaining council for the Public Service as well as a national bargaining council for the Education sector. NEDLAC is responsible for the registration of bargaining councils and the demarcation of industries. Bargaining agreements may

be extended to non-parties and provision is also made for an independent body that may exempt non-parties from agreements (Bendix,1996:102). Although the LRA of 1995 does not make bargaining mandatory, collective bargaining is greatly facilitated through the organisational rights bestowed on trade unions and employer organisations.

Finnemore (1996:169) writes "*To break the deadlock regarding compulsory versus voluntary centralised bargaining at the NEDLAC negotiation of the LRA, provision was made for statutory councils.*" Where there is no bargaining council and a trade union or two or more trade unions acting jointly or an employers' organisation or two or more acting together and having at least 30 percent representivity in a sector or area, a statutory council may be established by application to the registrar of industrial relations. The powers and functions of statutory councils are more limited than those of bargaining councils.

6.4 CENTRALISED BARGAINING

The LRA of 1995 shows a definite preference for centralised bargaining. This is evident from the purpose of the Act which states in section 1(d) (ii) that it is to promote collective bargaining at sectoral level but also in section 1(d) (iii) that it is to promote participation in decision-making at plant level. The legal drafters' preference for centralised bargaining is explained in the Explanatory Memorandum (Government Gazette No 16259 of 1995: 121). In their view the previous Act lacked conceptual clarity as to the structure and functions of collective bargaining. A majoritarian system of industry level bargaining in the form of industrial councils had existed since the promulgation of the Industrial Conciliation Act of 1924. However, majoritarianism had been undermined by the Minister's wide discretionary powers and the Industrial Court's unfair labour practice jurisdiction. The result of these limitations was that the existing statutory framework could not properly accommodate and facilitate an orderly relationship between bargaining at the level of industry as well as at the level of the workplace. The system was also not supportive of employee participation in decision-making and the agenda for cooperative management and the agenda for the adversarial management were confused. If an orderly system was to be achieved the collective bargaining agenda had to be divided into plant level matters and a centralised system of collective bargaining.

The arguments for and against centralised bargaining also elucidate how collective

bargaining is relevant to employee participation. Du Toit *et al* (1998:154) write that *"the unions argued that centralised bargaining: (i) is the best means of establishing industry-wide minimum wage and fair standards; (ii) allows for an effective use of skilled union and employer negotiators; (iii) leads to one collective agreement in each sector concluded by skilled negotiators, avoiding a plethora of poor quality collective agreements each with potential for litigation; (iv) strengthens the capacity of bargaining agents; (v) develops social benefit funds that are more meaningful and cost-effective; and (vi) leads to a proactive style of unionism in which common employer-employee interests are advanced, as opposed to a narrow, defensive and reactive approach"*.

Employers, in turn, rejected the idea of centralised bargaining as they argued that it would promote strikes and undermine economic growth. Patel (1990) reflects their views when he writes: "*The second set of employer arguments challenge the operation of centralised institutions. Those arguments contend that: (i) centralised bargaining removes negotiations from the key actors at plant level, namely the shop stewards and managers; (ii) it denies access to the bargaining forum for trade unions which have strong plant representation but lack an industry majority; (iii) it lacks flexibility in that disputes are often declared for an entire industry and strikes take place even when the more profitable sectors of industry are able and willing to pay more than the average offer of the employers; and (iv) the tendency to bargain exposes employers to a double risk of strike action.*" The employers' views reflect a strong preference for a plant level system which would allow them to determine what happens in their workplaces in conjunction with their employees. This will protect employers from the collective power of employees at central level and may also limit the scope of the employees' decision-making capacity at plant level. Although the legal drafters settled on a centralised system of collective bargaining, the voluntarist principle was retained by making the formation of bargaining councils voluntary but offering inducements for centralised bargaining (Du Toit *et al*,1998:155). The ideal of worker participation is not lost as collective bargaining is regulated by collective agreement while workplace forums for consultation and joint decision-making with the employer will continue at plant level. Khoza (1999:94) writes that the centralised bargaining element of the LRA will provide supporting force to employee participation in decision-making at the workplace since it allows employees participation in decision-making at industry-wide level.

The rule of collective bargaining at central level and workplace forums at plant level

represents a pluralistic model of employee participation. The pluralistic approach is not unique to South Africa and Summers (1995) writes that the systems of countries such as Germany and Sweden are nearly identical to the South African model for employee participation in decision-making. In the USA a contrasting structure is followed with collective bargaining practised at plant level only. Adversarialism originating from general production problems in this way is carried over to daily plant relations. This is, however, not the case with the pluralistic model where industry matters and individual plant matters are kept apart. Cooperation and employee participation thus have a much greater chance of success.

The conclusion is that to enhance employee participation in decision-making, a number of countries combine collective bargaining and cooperative processes like consultation and joint decision-making. The question that arises is at which level certain issues may best be solved by means of enhanced employee participation. A related concern is whether the current system will be able to continue to segregate matters best suited for centralised bargaining. Only time will tell whether the South African model succeeds or not.

6.5 VOLUNTARISM

In Britain where the term originated, voluntarism was originally used to describe a system in which both management and labour resisted any government interference in the labour relationship. This occurred in the 1980s when there was increasing government interference in the labour system in Britain. Voluntarism is no longer what it used to be. In other labour relations systems "*voluntarism*" referred to the process of bargaining and not to the duty to bargain. The British government could compel collective bargaining between employers and labour representatives, but chose not to. It is the former approach that previously applied in South Africa where the Industrial Court had ruled that there is a duty to bargain, that it should take place in "good faith" and could include any matter relevant to the employment relationship.

Although the Labour Relations Act of 1995 created the structures for collective bargaining, precisely how this should take place in practice has been left to employees and employers to decide voluntarily. Lord Wedderburn (1983) writes that: "*a voluntarist policy would allow the two sides [of industry] by agreement and practice to develop their*

own norms and their own sanctions abstain from....compulsion in their collective relationship". A voluntarist approach would require employers and employees to realise that they are partners who have to be involved when important decisions have to be made in the workplace.

Under the LRA of 1956 the unfair labour practice jurisdiction permitted the courts to intervene in the bargaining relationship. This is no longer the case. With the current LRA, the collective bargaining process has been reorganised. Section 1(c) of LRA of 1995 sets forth one of the primary objects of the Act as:

"To provide a framework within which employees and their trade unions and employers and employers' organisations can -

(i) collectively bargain to determine wages, terms and conditions of employment and other matters of mutual interest; and

(ii) formulate industrial policy."

Although there is no provision for a duty to bargain in the current Act, collective bargaining is encouraged and supported by granting organisational rights as well as providing for the right to strike. Section 23 specifies that collective agreements between employers and employees on how they will regulate terms and conditions of employment are legally binding. The preference for voluntarism is strengthened through the provisions in section 65 (1)(a) that make it possible for trade unions and employers (should they so wish) to sign an agreement that prohibits strikes in respect of certain issues.

The possibility of the exploitation of voluntarism is prevented through an element of compulsion in certain circumstances e.g. a refusal to bargain (Section 64(2)). Should an employer proceed with unilateral changes in the workplace, employees by the use of strike action may pressure the employer to revert to the previous state of affairs.

The framework provided by the Act supports interaction between employer and employees in collective bargaining on a voluntary basis without the fear of coercion from the Labour Courts.

6.6 THE DUTY TO BARGAIN

In the early 1980s the emerging trade unions pushed strongly for plant level bargaining, which at the time was a foreign concept for role players in South Africa who over decades had come to accept the well-established system of Industrial Councils with centralised collective bargaining. Employers' resistance to union demands for plant level collective bargaining gave rise to numerous strikes. Employers in turn demanded from the trade unions some form of evidence that they represented the majority of workers in the particular bargaining unit which they claimed to represent. An interesting point is made by Thompson and Benjamin (1996) when they remark that this insistence by employers on majoritarianism, laid the foundation for later union demands for majoritarianism which was then not always acceptable to all employers.

In the Stocks and Stocks (Natal) v BAWU and BAWU v Pek Manufacturing Co. cases the Industrial Court held that an employer was obliged to negotiate collectively with employees to resolve a dispute of interest; that there was a general but not immutable duty to bargain also with minority unions and that this duty did not rest upon achievement of a wider recognition agreement. In the BIFAWU v Mutual and Federal case a definitive position was reached through a ruling by the Appeal Court. The company had identified three bargaining units in its operation consisting of a non-clerical unit where the union had forty four percent representivity, a clerical unit where the union had ten percent representivity and a supervisory unit where the union claimed a three percent representivity. The union demanded two bargaining units, one a managerial and the other a non-managerial unit. The Industrial Court rejected the union arguments of sufficient representivity for bargaining purposes and the earlier all-comers decision of the court, remarking that the union did not even have representivity in its own proposed bargaining units. The Labour Appeal Court then overturned this decision. However, on appeal the Appeal Court confirmed the decision of the Industrial Court.

In 1987 Brassey, Cameron, Cheadle and Olivier (at 151) argued "*There is nothing quite so subversive of collective bargaining, however, as to refuse to bargain entirely or to pretend to bargain without doing so, going through the motions with no intention of reaching agreement.* ". In their view voluntarism was wrong on the grounds that employers could employ the principle not to bargain at all. Labour law in South Africa supported collective bargaining in the public interest and therefore they had to support

trade unions as major actors in collective bargaining (1987:151). The general duty to bargain, which emerged under the unfair labour practice jurisdiction through cases in the 1980s, has not been entrenched in the 1995 Act. The law, however, re-enacted organisational rights, but there is no statutory duty on employers or employees to bargain. Chapter IV of the Act in section 64 provides for non-binding arbitration on employers refusing to bargain *inter alia* by withdrawing from an existing relationship with a trade union.

The drafters of the LRA argued that the imposition of a legal duty to bargain would lead to inflexibility in the labour market when flexibility is required by the bargaining parties to determine their relationship (Explanatory Memorandum on the Draft Negotiating Document, 1995).

A further reason why the drafters wished to avoid circumscribing the duty to bargain for individual employers lies in the Act itself which seeks to promote sectoral bargaining. Providing a detailed description of the duties of an employer to bargain collectively would not support the promotion of sectoral bargaining. Anstey (1997:422) argues that the above reasoning is negated by the detailed list of items for consultation and joint decision-making in Workplace Forums provided in Chapter V of the Act. This writer disagrees with Anstey's position in this regard. The list of items are intended for use in Workplace Forums. Workplace Forums are intended to complement the collective bargaining which are conducted at organisational level and seek to promote participation at workplace level, where participation achieves the best results (See Thorburg (1993), Schregle (1970) and Wever (1994).

As pointed out above the LRA of 1995 does not compel employers and employees to bargain. Also under the common law there is no duty to bargain or negotiate. In contrast, the LRA of 1956 made collective bargaining the only means through which workplace unrest could be contained and the duty to bargain was seen as part of the promotion of collective bargaining. The Industrial Court in Fawu v Spekenham Supreme (1988: 636-637) stated that overriding in labour relations in South Africa, it was time for the court to find firmly and unequivocally that in general terms it was unfair for an employer not to negotiate *bona fide* with a representative union. The duty to bargain set definite parameters for collective bargaining thereby extending the scope of influence which employees had on decisions in the workplace.

Khoza (1999:116) writes that where the drafters of the Labour Relations Bill had to decide on whether the duty to bargain should be retained or not, they had three options. The first option was for a system of statutory compulsion to bargain. Under this option the levels and the topics would be determined statutorily. The second model would allow for limited intervention by courts to determine the appropriate level of bargaining and bargaining topics. (More or less the position under the LRA of 1956). The third option would be to allow parties to the bargaining process to determine their own bargaining arrangements. The drafters opted for the third option as they felt that the first two of the three models would introduce rigidity in the labour market, which needed to continuously respond to the changing economic environment.

6.7 BARGAINING UNITS

Grogan (1998:209) views a bargaining unit "*as that part of workforce or workplace in which a union claims recognition and in respect of which it negotiates. It is only acting on behalf of a bargaining unit, that a union can influence the decision of the employer.*"

Brassey *et al* (1987) write that the LRA of 1956 did not provide for the manner in which bargaining units were to be determined. The determination of the bargaining units was left to the bargaining parties to determine as part of the collective bargaining process. The importance of this practice was explained by Louw AM in the Industrial Court in the case of Banking Insurance Finance and Assurance Workers' Union v Mutual and Federal Insurance Co Ltd (SALLR,1993:165 H-I) "*The composition of a bargaining unit will not only determine on behalf of whom bargaining will take place, but will also determine which employees are to receive protection from an agreement that may emanate from negotiations between the parties. The question of appropriate bargaining units underlies the union's demand to negotiate wages and conditions of employment and forms such an inexorable part thereof, that it would be nonsensical to grant an order to negotiate without first determining on whose behalf negotiations are to take place.*"

The adoption of the LRA of 1995 has introduced changes to labour legislation and lays down how labour relations are to be practised by South African employers and trade unions. The determination of a bargaining unit is no longer tied to a particular unit of the workplace, but a trade union must demonstrate support in the entire workplace. Precisely how a workplace is defined, is found in section 213 which reads "*the place or*

places where the employees of an employer work ".

The LRA of 1995 also introduces a new distinction, namely, differential thresholds of representivity when it comes to the enjoyment of different rights. For a trade union to claim organisational rights provided for in sections 12 to 16 the trade union has to be sufficiently representative of the employees in the workplace. The Act unfortunately does not define what is to be regarded as "sufficiently representative". This omission of a definite percentage of representivity could lead to confusion and avoidable litigation. In some cases the CCMA determined that "sufficiently representative" refers to a substantial enough number of members of a union to warrant being dealt with. The ruling is vague and unhelpful in clarifying labour relationships. The CCMA did however provide some guidance in SA Clothing and Textile Workers Union v Sheraton Textiles (Pty) Ltd (1997:1412) where the issue in dispute was whether the union should be granted the organisational rights of access and stop-orders provided for in sections 12 and 13. The applicant had 29.7% membership in the respondent's workplace. The commissioner determined that the union virtually had a thirty percent representativeness in the workplace and was a major player representing significant interest in the industry and on the basis of these facts, the union was held to be representative.

On this same issue of representivity Cheadle (1997:12) write that : "*Warnings against union proliferation notwithstanding, it seems appropriate to set quite a low threshold for basic organization resistant sectors. Perhaps a figure as modest as 20% might be needed to allow unions to gain a viable toehold. It might also be in order to introduce a dynamic element: if there is but a single battling union and no spectre of union rivalry, the CCMA could adopt a relaxed view of thresholds. It should however advise that the criteria for representivity in a particular workplace may become more stringent over time and if other unions join the fray, an employer could revert to the Commission under section 21 (10) as circumstances changed and the representivity notion hardened.* "

Although the legislature has sought to simplify the determination of bargaining units, Khoza (1999:105) is of the view that trade unions will still have to demonstrate their representativeness in a workplace to enjoy certain rights. The LRA of 1995 requires that employer and employees' representatives have to work out an agreement on bargaining units. If no agreement is reached the parties may not proceed directly to court. Section 21 determines that the parties have to refer their dispute to the CCMA. If the trade union

is not satisfied with the advisory award, it may engage in industrial action according to section 64(2)(d)(i) as refusal to bargain also includes disputes about appropriate bargaining units.

The access to participation in workplace decision-making is however not equal for all employees. One of the consequences of the majoritarianism approach followed in the LRA of 1995 is that minority union members may not be enjoying the rights that they may otherwise be entitled to. Fortunately the Act in sections 11 and 14 (10) attempts to remedy this situation by providing that minority unions may act jointly to achieve the required threshold and so enjoy all the rights to which they are entitled.

6.8 SUMMARY

In this chapter collective bargaining is examined by briefly referring to how it is practised in a number of European and African countries as well as in Britain. A number of definitions and theories of collective bargaining are also discussed. A summary of the development of collective bargaining in South Africa is also provided. A few related concepts such as centralised bargaining, voluntarism, the duty to bargain and bargaining units are also reviewed.

South Africa's has a history of collective bargaining dating back to 1924. As a result of the close relationship between Britain and South Africa many of the characteristics of British collective bargaining are also found in early South African collective bargaining.

Collective bargaining has also been employed by the previous as well as the present government as a means to exert control over the labour market.

South Africa's promotion of centralised sectoral bargaining appears to be out of step with Western Europe where there is a strong preference for plant level collective bargaining which by its nature offers greater employee participation and enhances industrial democracy.

CHAPTER 7

WORKER PARTICIPATION, JOINT CONSULTATION AND JOINT DECISION-MAKING

7.1 INTRODUCTION

The discourse in this chapter focuses on three inter-related topics namely worker participation, joint consultation and decision-making. Worker participation is examined in its direct and indirect forms. The direct form of worker participation in countries such as Japan and the United States together with examples of the indirect mode of worker participation from Germany, India and Australia are presented. Involvement, a concept often used in the discussion of worker participation is also examined.

The discussion of joint consultation commences with a clarification of the concept. The functions of a consultative structure are also examined. Matters for consultation as provided for in the Labour Relations Act of 1995 (LRA) are then presented. This section of the chapter concludes with an appraisal of the meaning of the duty to consult.

In the last section of the chapter the practice of joint decision-making in the organisation is investigated. Matters for joint decision-making in South Africa as provided for in the LRA of 1995 are also explored. The section concludes with a discussion of the provision of reaching consensus through joint decision-making.

7.2 WORKER PARTICIPATION

Horwitz (1981) defines worker participation as the perceived degree of influence which workers have on decisions affecting them. The process of participation may be viewed in terms of both direct and indirect participation of individuals or groups in decisions which relate to the performance of their jobs. Examples of direct participation are job enrichment and team building. Indirect participation refers to collective participation by way of worker representation on formal structures of consultation and negotiation.

Worker participation can include a whole spectrum of forms that range from those found within the boundaries of an organisation to social policy participation outside the organisation in the environment in which the organisation finds itself. Forms of within

organisation participation range from participation at workstations level, involving direct supervisory/employee relations about daily tasks to high level participation involving elected employee representatives. The following sub-sections examine how worker participation is practised in a number of countries.

7.2.1 Direct worker participation

7.2.1.1 Japan

Employee participation in Japan occurs through a system of quality circles. The quality circle approach started in the 1950s. The key objective of the approach is cost reduction. This was achieved through improved quality controls and techniques of quality control. Monden (1983) writes that an important feature of the success of this approach is the emphasis on "*respect for humanity* ".

Quality circles are small groups of workers who meet voluntarily to decide on quality control functions within the company. The groups meet for an hour a week during work time to solve work-related problems (Dale and Boaden, 1990 and Imai, 1991). By 1991 there were an estimated 3 million Japanese workers involved in 170 000 quality circles in Japan. Quality circles form an integral part of lean production systems which use *kaizen* techniques to continually reduce costs and raise quality and productivity (Imai, 1991).

Effective cost reduction management involves a reduction as a consequence of reallocation of operations, reduced waste, greater efficiencies and the introduction of machinery. Monden (1983) believes that at the same time it is possible to "show respect for humanity" through making work more meaningful and effective and keeping lines of communication open in the organisation in order to enhance trust and effective problem solving. Effective suggestion schemes draw upon the ideas of frontline workers to improve organisational functioning and at the same time create a sense of recognition and participation amongst the participating workers.

7.2.1.2 The United States of America

In the 1980s changes in the US business environment, managerial resistance to unionism and incentives for cost reduction through non-union operations put an end to

the traditional system of labour relations and gave rise to a new system of managerialism (non-unionism). The crisis caused by labour costs in competitive markets in the early 1980's meant that there was no longer a place for the old adversarial rule-based system of labour relations. Non-union firms were found to have greater flexibility in the use and management of human resources, had lower costs, were more profitable and had lower levels of conflict compared to unionised firms (Anstey, 1997:476).

Business realities forced companies to experiment with the idea of worker participation and decentralisation of bargaining. Driven by business needs this called for greater involvement of workers in work processes. Changes in the workplace towards greater participation had two objectives: first, to increase participation so as to overcome adversarial relations and increase worker motivation, commitment and problem-solving potential and second, to alter the organisation of work in order to simplify work rules, lower costs and increase flexibility in the management of human resources (Kochan, Katz and McKersie, 1986).

Quality circles were the first form of worker participation to be introduced in US firms in response to their success in companies in Japan. Quality circles turned out less successful than anticipated because the US labour system designed for adversarialism did not prove conducive to the quality circle approach. Imai (1991) points out that Japanese labour/management relations are traditionally less confrontational than that which are found in Western economies. This could also be one of the reasons why quality circles lost their appeal in South African companies.

In response to the disappointing results with quality circles Quality of Work Life programmes (QWL) comprising labour/management committees at all levels in an organisation were introduced in unionised companies. These committees sought to draw union influence into decision-making processes, while leaving bargaining for substantive negotiations. Lawler (1991) writes that research into QWL programmes indicates increased employee satisfaction as they become more involved in problem-solving and decision-making whereas adversarialism in relations reduces satisfaction. Unfortunately employee satisfaction alone does not lead to increased productivity.

7.2.2 Indirect worker participation

7.2.2.1 Germany

Fisher (1978) examined the West Germany application of worker participation. Much of the history of German labour/management relations involved the extension and development of co-determination which has evolved at both plant and enterprise level.

Co-determination at plant level is implemented through the Works Council and is aimed at increased participation of the individual worker in his immediate work environment. This type of co-determination was first sanctioned by law in Germany in 1920. After suppression during the Nazi era, Works Councils re-appeared during the Allied occupation with enhanced and expanded roles as they served the purposes of the Allied powers to establish a non-Nazi leadership.

Co-determination at industry level on the other hand did not enjoy widespread acceptance. Prior to World War II this form of co-determination *i.e.* labour having a say in governing boards of large companies was unheard of. During the Allied occupation the labour movement was able to effect co-determination as a policy in the Coal and Steel industries in the Ruhr region. Fifteen member supervisory boards were introduced (model 1). When the Christian Democratic Government wanted to change this arrangement they were forced to legalise it in an act under threat of a strike in 1951. The government then responded with the Enterprise Organisation Law of 1952 that regulated the structure outside the steel and coal industry. According to this arrangement shareholders retain a two-thirds majority in the 15 member supervisor board (model 2). Most industrialists regard this as an optimal arrangement to the problem of labour participation.

The development of the labour/management relationship in Germany is closely linked to the tenets of the political parties in power. To deal with the issue of expansion of co-determination the Biedenkopf Commission was appointed and presented its report in 1970. The Commission held that both models were unsatisfactory and recommended a 12 member supervisory board of which one half is elected by stockholders and four by employees and the remaining two members had to be agreed on by the board. This recommendation of the Commission was never implemented but the three major

political parties agreed that there should be parity between labour and capital. After heated debate between the Social Democratic Party and the Free Democrats a new model 2 was adopted. This model made a distinction between high and low level employees for the first time.

After the election in 1972 the Social Democrats and Free Democrats worked out a compromise model 3. Ten of the members of the 20 member supervisory board would be elected directly by the shareholders. Labour representatives would be indirectly elected by groups of electors nominated by employees. The labour representatives must include three union representatives and one high-level employee. A chairman and deputy chairman are elected from among the members of the supervisory board.

After years of more debate the Co-determination Act of 1976 was promulgated on July 1, 1976. The basic goal of parity in the Supervisory Board remains, but the labour side is now classified into three different groups: workers, salaried employees and senior executives.

The three co-determination models discussed here are displayed graphically in figure 7.1.

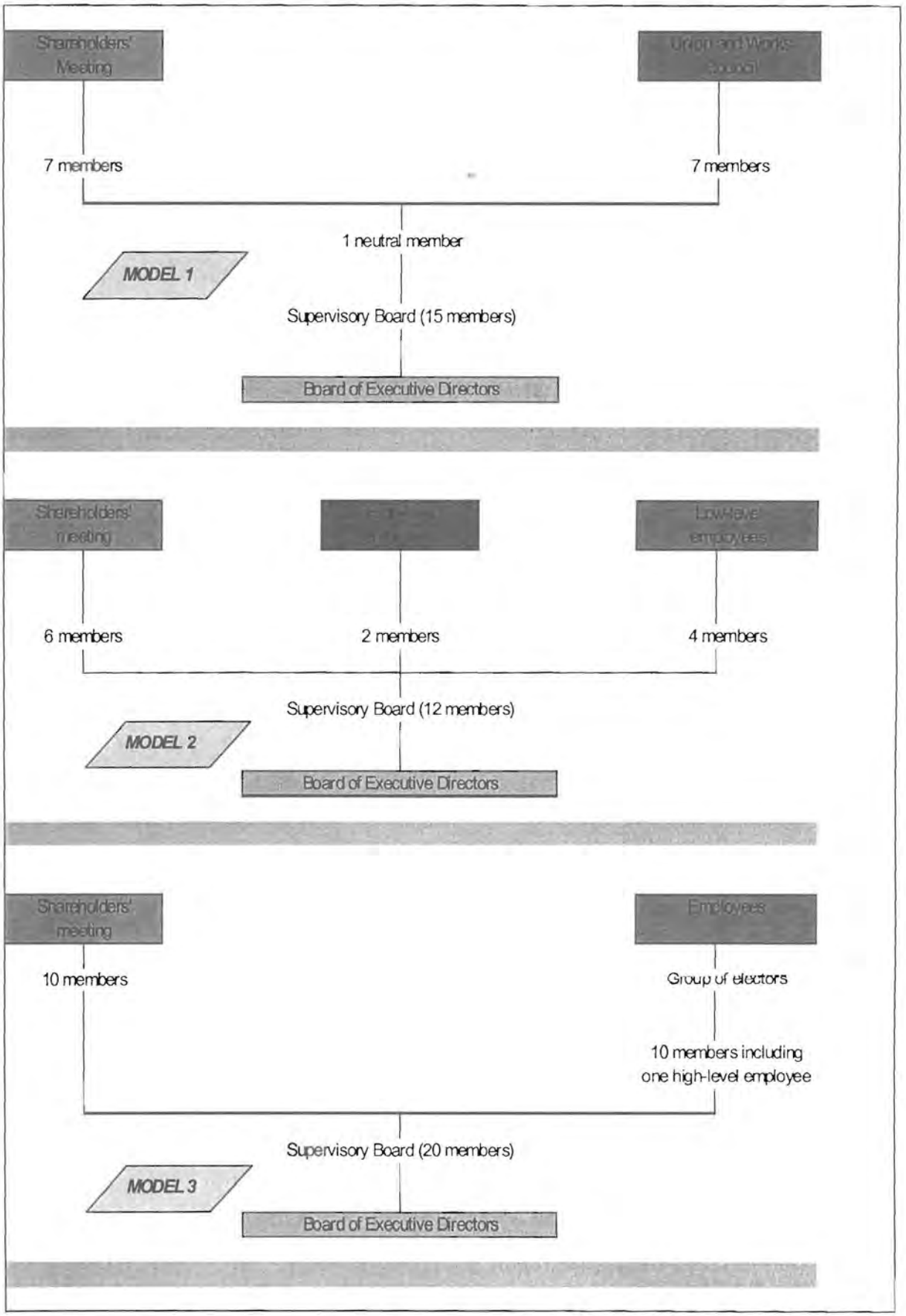

Figure 7.1: The development of different models of co-determination in Germany.

Source: Fisher (1978)

7.2.2.2 India

In describing worker participation in India, Makindy (1985) writes that worker participation dates back to 1918 when the then Tata Iron and Steel Company made an initial attempt to involve workers in the management of the company. The first legal step in the direction of employee involvement in decision-making processes was taken in 1947 with the Industrial Disputes Act which stipulated that all industrial units with more than 100 employees must establish works committees (WCs) with an equal number of representatives from employers and employees. As WCs were not effective the government in 1956 introduced joint management councils (JMCs). The JMCs were also not effective so legislation was enacted in 1970 to introduce participative management at policy-making level of the enterprises by inducting worker directors to the boards of companies. In 1975 the Shop and Joint Council Scheme was introduced as institutionalized forums for communication and consultation between labour and management. In 1989 the Government introduced further amending legislation on worker participation in management. This Bill was only enacted some years afterwards.

In spite of the ineffectiveness of participation in industry-employee-involvement, decision-making at grass roots tells another story. At shopfloor level employees were participating in decision-making by means of quality circles (QCs). Management's direct involvement of employees in decision-making led to a decline in trade unions. This management strategy triggered a period of severe trade union militancy which caused extreme hardship for ordinary members and eventually led to the overthrow of the union leadership. Trade unions in due course changed their attitude and adopted a more co-operative approach with management.

7.2.2.3 Australia

Describing the Australian position on employee participation, Lansbury and Davis (1992) report that employee participation in workplace decision-making first emerged as an important issue in Australia during the 1970s. In recent years discussions concerning this have focussed on industrial and organizational implications especially with regard to productivity and performance rather than on the broader philosophy which dominated earlier debate.

Employee participation (referred to as employee involvement in North-America) has been associated with employer-initiated programmes which stress the advantages both to the individual and to the enterprise when workers become more involved in decisions related to their work. The Australian Labour Party and the unions have preferred the term industrial democracy - for them this concept expresses an extension of the political rights of workers, through which they can exercise greater influence over decisions affecting their lives at work (Lansbury and Davis,1992).

The Australian government's policy discussion paper "Industrial democracy and employee participation" released in 1986 defines industrial democracy as "*.... employees being able to influence the decisions that affect their working lives ... it means genuine participation; having a real say .... employee participation describes the processes and practices for achieving a greater degree of employee influence in individual enterprises and workplaces* ". Participation denotes more than merely being present at the decision -making process. The important ingredient is the influence that each party brings to bear. Every variant of the process has been observed; in some situations one party has no influence at all while in others the two parties have equal influence.

The 1980s witnessed the creation of a more favourable framework for the development of employee participation schemes as a result of the 1983 Prices and Wages Accord between the Australian Council of Trade Unions and the Australian Labour Party. Other government initiatives to encourage participation were the Public Sector Reform Act of 1984 and the Affirmative Action (Equal Employment Opportunity for Women) Act 1986. From the mid-1980s onwards union and employer main councils endorsed the implementation of strategies to achieve higher levels of consultation and employee participation, explicitly in order to improve workplace productivity and performance.

The connection between employee participation and improved economic performance was highlighted in the 1987-91 national Wage Case hearings. Each of these landmark national Wage Case decisions over this period commented on the pivotal role of cooperation and consultation. Thus by the beginning of the 1990s there appeared to be not only a broad consensus on the importance of information-sharing and consultation, but also growing pressure within the industrial relations system for their implementation.

Research in the 1970s and 1980s indicated a wide range of views among workers, managers, union officials and employers on employee participation. In the view of Spillane, Findlay and Borthwick cited in Lansbury and Davis (1992) employers prefer "immediate" forms of participation such as job enrichment, which involve workers in decisions at lower levels in the hierarchy. By contrast, workers tend to favour "intermediate" forms such as greater involvement and provision of more adequate information from management or more formal arrangements such as joint consultative meetings. Less support has been found among all parties for more "distant" forms of participation, such as representation at board level.

The 1980s saw considerable experimentation with different forms of employee participation and industrial democracy. Some innovations were introduced through semi- autonomous work groups and various forms of job redesign which provided individual workers with opportunities to develop their skills and competence and exercise greater control over the production process. There were also some examples of workers' cooperatives which have attracted very little government support. Financial participation is becoming more common in the private sector, but it must be noted that employee participation is not necessarily the primary objective of such schemes. Advocates of greater employee participation have commonly argued for its implementation as being integral to good human resources management.

The Australian government has been reluctant to legislate directly on employee participation and industrial democracy. The majority of workers enjoy no specific right to information or consultation over workplace matters. By contrast the South African situation after 1996 differs dramatically in that the Labour Relations Act of 1995 makes specific provision for participation through Workplace Forums (WPFs). The WPFs have defined rights in terms of which certain matters must be consulted on while on others joint decision-making is required.

The Australian Council of Trade Unions (ACTU) has endorsed aspects of the Swedish approach to industrial democracy in regard to the direction which Australia should follow. Both government and the ACTU have emphasised the value of industrial democracy and worker participation to improve the competitiveness of Australian industry.

7.3 INVOLVEMENT

A related concept that often causes confusion in discussions of employee participation, is employee involvement. Locke and Schweiger (1979:265-339) regard "*participative decision making as joint decision making*". This definition is unfortunately of little use as it does not clearly indicate whether employee participation and employee involvement are different phenomena or the same.

Dachler and Wilpert (1978) describe employee involvement as "*a systematic approach to redistributing the responsibility and accountability for problem solving and decision making to the lowest appropriate level* ".

In order to understand employee involvement Van Aken, Monetta and Sink (1994: 39) suggest using the extent of participation identified in literature such as: the degree to which it is formal versus informal; the degree to which it is direct versus indirect; the level of influence that individuals have; and the nature of the decisions they make. For these authors the definitions of participation do not inherently exclude white collar and knowledge workers, but tend to emphasize involving lower level employees. This emphasis on the lower level positions, also seems to be the view of Salamon (1998: 356) judging from the position where involvement is placed in his model. Ledford (1993) seems to concur with the previous two opinions when he cites Lawler and his associates who define employee involvement "*as.... extension of power to make decisions and of business information, rewards for performance and technical and social skills to the lowest levels of the organisation* ".

Ledford (1993) identifies three different types of employee involvement. *Suggestion involvement* is usually introduced through management practices such as quality circles that are introduced as an adjunct to the formal structure without real change to the organisation. These forms of involvement were particularly popular in South African organisations in the late 1980s and early 1990s. *Job involvement* entails that workers assume greater control over daily decisions concerning their jobs, through the introduction of self-managing work teams. *High involvement* includes the previously mentioned two forms of involvement but differs in that it extends to involving employees in the management of the business. Extensive changes in power, information sharing (disclosure), skill building and human resources systems are common in such organisations. From the literature (Lansbury and Davis, 1992) it appears that

involvement is the term preferred in North America when worker participation is discussed. Other authors (Salamon,1998; Dachler and Wilpert, 1978 and Ledford ,1993) restrict the meaning of involvement to the participation of the lower level workers in an organisation.

Anstey (1997:473) writes that direct forms of participation have traditionally been at the lower levels of an enterprise in the form of quality circles and more recently team systems. The development of such systems can be found in Japan from where they spread to the USA. Western Europe took a totally different view of worker participation. Trade unions were more in favour of indirect forms of participation which found expression in different variants of works councils. These bodies were aimed at participation and operational decision-making through the processes of information disclosure, consultation and co-determination. This indirect form of employee participation is also the approach the South African legislators chose for the labour relations system since 1994. The introduction of Workplace Forums, discussed in Chapter Eight of this study, could be viewed as a South African version of a works council.

Salamon (1992:346 and 1998:355) points out three characteristics which may be used to categorise different forms of participation in organisations and developed a model to illustrate this:

- the method or extent of participation: direct forms reflecting active individual employee involvement in decision-making processes and indirect forms in which participation takes place through elected representatives;
- the level within the organisation: participation ranging from work station to board level;
- the scope of participation: those which are direct and at lower levels in an organisation tend to be task centred, while higher level indirect forms tend to be power centred.

In the adaptation of Salamon's (1992;347 and 1998:356) model (Figure 7.2) the direct forms of participation are found in the lower left corner of the model. Workplace Forums and Works Councils would be found at a higher level in organisations and are also closer to the indirect side on the method of participation axis. The diagonal axis

illustrates the objectives of the various forms of participation.

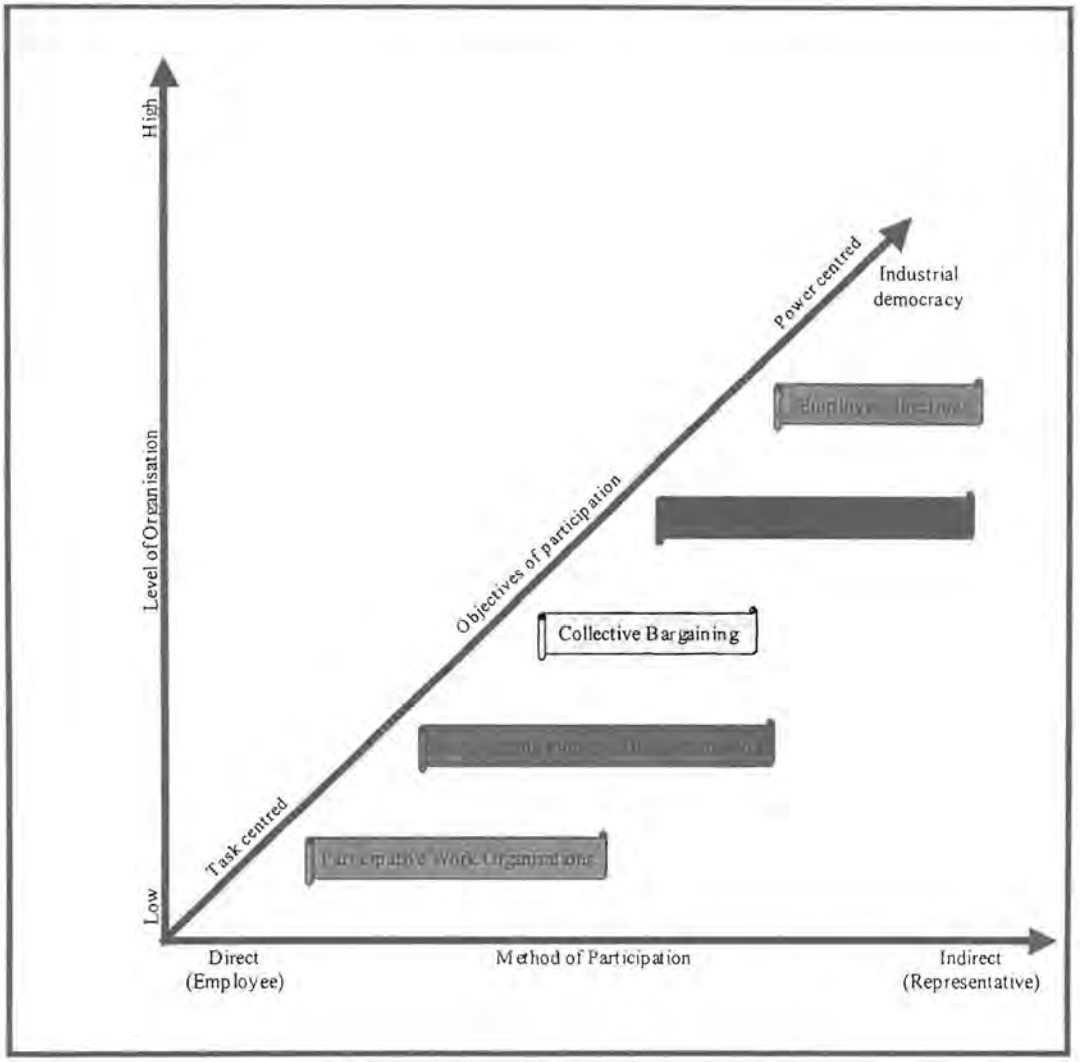

Figure: 7.2: A model of different forms of employee involvement and participation

Source: Adopted from Salamon(1998: 356)

7.4 PERSPECTIVES ON WORKER PARTICIPATION

In their study of South African organisations, James and Horwitz (1992) found that managers and workers believe that joint decision-making should take place at the job/task level, though this was not happening in practice. An important factor in this regard is that managers and workers are not aware of each others' perceptions about aspects of participation. Erroneous assumptions are made about participation in general.

One reason why worker participation programmes are not implemented is the traditional directive style prevalent in South African organisations. There is also said to be a feared loss of managerial authority. However, the results of their study show that managers do not see worker participation as necessarily reducing managerial control. This points towards the concept cited by James and Horwitz (1992) called expandable control. A possible reason why workers want to reduce managerial control is to gain greater power and influence.

There is a desire among workers for more participation at job level, be it full or partial. Although both workers and management groups also agree that participation does not occur at policy decision-making levels, managers are uncertain whether there should be worker participation at that level (James and Horwitz, 1992).

Workers and managers felt that workers should have the knowledge and skills for participation at the job/task level, but that they do not currently have the propensity for making higher level policy decisions.

Even though managers feel there exists some opportunity for workers to influence their own jobs, workers disagree about this. For example, the appropriateness of a suggestion scheme to provide the desired range of participation needs is limited.

Regarding direct and indirect participation workers appear to support both types of participation, which can be interpreted as wanting more participation generally. Workers and managers felt that external political changes are the least important in affecting worker participation.

Ramsay (1976) examining participation from a shopfloor perspective came to the following conclusions: individual employees are mostly interested in how participation affects their own jobs; collective bargaining as a means of increasing influence does not get as much support as expected; as a goal *per se* participation is not that attractive to workers relative to other perceived requirements of a job. Nevertheless there is considerable demand for a greater say by shop floor workers in decisions affecting them.

In the remainder of this chapter two of the processes through which worker participation takes place in organisations, namely consultation and decision-making, will be

considered.

7.5 JOINT CONSULTATION

McAllister (1989: 2) writes that consultation (often referred to as joint consultation or co-operation) involves an attempt to influence decision-making. Hovels and Nas (1977:119) define joint consultation as " ..... *the independent formulation of problems concerning any aspect of management policy by elected members on behalf of workers and from the point of view of the employees, its discussion with top management and the attempt to influence top management policy on such a basis* ".

Consultation is generally regarded as a weak form of participation and some writers do not regard it as a form of participation at all. Poole (1978:76) for example, comments that situations in which management effectively exerts control are incompatible with full participation in decision-making. For Poole participation demands some real sharing of decision-making powers (at 62). In terms of Hovels and Nas's (1977:110) definition, workers' representatives identify subjects to be discussed with management, define their standpoints on issues, put the workers' viewpoint and "... *enlarge on management's definition of the situation*" and thereby seek to influence the conclusions reached at meetings. In addition, representatives should enjoy certain rights in a consultative system, such as the right to information, to protest, to make suggestions, and so on. Whether or not one calls this "*participation*" depends on how one defines the term writes McAllister (1989: 2).

Vernon (1996:1) in seeking to describe what is meant by consultation, writes that some managers see it as an unnecessary burden. Some unions regard it with suspicion, believing that it enables managers to bypass the existing negotiating machinery. He cites the British Advisory Conciliation and Arbitration Service that defines consultation as "*the process by which management and employees or their representatives jointly examine and discuss issues of mutual concern. It involves seeking acceptable solutions to problems through a genuine exchange of views and information.*"

MacInnes (1985:101) comments that if one wants to discuss joint consultation it is useful to be quite clear exactly what is meant by the term. For him joint consultation is not the consultation which exists as part of national collective bargaining nor is it the almost

universal practice of individual managers "sounding out" the shopfloor opinion on different matters. It can also be distinguished from formal and informal collective bargaining in that binding agreements, precedents or decisions do not emanate from the discussions. What constitutes joint consultation in his view is plant or company specific arrangements involving a stable body of people meeting on a regular basis.

According to MacInnes (1985:102) such arrangements provide that the chairman or managing director periodically addresses the workers on company performance. Before addressing the workers these executives take the opportunity to meet shopstewards beforehand and in some cases minutes are kept. Such encounters deserve to be regarded as part of the process of consultation, but respondents seldom thought of them as "*joint consultation* ".

In his research MacInnes further found that the respective aims of management and worker representatives were remarkably consistent across the case studies. Managers saw consultation as a forum for explaining to worker representatives why various decisions were taken, especially ones which might be unpopular and why the ability of management to take decisions speedily and effectively was important. Consultation should educate shopstewards or worker representatives about the economics of business life e.g. profitability and therefore productivity was important for survival, job security and good wages. Managers tried to exhibit that their prerogatives and right to manage were not authoritarian but a function of their expertise and requirements of business efficiency. Consultation was therefore a forum for management to demonstrate the common interests of management and the workforce.

Worker representatives had a less comprehensive set of ideas about consultation. This is both consistent with the more fragmentary character of their values systems generally and a symptom that their views are rooted in responses to management initiatives. Representatives saw it as an opportunity to gain information they could pass on to their constituents, raise grievances and impress upon management the singular interest of the shopfloor in such issues as job security.

According to Hawes and Brookes (1980) consultative or joint consultative machinery has a long history in Britain. In the latter half of the nineteenth century committees in which management and workers had representation, existed in a number of companies (Clegg, 1955). As far back as 1923 Cole wrote that employers deliberately sought to

avoid dealing with new trade unions by creating alternative channels for regular communication of management's views. Regular, formally established consultative machinery only became incorporated into the routine of British industrial relations during and after the First World War. Between 1922 and 1939 consultative committees declined throughout industry except in larger companies. The Second World War radically changed this situation. Consultative bodies were revived on a massive scale – joint production consultative committees were essential for increasing production for the war effort.

As the 1950s progressed it became increasingly more difficult to sustain the argument that the rigid division of functions between consultative arrangements and collective bargaining and negotiation, which had been advanced up to that point by many adherents of joint consultation, could and should be maintained. A decline in joint consultation set in in most sectors as Jacques indicated in 1951 (cited by Hawes and Brookes,1980).

During the 1960s joint consultative machinery continued to exist in many sectors, but was generally seldom utilised by the parties involved. Hawes and Brookes (1980) cite Clegg (1970) where he referred to joint consultation during this period as "*little more than an adjunct of collective bargaining*". However survey data from the 1970s indicate that there was a considerable increase in the number of formal joint consultation machinery arrangements established in the manufacturing industry since the early 1970s and that the range of issues discussed had also become broader. The next decade saw a stabilisation of the number of joint consultation arrangements between 1980 to 1984. During the same decade there was a slight decline in the numbers in the manufacturing sector but this was made up for by the increase in joint consultation machinery structures in the public sector (Marchington, 1987:44).

Vernon (1996) writes that before 1 March 1996, UK legislation restricted the right to be consulted over redundancies and business transfers to representatives of independent trade unions which were recognised by the employer. Already in 1994 the European Court of Justice had held that such restrictions meant that the UK was in breach of European Union regulations. This led to the introduction of the Collective Redundancies and Transfer of Undertakings (Amendment) Regulation of 1995 which came into effect from 1 March 1996. The continental influence in bringing pressure to bear on the UK

to move closer to the continental system of joint consultation is therefore quite clear.

In terms of the above regulation, employers may choose to consult either representatives of a recognised trade union or representatives elected by the employees concerned. Consultation requirements do not apply where the employer proposes to dismiss fewer than 20 employees during a 90-day period; arrangement for election of representatives will be left to the employers' discretion, but subject to certain detailed requirements; *ad hoc* arrangements for electing representatives will be allowed and consultation with appropriate employees representatives must begin "*in good time*" (Vernon, 1996).

7.5.1 Reasons for consultation

According to Vernon (1996) the notion that employees can contribute to management's decision-making process is not a new one. It is crucial to teamwork and total quality initiatives and, indeed, to the whole process of change management. By using effective consultation methods, the quality of management decisions is likely to be enhanced considerably. Once a decision is made in this way, there is far more chance of ongoing commitment and co-operation from employees.

Allowing employee participation in management decisions can be complicated and hard to manage at first but is worth pursuing because it makes the entire organisational structure more connected. The well connected organisation is better able to handle change and evolve when necessary (Ashmos, Duchon, McDaniel. and Huonker, 2002:189).

7.5.2 Functioning of a consultative structure

The following suggestions have been made by Vernon (1996). One of the first decisions to make when setting up consultation arrangements, is whether a permanent committee is needed or whether to make do with an *ad hoc* arrangement as the need arises. Supporters of the *ad hoc* committee idea argue that these committees tend to be more focussed in their approach and that time is not wasted on trivial matters.

The frequency at which the committees are likely to be convened would seem to favour

a standing arrangement. Using an existing committee may also be less expensive than setting up a new committee each time the need arises and having to go through a learning curve to become fully functional.

It is important to ensure that any existing union representative structure is closely integrated with consultative arrangements if the process is to enhance rather than detract from good industrial relations.

MacInnes' (1985) research found that in addition to the differences in perceptions between managers and worker representatives, there were also tensions within their respective approaches to joint consultation. Management's aim of justifying managerial prerogative by demonstrating its roots in managerial expertise and competence, absolutely contradicted the aim of using the shopfloor to tap employee expertise and evaluation of proposals. Worker representatives' aim of tempering managerial prerogative by influencing managerial decision-making, in turn, was restricted by their reluctance to share responsibilities for decisions that were not the result of collective bargaining.

Some of this sentiment of not wanting to be committed to decision-making unless derived from collective bargaining was also detected amongst South African unions (Van der Walt, 1997). Worker representatives saw no reason to volunteer to exercise responsibility only. The result was that what started as an attack on managerial prerogative became a reaffirmation of it: it was solely management's job to manage better. Both parties resolved to keep consultation and collective bargaining separate and avoid negotiable items in the consultation process. In practice the dividing line between the two processes was not always clearly distinguishable.

MacInnes (1985) found that managers viewed discussions prior to decisions as threatening to weaken their prerogative as a result of inviting opposition to their decisions. However, this then precluded incorporating shopfloor experience in decision-making. Discussions sometimes became exercises in management proving the misguided nature of the workforce's criticism rather than a search for solutions to common problems. Controversial issues were rarely brought to the consultation table. They threatened the unity spirit which management valued, while worker representatives did not wish to tackle such issues with their negotiating hats off.

The MacInnes's (1985) investigation also found a cyclical pattern in many of the consultation arrangements examined. In the early stages of the consultation process, consultation is usually so imprecisely defined as to command widespread support. However, as the consultation progresses it gradually becomes clear that it is not satisfying the expectations of either party. Sometimes this initial confusion of purpose is identified and steps are taken to try and reform the process in some way so as to accommodate the aspirations of both management and the workforce. The ideology of unitarianism in management sustains the belief that consultation ought to be desirable and successful. Although consultation ought to work it never seems to reach that point. Either one of the parties decides the effort is not worthwhile and the attempt is abandoned or consultation becomes a very marginalised activity. Sometimes when a new manager arrives, who is more enthusiastic about involvement or some events make it desirable, the consultation arrangement is resuscitated and the cycle to establish joint consultation resumes.

Marchington and Armstrong's (1983) survey into joint consultation discovered that those organisations that had maintained a history of successful consultation had done so by virtue of their managements' philosophy towards employee relations in general which had been sustained despite increased environmental pressures such as economic recessions. The accompanying consultation process also illustrated the commitment of management to employee relations. In those organisations in which consultation achieved little or had collapsed, it was found that consultation was not accorded a high status. Management of these companies did not attend the consultation meetings which were characterised by the shop stewards as being used by management to confuse or indoctrinate the employees.

In organisations where there is an effective centralised union organisation, consultation is viewed in a more favourable light by both parties to the consultation process. In such circumstances unions are able to oppose employers' actions rather than having to rely on their goodwill. It has also been a recurrent theme in recent literature that employers may abandon certain tactics for fear of encountering worker resistance (Marchington and Armstrong, 1983).

Marchington and Armstrong (1983) also conclude from their research that consultation has an effect on the trust between employer and employee representatives. One major

advantage of consultation cited by shopstewards as well as managers, is the way in which it can lead to better relationships between the two parties. They also point out that the maintenance of high trust in itself is greatly dependent upon performance in the market place or on the shopfloor and the ability of both parties to keep their promises.

From their case studies it does not appear to Marchington and Armstrong (1983) as if joint consultation is taking over from collective bargaining as a primary mechanism of joint regulation. In the highly unionised establishments which were keen to maintain a distinction between the two processes and for the shopstewards especially, joint consultation was a useful adjunct to collective bargaining.

7.5.3 Matters for consultation in terms of the LRA of 1995

As stated elsewhere WPFs were introduced to provide rights to employees to influence decision-making. One such right is the right to be consulted over specified matters. Section 84 of the LRA makes it clear that a WPF has to be consulted on matters enumerated in the section, unless there is a collective agreement regulating such matters.

The fact that a WPF has to be consulted on the listed matters shows the extent to which the legislature was prepared to reduce the scope of management in decision-making. Deal (1995:22) provides a system that divides these matters into four categories. They are: Business decisions: investment decisions, corporate structures, strategic business plans, mergers, transfers and partial or total plant closures. Production decisions: production and development plans, introduction of new technologies and work methods. Organisational decisions: changes in the organisation of the work, working time patterns and restructuring the workplace. Personnel decisions: dismissals based on operational requirements, education and training and job grading.

It is possible that through a collective agreement, matters for consultation with a WPF may be reduced. This would obviously be contrary to the objective of extending employees' influence. If a collective agreement already regulates one of the matters Sterner (1996:59) is of the opinion that WPFs have no right to be consulted on such a matter. A reduction of matters for consultation can occur as a result of making concessions which will extend gains on other matters for the employees. Section 84(2),

however, creates the impression that what the legislature had in mind was rather an increase in the matters for consultation. The implication here is that collective agreements should not be limiting but rather contribute to the widening of the scope for consultation. In Germany it is also possible to increase consultation rights of works councils through collective agreements. (Federal Labour Court, 1988:466).

Additional matters for consultation with WPFs may be agreed upon by a bargaining council according to section 28 (j). For Khoza (1999:144) it is very significant that it is at a central level where additional consultation matters can be decided upon. What still remains to be seen is whether trade unions can accept these increased powers for WPFs or whether WPFs will thereby become competitors of the unions. He writes "*In the latter case the structural impact on the labour movement and on the system of industrial relations as a whole cannot be ignored.*"

It is also possible for the parties to define the matters for consultation in the constitution of a WPF, by adding or deleting matters listed in section 84(1). In addition WPFs may acquire the right to be consulted on any matter provided for by any other law according to section 84(5). This same section also provides that a representative trade union may agree with the employer that the WPF may be consulted on health and safety matters according to applicable health and safety legislation.

7.5.4 The meaning of the duty to consult

Section 85(1) reads that "*Before an employer may implement a proposal in relation to any matter referred to in section 84(1), the employer must consult the WPF and attempt to reach consensus with it.*" This means that the employer must initiate the process. For Khoza (1999:144) this provisions is problematic as it may weaken the effectiveness of the consultation process because the employer is given the right to decide whether or not to initiate consultation which may be only when he believes he is in a stronger position relative to the WPF. A situation so created would not serve the purpose of the Act which is to create greater employee involvement in decision-making. Du Toit *et al* (1998:276) agree with this sentiment with the statement "*the aim of the Act to provide a structure of on-going dialogue between management and workers, has only partially been realized* ".

The start of the consultation process can impact on the effectiveness of the decision-making process. Under the previous legislation the Appellate Division in the Atlantis Diesel case (1994) ruled that consultation should begin as soon as the employer recognises that the business is failing, considers a need to remedy the situation and identifies retrenchment as a possibility. Under the retrenchment provision the current LRA specifies in section 189 that when an *employer contemplates dismissing one or more employees for reasons based on the employer's operational requirements, the employer must consult...* . The section then specifies who must be consulted.

Section 85(1) does not specify exactly when consultation with a WPF on section 84(1) issues should begin, apart from the fact that this has to be before implementation of the proposal. This could lead to employers taking a decision and then pretending to be consulting openly with the WPF. The practices in the Netherlands and Germany provide some guidance in this regard. In the Netherlands, consultation must commence in a "*timely fashion*" in terms of the Works Council Act of 1979, Section 25(2) to permit both careful consideration of issues presented and also to permit the advice of works councils to affect the ultimate decision-making process. In Germany the Works Constitution Act of 1952 Section 90 specifies that consultation with the council must commence "*in good time*". However, as a result of the broadness of the terms "*timely fashion*" and "*in good time*" they do not offer much clarification on when consultation should begin. In Denmark the Corporation Agreement of 1947, article 3 provides that management must involve the corporation committee (similar to WPFs) at an early stage in the decision-making process, so that the viewpoints of employees can be taken into account (Knudsen,1995: 86).

Section 85(2) of the LRA provides that the employer must allow the WPF an opportunity during the consultation process to make representations and advance alternatives. This provision contributes to the consultation process. According to section 85(3) the employer must consider and respond to the proposals made by the WPF and if the employer does not agree with the proposals, reasons for disagreeing must be provided. The WPF is given the opportunity to make meaningful and effective proposals which may ultimately influence the decision of the employer.

In the Netherlands, the Works Council Act of 1979 Section 25(3) provides that before a company's management board may render a decision on certain specified subjects,

it must seek the advice of the works council. The works council must be advised in advance of the reasons for the decision being contemplated, the consequences it will have for the employees and the measures management intends to take in the light of those consequences. The Dutch system prescribes what information the employer must make available to the works council. Bearing this practice in mind, the Dutch approach could serve as a model for making consultation in WPFs more effective.

Section 85(1) of the LRA spells out that the consultation process must attempt to reach consensus. It does not make agreement mandatory and such consultation must be distinguished from joint decision-making and negotiation under collective bargaining. If the WPF and the employer fail to reach any agreement, the employer is entitled to implement his proposal, after making use of any dispute resolution mechanism. This indicates the extent to which the management prerogative to make final decisions on matters listed for consultation has been maintained. Although WPFs are permitted to make representations on alternative proposals this means very little if employers ultimately implement their own proposals. The fact that the employer can still implement his own proposals seems to endanger the very nature of the consultation process.

The LRA provides an opportunity for a third party to assist the workplace forum and the employer to be reconciled if they do not agree. This is effected through any agreed procedure between the parties which may be included in the constitution of the WPF in terms of section 82 and possibly in a collective agreement, where applicable. If one of the parties believes that there was non-compliance with the procedure for consultation, such a dispute may be referred to arbitration according to section 94, providing a further limitation of the management prerogative (Khoza,1999:147-148).

Ottervanger (1996:401) writes that in terms of section 26 of the Dutch Works Council Act of 1979 if an employer has obtained the advice of the works council and then proceeds to make a decision that is contrary to the advice of the council, the employer shall immediately advise the council of his decision and explain why he has not followed the council's advice. Where the employer has made a decision that is contrary to the advice given, he may not implement such a decision for thirty days during which time the works council may appeal to the Enterprise Chamber of the Amsterdam Court of Appeal. The sole basis of appeal to the Enterprise Chamber needs to be that the employer's management board could not reasonably have reached the relevant

decision had it weighed all interests involved. This is a very strong mechanism for maintaining checks and balances on the process of consultation compared to the weaker system under the LRA. After reviewing the decision, the Enterprise Chamber may issue an order requiring the employer to withdraw the decision as a whole or in part and to reverse specified consequences of the decision or to prevent the company from taking any acts implementing its decision. The decision of the Enterprise Chamber may be appealed to the Supreme Court of the Netherlands. Khoza (1999:148) believes that "*to ensure that parties are focussed and that employees are given an effective opportunity to influence the decision-making process,*" strong mechanisms to evaluate the substantive and procedural correctness of the decisions should be put in place in the LRA similar to the Dutch system.

7.6 JOINT DECISION-MAKING

Schregle (1970) writes that the most widespread form of associating workers with decision-making is the works council, works committee, enterprise committee or similar body through which management/employee relations at the enterprise level have been institutionalized. In some countries such committees consist of worker representatives only and in other committees the members include both management and worker representatives. In other countries both approaches exist side by side.

Whether labour/management cooperation has been created by agreement or statute the functions and decision-making authority vary greatly from one country to the other and include variations in respect of information, consultation, negotiation and co-decision rights. It would be fallacious to link the concept of participation too closely with the existence of special machinery for institutionalizing labour/ management relations. What is important is the extent to which workers have an influence in the decision-making process in an organisation acting through their representatives.

Schregle (1970:120) writes that there was a large measure of agreement by experts that workers should be associated with making and carrying out decisions in matters directly related to working conditions. The focus of controversy is in fact whether worker representatives should be involved in the financial, production, marketing and other economic decision-making processes traditionally exercised by management. Opinions on this differ widely. On the one side both management and the unions believe

management should have the final say based on the fundamental principle of management's responsibility to the owners of the enterprise. Trade unions which are directly involved in management decisions would no longer be in a position to effectively promote and protect worker interests.

A contrasting view, as found in Germany and Scandinavian countries, holds that workers should have a direct say in management decisions including financing, production, planning etc. They argue that it is impossible to distinguish between management decisions that affect workers and those that do not. It is reasoned that all management decisions in one way or another affect the workers of an organisation.

In terms of the broader definition of participation in decision-making both parties maintain their independence, with the trade union's role seen as one of moderating or influencing management decisions. Worker participation (or in its extreme form: worker control) may also be seen as a desire or demand by labour to be engaged in decision-making at various levels in the organisation. This may be part of a reformist approach which does not seek radical transformation or as part of a radical approach to transform production relations. If it is part of radical transformation the objective would be full worker control which trade unionists describe as worker self-management or industrial democracy. However, worker participation should be seen a ranging on a continuum from very limited forms (pseudo participation) to full control in which industrial relations have been transformed totally (Pateman, 1970: 68-69).

Coldwell (1992) writes that the extent of unionised and non-unionised workers' participation in decision-making depends on several factors beyond the organisation's control. These factors are the political circumstances in a particular country; whether the country is socialist or capitalist oriented; the permissiveness or prescriptiveness of the rules and regulations pertaining to unionisation and the existing economic situation.

Participation programmes have often not been negotiated with unions and management seems to feel that such programmes need not be negotiated because they do not affect wages or conditions of service. Most existing programmes do not result in increased earnings but instead operate on the principle of recognition. Unions are opposed to such programmes because they may be used to undermine the unions and may not give workers real benefits. Also many suggestions put forward by participation committees

are not acted upon by management.

The inclusion of workers in joint decision-making is regarded by trade unionists as a victory and furtherance of industrial democracy. Given the history of the trade unions' struggle for recognition in South Africa such a belief is understandable. Von Holdt (1995:33) writes "*that co-determination (whether in the form of workplace forums or some other form) could confer important powers on unions to participate and shape decision-making in the workplace... co-determination provides unions with the power and means to democratize the workplace and improve the quality of working life...In a real way it allows unions to tame and civilize the employers* ".

As joint decision-making is a new approach in South African labour law, there are few precedents on the subject. The idea for this approach originates from Germany with its system of co-determination (Halbach, 1994:150-152; Sterner, 1996:50-73).

Section 86 of the LRA prescribes co-determination rights for workplace forums in the form of joint decision-making. The employer not only has to give the relevant information about envisaged decisions, it has to meet with the workplace forum in an endeavour to reach consensus. The matters for joint decision-making can also be regulated by collective agreement between the parties. If the parties incorporate matters for joint decision-making in the collective agreement, the employer is no longer required to meet with the WPF but with the trade union. As in the case of WPF consultation only the employer can initiate joint decision-making.

This provision differs considerably from the German practice where the works council has an equal right to initiating co-determination. According to Halbach (1994:150-152) the German legislature found this requirement necessary because otherwise the employer could prevent the works council from exercising its right to co-determination by not taking any action to make co-determination possible.

7.6.1 Matters for joint decision-making in terms of the LRA of 1995

In terms of section 86(1) joint decision-making with a workplace forum is required in respect of the following matters: disciplinary codes and procedures, rules relating to the proper regulation of the workplace itself, measures to protect and advance persons

disadvantaged by unfair discrimination and changes to rules regulating social benefits schemes. This is however a very narrow range and may reflect a compromise by the legislature on not further reducing the already shrinking managerial prerogative. However, it is interesting to note that matters can be added through collective agreement between a representative trade union and an employer in terms of section 86(2) and any other law e.g. the Employment Equity Act No 55 of 1998 section 16(3), can increase the matters for joint decision-making as per section 86(3).

The LRA also permits limitation of the issues of joint decision-making with the workplace forum through collective agreements with a representative trade union. This again means a derogation of participation rights. Collective agreements are not deemed the appropriate means for the regulation of the issues for joint decision-making because such issues may lead to the application of pressure in the collective bargaining process. If the parties cannot agree on matters, the employer cannot implement the proposals. Therefore in such matters the employer cannot bypass the WPF. This is important in respect of absence of the right of taking the initiative. As with consultation the LRA does not provide for the right of the WPF to demand a decision from the employer regarding issues for joint decision-making. Therefore the WPF is not able to force the employer to change or reassess issues listed in section 86(1) of the LRA.

7.6.2 Reaching consensus through joint decision-making

Section 86 of the LRA requires that an employer must consult and must reach consensus with a WPF before implementing a proposal. This is different from section 85 where only an attempt to reach consensus on matters for consultation is required.

The mandatory agreement required by this section indicates a stronger sense of purpose in striving for employee participation in decision-making.

In the event of the WPF and the employer not being able to reach consensus the employer may in terms of sections 86(4) (a) and (b) refer the dispute to arbitration in terms of any agreed procedure; or if there is no such procedure, to the CCMA. The CCMA must attempt to resolve the dispute, if it remains unresolved, only the employer may request that the CCMA resolve the dispute by arbitration. It is interesting to note that the original Bill was changed after revision. Originally the CCMA automatically had

to resolve the dispute by arbitration if conciliation failed. The LRA makes arbitration available only at the instance of the employer.

The present position of the LRA on referral to arbitration appears to favour employers. Only the employer may request arbitration of the dispute or decide not to take any action at all. Therefore whether a dispute is settled or not depends entirely on the employer, who can always threaten to drop the matter, which may not be in the WPF's interest. As the WPF may have an interest in the proposed changes but in a different form, the WPF is left ineffectual (Sterner, 1995:72). The reason for this change in the revision of the original Bill reflects the interest and fears of management according to Du Toit *et al*, 1998:10). "*The LRA is an attempt to reconcile the interests of labour and management, but in the process important needs and rights of WPFs are to a large extent ignored.*"

Examining how similar situations in other countries are dealt with, we find that in the Netherlands if the works council does not agree with decisions proposed by the management board, the board may request the Industrial Committee to approve the decision. Such approval will obviate the consent of the works council. This means that the decision-making is removed from both the works council and the employer and instead is made by the Industrial Committee. It could happen that both the works council and the employer make representations after which the Industrial Committee makes a decision very similar to arbitration. A decision by the employer without the consent of either the works council or the Industrial Committee is null and void (Ottervanger, 1996: 403).

In Germany section 76 of the Works Constitution Act No 15 of 1952 states that if a works council and an employer do not reach agreement a ruling shall be given by the conciliation committee. The decision shall override any agreement entered into by the employer and the works council. It is worth noting that in both Germany and the Netherlands conciliation is not a prerequisite prior to a decision being made by independent bodies. Khoza (1999:151-152) is of the opinion that because of conciliation provisions the LRA is more employee friendly because it gives employees a chance to get a decision to which they clearly have contributed although it may not be absolutely in their favour. If the dispute is unresolved it goes to arbitration which allows an independent body to make a decision which it deems appropriate, leaving the parties with a decision to which they are bound. This may be seen as a decision in

which the employees had little if any say and may make implementation of such a decision difficult. The parties are then left with an arbitration award which is final and binding and may not be appealed. Employees also may not take industrial action. However, in certain circumstances (e.g. a defect in the arbitration proceedings) the arbitration award may be taken to the Labour Court for review. (Sections 145 and 158(1)(g).)

7.7 SUMMARY

Worker participation is considered from a direct as well as an indirect approach together with a few examples of countries which apply the respective approaches. Joint consultation is clarified and the provisions of South African legislation are explored. Joint decision-making in general and the provisions of the LRA of 1995 for joint decision-making are also discussed.

From a review of the literature it is apparent that worker participation differs from country to country. One of the approaches in categorising worker participation would be whether participation of workers is of a direct or of an indirect nature. Even within these two broad categories countries differ in their approaches in applying worker participation in their respective countries.

Involvement is a concept that is often used in the context of discussions of employee or worker participation. From the literature it appears to be the term preferred by researchers of worker participation in North America. Some authors restrict the meaning of participation to the lower level workers in an organisation which is also the level where the direct form of worker participation is found.

Joint consultation between management and labour is a well established practice in most Western countries albeit in different forms. Joint consultation is practised since there is a belief that employees can contribute to management's decision-making and that it creates an opportunity for workers to influence management's decisions. Since the introduction of the LRA of 1995 in South Africa matters for consultation through workplace forums are clearly listed in legislation.

Joint decision-making is also a relatively new approach in South African labour law. The

notion for this approach has its roots in the German system of co-determination. Co-determination rights have also been introduced to South Africa through section 86 of the LRA of 1995 which sets out the joint decision-making rights of workplace forums.

CHAPTER 8

WORKPLACE FORUMS: A SOUTH AFRICAN MODEL FOR INDUSTRIAL DEMOCRACY

8.1 INTRODUCTION AND BACKGROUND TO WORKPLACE FORUMS

In this chapter Workplace Forums (WPFs) as introduced to the South African labour sphere by the Labour Relations Act of 1995 (LRA), is discussed. Workplace Forums are the South African model for promoting industrial democracy and worker participation in the workplace.

The introduction of Workplace Forums is one of the most innovative ideas contained in the LRA. In this regard Du Toit, Woolfrey, Murphy, Godfrey, Bosch and Christie (1998:45) remark "*It represents a shift from the tradition of adversarial collective bargaining between employers and trade unions over all matters of mutual interest towards a division of labour between trade unions and workplace forums in representing employee interests.*" The reason for this separation of distributive bargaining and co-operative relations can be found in the Explanatory Memorandum to the Draft Bill (Government Gazette no. 16259 of 1995:135-136) "*In creating a structure for on-going dialogue between management and workers, statutory recognition is given to the realization that unless workers and managers work together more effectively, they will fail adequately to improve productivity and living standards .... workplace forums expand worker representation beyond the limits of collective bargaining by providing workers with an institutionalized voice in managerial decisions.*"

From the explanatory memorandum it is clear that the drafters of the LRA were strongly influenced by similar structures and practices in Western Europe. (See also Wood and Mahabir, 2001:232). In the 1970s managements across Europe realised that if they were to move from mass production to flexible production they would have to give employees a say in decision-making. This led to the development of a system of employee participation which has taken on the form of works councils in countries such as Sweden (Anstey, 1997), Germany and the Netherlands. Works councils are similar to workplace forums (WPFs) as envisaged in the LRA.

8.2 PARALLELS BETWEEN THE DEVELOPMENT OF GERMAN WORKS COUNCILS AND SOUTH AFRICAN WORKPLACE FORUMS (WPFs)

As mentioned above many of the features of work councils have been taken over for use in WPFs. Therefore one of the best known works council systems, that of Germany, will be used to draw parallels with WPFs. Du Toit *et al* (1998:45) observe that despite any superficial resemblance between WPFs and works committees established in terms of the Black Labour Relations Act of 1953 or works councils in terms of section 34A of the LRA of 1956, on closer inspection neither amounts to a statutory system of worker participation as conceived in the current LRA.

8.2.1 The development of works councils in Germany

Worker representation in Germany can be traced back to 1835 when Robert von Mohl introduced a proposal for the establishment of workers' committees with the view to profit-sharing, a rather progressive idea at the time. Some of these ideas were eventually included in the proposed Industrial Act (Gewerbeordnung) of 1848 but unfortunately this proposed Act was never enacted. In 1863 the labour movement became better organised with the founding of the General German Workers' Association especially after its amalgamation with the German Workers' Party in 1875. In 1878 socialist trade unions were banned as they were regarded as a menace to society (Sterner,1996:8).

During the period 1870 to 1890 some religious and liberal companies voluntarily introduced worker representation. Employers and not the labour representatives were the first to establish worker participation as they believed participatory structures would contribute to job satisfaction and prevent the unions from influencing the workers.

Sterner (1996:9) notes that the Worker Protection Act of 1891 was the first legislative attempt at the voluntary establishment of works committees. Worker committees established during World War I – necessitated by economic demands of the war effort – ensured legal protection for the first time. After the war full recognition of trade unions was guaranteed and every company employing more than 20 employees had to establish worker committees, thus introducing co-determination of employment conditions to the German labour relations system. Unions opposed this dualistic

representation system and favoured unified worker representation by unions at plant and industry level. The Works Council Law (Betriebsrätegesetz) of 1920 regulated the formation and the functioning of works councils and was the forerunner to the present day Works Constitution Act.

Worker participation was derailed by the rise of the Third Reich in 1933. After the end of the World War II a need was felt to restructure the entire German economy by drafting a new act on worker participation. The unions were in favour of co-determination in relevant economic matters, but the final Works Council Act of 1952 upheld the principles of the free market and provided for participation in consultation only and excluded joint decision-making. In 1972 the Works Constitution Act was passed to accommodate economic and social changes in the country. Works councils were then afforded co-determination rights in the form of joint decision-making (Sterner,1996:9).

It must be pointed out that the end result was not exactly what the unions or employers had in mind. The unions envisaged direct participation such as quality circles but this in turn was unacceptable to the employers. The unions' reluctance to support indirect representation stems from their fear of their influence being weakened by the works council. This is precisely the reason given by unions in South Africa for their reluctance in to establish WPFs (Van der Walt, 1997 and Van der Walt, 1998).

8.2.2 South African workplace forums

The South African economy has been on the decline for a number of decades and it never quite managed to achieve the growth rates of the early 1960s. Trade boycotts and sanctions of the 1970s and 80s, followed since 1994 by global competition, contributed to the deterioration of the economy. This in turn has resulted in many companies reducing the number of jobs with the consequential increase in the unemployment rate that currently stands at 45 % of the economically active population.

The South African labour scene has been known for its adversarial labour relations. Strike action and litigation were common occurrences. Co-operation between management and labour were very unlikely in these circumstances. The low productivity problem in the country could also not easily be addressed under such conditions. Change to the existing labour system first had to occur.

It is worth noting that section 1d(iii) of the LRA states that the LRA seeks to advance economic development by fulfilling the primary objectives of the Act, one of which is to promote employee participation in decision-making through WPFs.(See also Godfrey and Du Toit, 2000:15). According to Bendix, W. (1995:108) the democratisation of workplaces was also the motivation for the establishment of work councils in Western Europe. "*The core thought of the Western European philosophy of industrial democracy... is the democratisation of work life by employee representation and employee participation in workplace control and the daily decision-making process in the enterprise which as it has been argued, convincingly affects their life as well as that of managers, owners, shareholders if not more so...*".

Another source of influence on the development of the South African labour relations system is the International Labour Organisation (ILO). The ILO has only had any real influence on South African labour relations under the new government and after an office was opened in Pretoria. The ILO has over the years passed several recommendations regarding consultation and co-operation between management and labour, the first being adopted in 1952. These recommendations had as objectives mutual understanding and good relations between the parties. According to Anstey (1995), this was to be achieved by joint consultation on matters concerning the interests of workers.

The early 1990s may be viewed as a period of transition in South African labour relations. The scope of labour relations was expanded to include workers such as agricultural workers who had never before been protected by labour legislation. The position of the State also changed and it became just another employer covered by labour legislation.

To get a better understanding of the intentions of the drafters of the LRA of 1995 it is appropriate to start with the South African Constitution against which all legislation is judged in the final analysis. The Constitution protects the right to property and the labour rights of freedom of association, organisation and collective bargaining. In Anstey's (1997:87) opinion the Constitution does not specifically refer to worker participation or co-determination which are only referred to by implication.

The Reconstruction and Development Programme (RDP), the policy framework of the

ANC, the majority political party in the government, serve as another important direction indicator for South African future legislation and particularly labour legislation. Anstey (1997:88), Du Toit *et al* (1998:47) and Godfrey and Du Toit (2000:15) quote from the RDP (1994, paras 4.8.6 - 4.8.8). It called for "*changes in employment patterns and labour market policies*," including a system of collective bargaining that will give workers "*a say in industry decision-making*". The aim is to ensure that unions "*are fully involved in the designing and overseeing of changes in the workplace and industry levels* "as well as expanding the jurisdiction of industrial bargaining forums to include a range of RDP-related policy issues. Specifically, legislation must "*facilitate worker participation and decision-making in the world of work and should include* " an obligation on employers to negotiate substantial changes concerning production matters or workplace organisation within a nationally negotiated framework. Sterner (1996:15) also points out that the ideas of worker participation and democratisation are mentioned in the RDP and that these ideas were later incorporated into the LRA.

The drafters of the LRA and negotiators at the National Economic Development and Labour Council (NEDLAC) who developed and refined the proposal for legislative purposes, to a large degree supported the ILO guidelines and the RDP's policy framework. They took care particularly to ensure that independent unions and traditional collective bargaining should not be undermined as well as to shift the manner of management/union interaction from the historically adversarial-confrontational to one of consultation and joint decision-making.

The drafters were also very conscious of the need to improve the competitiveness of South African industry. Godfrey and Du Toit (2000:15) have also noted the importance of WPFs for the process of enterprise restructuring to improve productivity and become internationally competitive as found in the explanatory memorandum. The drafters' position was that WPFs were not meant to replace collective bargaining but to supplement it through a system of participation dealing with non-wage issues. A clear distinction is made between workplace forums and collective bargaining with enterprise-level workplace forums placed in a position similar to the works councils in Germany. A further reason for the drafters having to make this clear distinction was that unions had achieved considerable success with collective bargaining and would not have permitted a reduction of the influence they had gained through collective bargaining. Trade unions also had bad memories of works committees and works councils under

the previous dispensation. This led to the term workplace forum being preferred, rather than works council as they are called in Germany. Van der Walt (1997) found that this separation of functions to ensure the integrity of the collective bargaining system has not been totally successful as many unions still advance their fear of the undermining of their power as the main reason for not establishing workplace forums.

8.3 DESCRIPTION OF TERMINOLOGY

8.3.1 A workplace

Section 213 of the LRA dealing with definitions defines a "workplace" in the following manner:

> " *(a) in relation to a sector in the public service in respect of which a bargaining council has been established in terms of section 37 has the meaning that the responsible Minister determines after having consulted the bargaining council;*
>
> *(b) in relation to the remainder of the public service, has the meaning that the Minister for Public Service and Administration determines after having consulted the Public Service Co-ordinating Bargaining Council;*
>
> *(c) in all other instances means the place or places where the employees of an employer work. If an employer carries on or conducts two or more operations that are independent of one another by reason of their size, function or organisation, the place or places where employees work in connection with each independent operation, constitutes the workplace for that operation."*

Although the final definition had been extended by the Act from that in the first Bill, the definition is not without problems. Sterner (1996:27) is of the opinion that a workplace is "*all the operations falling under an entity*". The current author does not agree with this view and finds the LRA definition acceptable for the time being.

8.3.2 An Employee

In relation to WPFs an "employee" is defined in section 78(a) as follows:

"*employee*" means any person who is employed in a workplace, except a senior managerial employee whose contract of employment or status confers the authority to do any of the following in the workplace -

(i) employ and dismiss employees on behalf of the employer;
(Deleted by section 23 of Act 42 of 1996)
(ii) represent the employer in dealings with the workplace forum; or
(iii) determine policy and take decisions on behalf of the employer that may be in conflict with the representation of employees in the workplace.

8.3.3 A representative trade union

Section 78(b) defines a representative trade union as " *a registered trade union or two or more registered trade unions acting jointly, that have as members the majority of the employees employed by an employer in a workplace* ".

8.4 GENERAL FUNCTIONS OF A WORKPLACE FORUM

A workplace forum established in terms of Chapter V section 79:

(a) must seek to promote the interests of all employees in the workplace, whether or not they are trade union members;

(b) must seek to enhance efficiency in the workplace;

(c) is entitled to be consulted by the employer, with a view to reaching consensus, about matters referred to in section 84; and

(d) is entitled to participate in joint decision-making about the matters referred to in section 86.

Section 79 thus sets out four functions of workplace forums, the first two of which are general obligations owed by the WPF to employees and the employer and the other two are rights which the forum can claim from the employer (LRA, 1995 and Du Toit *et al*, 1998:255).

In Khoza's (1999:129) view workplace forums which are not constituted in terms of Chapter V of the LRA may not be bound to perform all the functions provided for. If a WPF is formed on the basis of a collective agreement, section 80(8) provides that the provisions of Chapter V do not apply, which may mean that the workplace forum will not provide for the interests of all the employees in that workplace. This may result in only members of the parties to collective agreement benefiting. However, if section 80(8) is read precisely it will be clear that even though a workplace forum has been formed on the basis of a collective agreement, it could still promote the interests of all employees in the workplace because all employees in a workplace are entitled to representation on the WPF. In addition there is nothing preventing the parties from including any of the provisions of section 79 in their collective agreements through referring the disputes to the CCMA.

One of the main functions of a WPF is to promote the interests of all employees in the workplace whether they are members of the trade union or not. Cheadle (1995:75) writes " *it is for the above reason that the composition of the workplace forum must be by way of direct election of members by the employees in the workplace (section 82(1)(c)). However, if a representative trade union is recognised by the employer for purposes of collective bargaining in respect of all employees in the workplace, then the trade union may choose the members of the workplace forum from among its elected representatives in that workplace.*" Consequently the composition of a WPF is very important in this regard, since this will possibly determine the ability of the forum to advance the interests of all employees in the workplace. As WPFs can only be initiated by trade unions, there is always the possibility of conflict between serving the interests of all employees in the WPF versus only the interests of the union members. It is for this reason that section 78(b) specifies that the trade union(s) concerned must be a majority union or unions. This is to ensure that unions will have the ability to represent the democratic views in that workplace. Section 94 provides for an aggrieved employee to hold the WPF accountable by challenging the validity of an agreement.

A second function of a WPF is to ensure efficiency in the workplace. Efficiency in the workplace has not been defined in the LRA and it still has to be seen how it is going to be defined. Some indication of what efficiency might constitute is given by Du Toit (1995:792)."*The only imperative identified with the functions of workplace forums is that of seeking to enhance efficiency in the workplace. Such an explicit directive will be*

binding on a court in a way that a general statement of intent by the Minister is not. The implication is that economic efficiency must take precedence over the requirements of democracy and that if 'efficiency' as understood by the courts demands it, workers' rights to be involved in decision-making must be curtailed." Although WPFs are intended to enhance co-operative behaviour in the workplace as is seen from the function mentioned above, there is always the possibility of conflict between management and the WPF over matters discussed with the union.

A real danger exists in the fact that employees are not prohibited from taking industrial action on matters listed for consultation. Olivier (1996:813) comments in this regard "*it is significant that the new Labour Relations Act does not exclude the possibility that employees may embark on strike action if agreement on a matter for consultation cannot be reached* ". It may also happen that employees may engage in industrial action as employees and not as members of a WPF. On issues of joint decision-making, the WPF and employees may not take any industrial action. Where a WPF exercises its rights which then affect efficiency negatively, an employer should be able to apply to the CCMA in terms of section 94(1)(d) for relief. It would then be for the CCMA to decide whether the WPF is acting in compliance with its function of enhancing efficiency in terms of section 79(b).

The above-mentioned position in the LRA is in agreement with the Dutch model under the Works Councils Act of 1979 which has as objective to promote consultation with and representation of persons employed in the enterprise and in the interest of its proper functioning. By comparison the German model, at Section 74 of the Works Constitution Act, is more precise in its prescription of how parties in a workplace should cooperate (Knudsen,1995:38). The employer and the works council must avoid activities that could interfere with operations or imperil peace in the establishment. The employer may not lock out the works council, nor may the works council call a strike in the organisation. Internal disputes must be dealt with through the intervention of the conciliation committee or the appropriate labour court (Halbach, 1994:136).

8.5 LAUNCHING A WORKPLACE FORUM

In terms of section 80(1) and (2) of the LRA any representative union may apply for the establishment of WPF in a workplace employing more than a 100 employees. The LRA

specifies that application should be made to the CCMA and a copy of the application be sent to the employer (Grogan, 1998:212). Section 80(5)(b)(iii) is also very clear that an applicant must ensure that there is no other functioning WPF in that particular workplace. In the event of no agreement between the trade union and the employer, the CCMA can establish a WPF against the will of the employer. If agreement is reached the CCMA is no longer required.

From reading section 78(b) it is clear that to be a representative union, a union or unions acting jointly, must represent the majority of employees. In the opinion of Du Toit *et al* (1999: 259) this leaves minority unions with three options namely, increase their membership to meet the cut-off point; minority unions may form a joint-venture for the purpose of gaining a majority or the minority union(s) can establish a non-statutory structure with the view to consultation and joint decision-making.

WPFs may only be initiated by a trade union and not by an employer or any other party. Why this is the case will be answered by examining evidence from a number of European countries from where some of the ideas for WPFs were borrowed. "*In the Netherlands, some two thirds of work councils members in the larger enterprises are trade unionists. The trend is even more pronounced in Germany, where some 86% of works council members are trade unionists and some 75% are members of unions affiliated to the social-democratic union federation, the DGB. Union representation on works councils is more than twice their representation in the workforce as a whole. In countries with higher union density such as Belgium, on the other hand, unions are said to have colonized work councils.*" (Olivier,1996:799).

In Germany the Works Constitution Act makes provision for either workers or a trade union to initiate a works council. This practice holds certain advantages in that the works council is an employee institution and not a place for the union to promote its interests. Although experience indicates that work councils end up being dominated by trade unions, non-union employees can ensure that their interests are also served.

In the Netherlands, thirty-five or more employees working at least one-third of the normal week may establish a works council. In Australia the threshold is even lower where five employees older than eighteen years of age may establish a works council (Coopers and Lybrand,1992:176).

In South Africa the position is quite different. A WPF may only be established in an organisation employing a hundred or more employees. Bosch and Du Toit cited in Benjamin and Cooper (1995:266) and Olivier, (1996:808) believe this number to be far too high and could exclude 74% of employees in the formal sector. This begs the question how many organisations will therefore be able to meet these requirements. Van der Walt (1997 and 1998) has also found that the prescribed number requirement excludes many organisations. Nel and Kirsten (2000:53) have suggested that it should be made possible to launch WPFs in organisations with fewer than a hundred employees to overcome this problem.

Cheadle, as one of the LRA drafters (Benjamin and Cooper,1995:267) states that the threshold was determined because larger workplaces are more likely to possess the necessary skill and knowledge to make WPFs function effectively. This view is unconvincing without evidence to substantiate such a claim. An obvious way to overcome this problem would be to compel employers to ensure that members of their WPF and the relevant managers undergo appropriate high quality training. This could be viewed as an extension of the philosophy which requires employers to make a greater effort to train and develop their employees as envisaged in the Skills Development Act of 1998 and the Skills Development Levies Act of 1999.

In spite of the requirements of the LRA, smaller enterprises are free to establish their own participating structures. However, consideration should be given to reducing the prescribed threshold in South Africa to a number more in line with international practice.

A related problem is the way in which the Act defines a workplace. Section 213 reads: "*In this Act, unless the context otherwise indicates, workplace: .....(c) in all other instances means the place where the employees of an employer work. If an employer carries on or conducts two or more operations that are independent of one another by reason of their size, function or organisation, the place or places where the employees work in connection with each independent operation, constitute the workplace for that operation.*"

The question arises what happens if one employer has several business sites in close proximity to each other that each employs less than a hundred workers. To Grogan's (1998:212) mind each of these sites would be regarded as an independent operation

by reason of its size, function and organisation and therefore is excluded from the WPF provision. There is also the possibility that employers who would wish to avoid a workplace forum may organise their operations in such a manner that no single site employs a hundred employees.

The LRA unfortunately is not very helpful in this respect as it provides no definition of an "operation", neither does the Act determine the size required nor the criteria to be used to determine "independence". The Industrial Court under the LRA 28 of 1956 declared that artificially dividing an enterprise for the purpose of avoiding the intentions of the Act, constituted improper conduct (Paper Printing Wood and Allied Workers Union v Lane,1993). The current LRA's definition of a workplace is also not very enlightening. The Labour Court (LC) has only recorded that the definition of the workplace in section 213 of the LRA was intended to apply whenever it appeared in the Act and bears the same meaning throughout the various section of the Act (Speciality Stores v Commercial Catering and Allied Workers Union and Another,1997).

The Labour Appeal Court (LAC) made a different determination by stating that a workplace may have different meanings in different circumstances under the Act. Froneman DJP stated that: "*It must be kept in mind that the definition of a workplace in section 213 of the Act is preceded by the qualification that it bears that meaning unless the context (of the Act) otherwise indicates* " (SA Commercial Catering and Allied Workers Union v Speciality Stores Ltd,1998). The LAC may have provided a guideline for commissioners or arbitrators in dealing with employers who deliberately organise their enterprises in such a manner as to avoid the establishment of a WPF. Including an anti-avoidance clause in the LRA would help to ensure that employers do not use reorganisation of their enterprises as opportunities to avoid the establishment of WPFs.

8.5.1 Types of Workplace Forums

Jordaan (1996:2) notes that it is generally accepted that there are four types of workplace forums: bargained forums, forums with a bargained constitution, forums constituted by a commissioner and trade union based workplace forums.

Bargained forums:
In terms of section 80(2) a representative trade union may apply to the CCMA for the

establishment of a WPF. This can only happen if there is already agreement between the employer and the trade union about the establishment of a WPF. If all the requirements as specified in section 80(5) have been met the commissioner must assist the parties or the trade union and the employer to reach a collective agreement on the establishment of a WPF. If the trade union and employer reach agreement over the establishment, powers and constitution of the forum, the provisions of section 80(6) of Chapter V of the LRA do not apply. The parties are then free to add to or limit the functions of the WPF in their agreement. Herein lies a danger that unions could dominate the WPF to the detriment of non-union members.

Khoza (1999:137) points out a contrary interpretation in that the collective agreement derives its life from section 80(7) and should be reflective of the contents of Chapter V. This would mean that deviation should not be far from the Act and that section 79 should always form part of all collective agreements for the establishment of WPFs.

Forums with a bargained constitution:

Section 80(9) provides that should the parties be unable to reach an agreement on the rights, powers and duties of the workplace forum, they may nevertheless with the assistance of a commissioner reach agreement on the WPF's constitution. This would mean that the WPF would retain the functions in section 79 which include the organisational rights specified in section 85 and section 86. The guidelines for the content of the constitution in Schedule 2 item 4 (2) provide for the eligibility of non-union members to stand for election to the WPF. Section 82 will also be relevant because it contains provisions which must be included in the constitution of the WPF.

Forums constituted by a Commissioner:

Section 80(10) stipulates: "*If no agreement is reached on any provisions of a constitution the commissioner must establish a workplace forum and determine the provisions of the constitution in accordance with this chapter, taking into account the guidelines in Schedule 2* ."

This section gives employees the opportunity to establish a WPF in spite of opposition from the employer. It is not clear whether the commissioner must intervene when there

is disagreement on the entire or part of the constitution, as there is no provision that the parties must declare that they disagree. It is for the commissioner to decide when to step in. If any of the parties are dissatisfied with the commissioner's performance such a dispute may be referred to the Labour Court in terms of section 158(1)(a) or section 158(1)(b).

Trade union-based workplace forum:

A trade union recognised by an employer in terms of a collective agreement may establish a WPF as prescribed in section 81(1). This must be a majority union that may bargain on behalf off all the employees in the workplace. Such a union can form a WPF exclusively from its own members, most probably the shop stewards committee. In this case sections 80 and 82 will apply with exception of those sections dealing with the election of members of the workplace forum.

Although the Act wants to promote employee participation through WPFs, this objective is severely threatened by the dominant role given to trade unions. The fact that a collective agreement is to be concluded for the establishment of a WPF introduces the concept of collective bargaining and adversarialism. The Act further provides for the election to the WPF of trade union shop stewards who may have a mind-set of adversarial bargaining which is in opposition to the cooperative approach necessary for employee participation. The principle that the WPF must serve the needs of all the employees is also threatened as most members will come from a trade union (Olivier, 1996:809). Khoza (1999:139) believes that although the Act provides for forums separate from the collective bargaining structures, the Act does not succeed in this institutional separation, at best the forums will be supplementary structures for collective bargaining dominated by unions.

In Germany works councils exist independently of trade unions. The Works Constitution Act prescribes the separation of functions and personnel and functional links between trade unions and works councils. Non-unionised employees are permitted to initiate works councils so that they will only have functional and personnel links with the trade unions (Halbach,1994:134).

In South Africa trade unions and WPFs are independent institutions but they are linked

by some personnel and functional links. The power that trade unions presently enjoy over WPFs creates doubts about the independence of the WPF which is necessary in order to promote employee participation for the benefit of all employees in the workplace.

8.5.2 Requirements for the constitutions of WPFs

Section 82 and Schedule 2 provide guidelines of the requirements that the constitution of a WPF must meet. The constitution of every WPF must make reference to the following points:

A formula must be indicated determining the number of seats in the WPF. The normal formula that applies is :

100 to 200 employees - five members
201 to 600 employees - eight members
601 to 1000 employees- ten members
1000 plus employees - ten members for the first 1000 employees plus an additional member for every 500 employees up to a maximum of 20 members.

The constitution must also: give a formula for the distribution of seats to reflect the occupational structures of the workplace; provide for direct election of members of the WPF by employees; provide for the appointment of an employee as election officer; provide for the election of members of the WPF not later than 24 months after each preceding election; provide for a new election at any time within 21 months of the preceding election if another registered union becomes representative; provide for the procedures in which elections and ballots must be conducted; provide that any employee, including any current or former members of the WPF may be nominated as candidates by the registered trade union in the workplace or by a petition signed by not less than twenty per cent of the employees or 100 employees whichever number is smaller.

The constitution must further provide that in any ballot, every employee may vote by means of a secret ballot during working hours; provide that in every election every employee is entitled to cast a number of votes equal to the number of members to be

elected and to cast one or more of those votes in favour of any candidate if permitted by the constitution; establish the terms of office of members and the circumstances in which a member must vacate the office; establish the circumstances and manner in which members may be removed from office; establish the manner in which vacancies may be filled; establish the circumstances and manner in which meetings must be held; provide for reasonable time off with pay during working hours to prepare and conduct elections; provide members of WPFs reasonable paid time off during working hours to perform duties and receive training to perform those duties; require the employer to take steps that are reasonable to assist the election officer to conduct elections; require the employer to provide facilities to enable the workplace forum to perform its functions; provide for a full-time member of the WPF where there are more than a 1000 employees in a workplace; provide that the forum may invite any expert to attend meetings and that an expert is entitled to inspect and copy any document that the forum is entitled to; provide that office-bearers or officials of the representative trade unions may attend meetings and provide that the representative trade union and the employer by agreement, may change the constitution.

The constitution may establish a procedure for conciliation and arbitration of proposals in respect of which the employer and the WPF do not reach consensus; establish a co-ordinating WPF to perform any of the general functions of a WPF and one or more subsidiary WPFs to perform any specific functions of a WPF and include provisions that depart from S 83 to S 92. The constitution of a WPF in this sense also binds the employer.

8.6 MEETINGS OF WORKPLACE FORUMS

Meetings play a crucial role in the functioning of WPFs. Two of the main functions of a WPF namely consultation and joint decision-making can only take place in the context of a meeting between the WPF and the employer. In section 83 the Act envisages three forms of meetings: (1) meetings of the members of the WPF, (2) meetings of the WPF and the employer and (3) meetings between the WPF and the employees in the workplace.

8.6.1 Meetings of members of a Workplace Forum

Section 83(1) states that there must be regular meetings of the WPF, but is silent on exactly how regularly the meetings must be held. Schedule 2 item 6(c) provides guidance that reads that the WPF must meet whenever necessary, but a least once a month. It is also important to keep in mind that members of the WPF must be given time off to perform their functions and duties according to item 7a(i) of Schedule 2.

8.6.2 Meetings between the Workplace Forum and the Employer

The WPF and the employer must have regular meetings in terms of section 83(2). At this meeting the employer must present a report on its financial and employment situation, its performance since its last report and its anticipated performance in the short and long term and consult the WPF on any matter arising from the report that may affect employees in the workplace.

The employer may further consult the WPF and reach consensus on any matter listed in section 84. It is also up to the employer and the WPF to decide how often they will meet. The matters on which the employer must report were in the past the exclusive domain of management and could thus be regarded as an example of encroachment on management's prerogative. This meeting thus has an important role to play in decision-making even apart from those matters reserved for consultation and joint decision-making.

For Khoza (1999:141) section 83(2) raises some serious questions: Whether there are any limitations to the disclosure of the financial situation of the employer and whether it is assumed that the limitations to disclosure as they appear in section 16(5) of the LRA are applicable. The CCMA will have to clarify this. Another point is that consultation in this section is confined to matters arising from the employer's report and the section does not clarify the aim of the consultation. It is possible that parliament wanted the ordinary meaning of consultation to apply without any requirements for the parties to agree on anything.

8.6.3 Meetings between a Workplace Forum and Employees:

Section 83(3) provides that there must be a meeting between the WPF members and the employees of the workplace. The WPF must report on its general activities, matters it has been consulted on by the employer and matters in which it has participated in through joint decision-making with the employer. This is a report-back opportunity to ensure that the WPF is accountable to the employees for its activities. Item 6(f) of Schedule 2 suggests that such meetings should be held four times a year. In a workplace located on site, the meeting should be with all the members of the WPF. In the case where a workplace is geographically dispersed, the meetings with the employees need not be with all the members of the WPF, but with one or more of the members of the WPF. Section 83(3) (b) provides a unique situation whereby employees once per year meet directly with their employer at one of the report-back meetings where the employer must present an annual report on its financial status, its general performance and its future plans and prospects.

Khoza (1999:142) writes that it is not clear whether in cases where employees do not agree with the decisions taken by the WPF and the employer, they can have the decisions amended at a meeting with the WPF and the employer representatives. The exact status of the decisions of the WPF and this meeting of the employees and the employer is unclear. If the meeting is simply for the employer and the WPF to report then it misses an opportunity for true employee participation that could be strengthened by accountability and the possibility of altering unsatisfactory decisions.

In Germany the Works Constitution Act provides for consultative meetings with the employer at least once a month. The Dutch have a system of consultative meetings every second month. (Ottervanger, 1996:400). These meetings could be compared to the consultative meetings as prescribed in section 84 of the LRA. From other examples it seems there is a separation of consultative meetings and meetings held for the purpose of accounting to constituencies and there is no duplication by the employer consulting with the works council and the employees in the workplace. The South African approach will have to show its effectiveness and how these processes develop.

8.7 REVIEW OF DECISIONS

Once a decision has been agreed to between the employer and the WPF, such a decision does not appear to be reviewable. Only a newly established WPF in terms of section 87 can request a review of the criteria for merit increases or payment of discretionary bonuses, disciplinary codes and procedures and rules regarding the regulation of work performance.

8.8 MATTERS AFFECTING MORE THAN ONE WORKPLACE FORUM

Section 88 specifies what happens in the event of an employer having more than one WPF in his enterprise and matters are referred to arbitration. In such a situation the employer may give written notice to the chairpersons of all the WPFs that no other WPF may refer a matter that is substantially similar to arbitration. Nonetheless each of the WPFs have the opportunity to make representations and to participate in the arbitration proceedings. The arbitration award will be binding on the employer and the employees in each workplace. This provision is necessary to avoid simultaneous arbitration proceedings on issues that are essentially similar. Although it is not quite clear when matters are "*substantially the same*", the provision is necessary especially where a number of WPFs exist without a co-ordinating WPF.

The German Works Constitution Act does not make provision for such a procedure. In the event of a matter relating to more than one works council in an enterprise, the general works council is responsible. A decision made by the arbitration committee regarding such an event automatically affects the whole enterprise and therefore individual works councils. All other matters referred to the arbitration committee by one works council do not affect others as they relate to individual cases and should not have a bearing on other works councils (Sterner, 1996:79).

8.9 FULL-TIME MEMBERS OF THE WORKPLACE FORUM

Section 92 of the LRA makes provision for the appointment of a full-time WPF member in organisations employing 1000 or more employees. The employer is obliged to pay this full-time member the same remuneration as this person would have received prior to his or her appointment as a full-time member. When such a member ceases to be a

full-time member of the WPF the person concerned is to be reinstated to the same position as before or the position to which the person would have advanced, had it not been for the election to the full-time position. This arrangement to have a full-time member of a WPF could contribute to greater efficiency of the WPF in employee decision-making. A number of South African companies should not find this provision a problem as they already provide facilities for full-time shop stewards and some are even provided with company vehicles.

8.10 REMOVAL OF MEMBERS OF THE WORKPLACE FORUM

Section 82(1) (l) provides for the removal of WPF members from office and specifically enables a representative trade union that nominated a member to remove such a member at any time. This provision increases the control that a trade union could exert on its members in the WPF. This authority could have an effect on WPF members' behaviour which might not be in the interest of all the employees of a workplace. An example would be where a union pressurises its members on the WPF to support a proposal favourable to the union but not necessarily favourable to all the employees of a particular organisation.

8.11 TIME OFF, PAYMENT AND EXPERTS

Section 82(1)(p) prescribes that the employer must allow members of the WPF reasonable time off to perform their duties and receive relevant training. Godfrey and Du Toit (2000:18) note that COSATU's September Commission had also identified the need for training and development of shopstewards and union officials in participatory strategies to use WPFs as vehicle to facilitate industrial democracy.

Schedule 2 item 7(c) provides for the payment by the employer of reasonable training costs taking into account the size and capabilities of the employer. The employer may even be able to claim back training costs in terms of the Skills Development Act of 1998 and the Skills Development Levies Act of 1999.

Section 82(i)(t) provides for the use of experts by the WPF. However nowhere is provision made in the Act for the payment of these experts. As the WPF will not necessarily have funds at its disposal, the omission could place a serious question over

the ability of the WPF to access expert advice in order to enhance employee participation in decision-making in the workplace. The numerous direct and indirect costs associated with WPFs have been identified by Nel and Kirsten(2000:45) as one of managements' concerns regarding the establishment of WPFs.

8.12 DISSOLUTION OF A WORKPLACE FORUM

In terms of section 93 of the LRA a Workplace Forum can be dissolved. A representative trade union may request a ballot on the dissolution of the WPF. An election officer must arrange for a ballot within 30 days of receiving such a request. In the event of fifty percent of the employees voting in favour of dissolution, the WPF will be dissolved.

In Germany a works council can only be dissolved on legal grounds. Neither the employer nor a union may interfere in this system of employee participation (Sterner,1996:99). The position in South Africa is quite different where a trade union that is dissatisfied with a WPF can threaten to call a ballot and thus seriously undermine the independence of the WPF and free employee participation. This provision was most likely included to address trade union fears and opposition to WPFs in general.

8.13 SUMMARY

In this chapter a new structure (WPFs) introduced by the Labour Relations Act of 1995 (LRA) is examined. In the first section the German system of works councils and the South African workplace forum system are compared. Specific terminology as found in the Act with regard to Workplace Forums is also discussed. The launching of a workplace forum, meetings of the workplace forums and the dissolution of workplace forums are some of the topics considered in the remaining sections of the chapter.

From the Explanatory Memorandum on the draft Labour Relations Bill, it is obvious that drafters were strongly influenced by structures and practices in Western Europe most notably the works council systems of Germany and the Netherlands.

Although superficially workplace forums bear some resemblance to works committees established in terms of the Black Labour Relations Act of 1953 and works councils

provided for in section 34 of the LRA of 1956, the system of workplace forums is totally different as it constitutes a system of statutory worker participation that would promote industrial democracy.

The success of the system of workplace forums depends on the willingness of employers and workers and their representatives to embrace the principles and practices of participation and break with the adversarialism that characterised South African labour relations in the past.

CHAPTER 9

RESULTS OF THE INVESTIGATION

9.1 INTRODUCTION

In this chapter the results of the survey into the views and attitudes of management and workers towards the disclosure of business information; collective bargaining; worker participation, consultation and joint decision-making and workplace forums are be examined and discussed.

The respective sectors of the economy covered by the current study with their case names in brackets are: agricultural research (case A); tertiary education (case B); private security (case C); manufacturing (case D); research and development (case E); private hospital (case F) and armaments (case G).

As each of the organisations that participated in the study are not necessarily representative of its sector, the current qualitative study focusses on between case comparisons and not sector comparisons.

9.2 RESULTS OF THE INVESTIGATION REGARDING THE DISCLOSURE OF INFORMATION

In this section of the chapter, the findings of the investigation relating to the disclosure of information are be displayed in various formats. The first column on the left of tables 9.1 and 9.2 lists the nine questions regarding disclosure of information put to the respondents with their respective responses recorded in columns A to G. (See also an example of the questionnaire completed by respondents - Annexure A).

Tables 9.1 tabulates the responses of management of cases A to G. The responses of the worker representatives are recorded in table 9.2. These tables are followed by a display and discussion of the responses of both management and worker representatives to each of the nine questions relating to the disclosure of business information.

In order to verify the accuracy of the researcher's summary of the responses recorded

in the various tables and lists a few verbatim responses of management and worker representatives will be included in frames in the sections that follow.

Table 9.1: Compilation of all management representatives' responses on disclosure of information

	A	B	C	D
1. View of s 16 of LRA.	Open to idea. Enhances consultation.	Agrees with s16 as long as focuses on relevant info.	Only disclosed if necessary to assist our employees.	Disclose what TUs/employees want if reasons are justified.
2. Who makes requests for DOI.	TU reps or employees.	TUs, staff members WPF reps.	TUs, staff members WPF reps.	Requested via internal forum and supported by real need for info.
3. TU limited to info on members only.	Yes, limited TU members only.	No, should have clear picture of organisation's ability to participate responsibly.	Yes, non-members have right to confidentiality of their info.	No, would not be sufficient. A thoroughly thought-out approach implemented uniformly is required.
4. Improved CB and conflict resolution?	Yes, positive influences on CB and conflict resolution.	Yes, better understanding of organisation's limitations.	No, explanation by management usually sufficient.	Not really, honesty and transparency not appreciated by TUs.
5. Effect on employee participation?	Yes, positive influences on employee participation.	Positively, better understanding and problem-solving.	Not sure if disclosure has had effect.	Once info is received by TU that is normally the end of request due co's honesty
6. Type of info disclosed.	All relevant info.	Salary, budget strategies, all management info at appropriate time.	Vacancies, company notices.	Non-sensitive : marketing, finance , production, co. performance etc
7. Stage/when disclosure takes place.	When requested/deemed necessary by management.	When they ask or when we think it can assist the process.	Only if the majority of employees are in agreement that info is needed by employees.	Need to know basis. By delaying disclosure it appears as if info becomes more important to TUs
8. Disputes re disclosure of info.	No disputes so far.	Not really. Handled in-house.	No disputes.	Yes, info verified by CA under auspices of CCMA..
9. Resolve disputes? Process used.	N/A	Negotiation between employer and TU.	N/A.	Arbitration of CCMA

Table 9.1 (continued)

	E	F	G
1. View of s 16 of LRA.	In terms of agreement between TUs and employer communication means conveying and disclosure of info at the earliest possible time before acting.	Agree with principle expressed in s16	We share business processes and financial information
2. Who makes requests for DOI.	Chairperson of WPF.	Employees and/or union representatives	The union and people needing information
3. TU limited to info on members only.	Yes, Personal info limited to TU members. Remuneration info disclosed during wage negotiations.	Yes, info must be limited to TU members only	Yes, we apply this principle. The union is not entitled to info. on non-members
4. Improved CB and conflict resolution?	Yes, LRA is silent on info sharing by TU to enable employer to bargain/consult effectively.	Yes, more info is available and therefor better CB and conflict resolution	Not at first, later it improved the collective bargaining process
5. Effect on employee participation?	Yes, forms part of collective agreement between TUs and employer.	Yes, employees are more involved due to more info available to them	No effect. Unions bargained regardless of info. available
6. Type of info disclosed.	All relevant info for effective functioning: closing/erection of plants, org. restructuring , promotion of employees.	Financial info during wage negotiation Organisational restructuring	Specific marketing, financial situation, monthly sales estimates, employment equity
7. Stage/when disclosure takes place.	Usually during wage negotiations	During wage negotiations or when requested	On a continuous basis or when requested
8. Disputes re disclosure of info.	No disputes	Yes, about financial info	No disputes to date
9. Resolve disputes? Process used.	N/A	Conciliation and mediation at CCMA	N/A

Table 9.2: Compilation of all trade union(TU)/worker representatives' responses on disclosure of information

	A	B	C	D
1. View of s16of LRA.	In line with LRA. Means of solving disputes.	Taken note and have made arrangements for disclosure. Not info on the remuneration of senior managers.	Good idea gives workers more insight.	It gives the TU the right to information
2. Who makes requests for DOI.	TU officials, elected reps/councillors, individuals.	Only union executives and companies outside institution.	TU reps or individual workers.	TU representatives and workers themselves
3. TU limited to info on members only.	No, all workers.	No, because mngt rewards so-called loyal staff with rewards such as overseas tours.	No, info should not only be on TU members.	No, information should be available on all workers
4. Improved CB and conflict resolution?	Yes, in line with objectives of LRA.	Only selective info disclosed so doesn't help much.	Too little disclosure of info to notice any differences.	Very small improvement as disclosure is limited
5. Effect on employee participation?	Not much effect on employee participation.	Representatives are allowed as observers in decision - making structures.	Too little disclosure - employee participation obstructed by management.	Yes, workers can ask better questions
6. Type of info disclosed.	Remuneration policy, Parliamentary grant, Financial status, External income.	Only bottom line info - like total cost of staff remuneration.	Company notices, vacancies etc. disclosed but not info relevant to negotiations.	Appointments, financial information and wage negotiations
7. Stage/when disclosure takes place.	At monthly meeting disclosed for consultation with mngt	Only after salary negotiations have been concluded.	Only when compelled by law.	When the union needs to know and wage negotiations
8. Disputes re disclosure of info.	Yes, finance structure of org. and wage info for negotiation.	Ongoing every year we experience same kind of problems obtaining info.	Yes, difficult to get financial info from employer.	Yes, on income differences
9. Resolve disputes? Process used.	Yes, conciliation at CCMA.	Yes, mediation of CCMA.	Yes, settled in-house.	Yes, settled between union and management

Table 9.2 (continued)

	E	F	G
1. View of s16 of LRA.	Make protecting the interest of TU members much easier.	Very important as it allows TU reps to perform functions	Gives TU more information than before
2. Who makes requests for DOI.	TU officials/reps; WPF members.	TU reps should make requests	Trade Union
3. TU limited to info on members only.	No, info on all workers should be available.	Yes, disclosure should be limited to members	No, information on all workers
4. Improved CB and conflict resolution.	Yes, CB and conflict resolution is easier with more info available to TUs	Yes, disclosure of info. has improved collective bargaining and conflict resolution	No, only some info is disclosed
5. Effect on employee participation.	Employee participation is more since the collective agreement regulates disclosure.	Yes, as disclosure can make employer reverse certain decisions	Yes ,employees are more involved in different structures
6. Type of info disclosed.	Non-essential bargaining info is disclosed.	Audited financial statements during wage negotiations	Financial info, product changes and organisation changes
7. Stage/when disclosure takes place.	Some financial info is given at annual wage negotiations.	During wage negotiations	During wage negotiations or when management is asked
8. Disputes re disclosure of info.	Yes, enough info for bargaining not available to TUs	Yes, a wage dispute	Yes, management is slow in making information available
9. Resolve disputes? Process used.	Yes, resolved by employer and TUs.	Yes, conciliation and mediation at CCMA	Yes, internally between management and TU

Question 1. "Respondents' views of section 16 of the LRA providing for disclosure of information."

Cases (Management representatives' views)

A. Open to idea - enhances consultation

B. Agrees with s16 as long as focus is on relevant information

C. Only disclosed if necessary to assist our employees

D. Disclose what trade union (TU)/employees want if reasons are justified

E. In terms of agreement between TUs and employer communication means conveying and disclosure of info at earliest possible time before acting

F. Agree with principle expressed in s16 of LRA

G. We share business processes and financial information

The trade union/worker representative for organisation B responded to the question as follows:
"Taken note of it and have made arrangements to disclose - certain information. Are not prepared to disclose information of senior & top management"

Cases (TU/worker representatives' views)

A. In line with LRA. Means of solving disputes
B. Taken note and have made arrangements for disclosure of certain info. Not info on remuneration of senior management
C. Good idea gives workers more insight
D. It gives the TU the right to information
E. Makes protecting interests of TU members much easier
F. Very important as it allows TU reps to perform functions
G. Gives TU more information than before

From an examination of the management representatives' views on section 16 of the LRA of 1995 it is clear that all seven respondents agree with the principle of disclosure of information. However, the application of the principle differs and appears to range from an open approach of sharing information to a narrow approach of disclosing only some information and only when requested by the trade union or workers as is indicated in cases C and D.

Judging from the responses, the worker representatives are in favour of the disclosure of information. This is to be expected as the workers and their representatives are now entitled to have more information made available than ever before, making their job of protecting the interests of worker so much easier. Case B indicated that certain information is excluded from disclosure. This theme of reluctance to disclose certain information is repeated in the responses to question seven of this section.

Question 2. "Who should make such requests for disclosure of information?"

Table 9.3: Management representatives' responses

	A	B	C	D	E	F	G
Trade union (TU)	x	x					x
Employees	x	x	x				x
TU and employees						x	
Workplace Forum		x			x		
Other representative body				x			

The responses of the management representatives to the question of who should make the request are presented in table 9.3. No clear pattern emerges from the responses plotted in the table, but it appears that the management representatives are in favour of the trade union and employees (or a combination of the two) making requests for the disclosure of information.

Table 9.4: TU/worker representatives' responses

	A	B	C	D	E	F	G
TU Officials	x	x	x		x		
Elected representatives	x			x		x	x
Councillors	x						
Individual employees	x		x	x			
WPF representatives					x		
Outside parties		x					

From the responses in table 9.4 it appears that worker representatives prefer that the elected or trade union representatives as well as individual employees make the requests for disclosure of information. It is interesting to note that there is strong agreement on this point between both management and worker representatives in spite of the fact that they serve different constituencies.

Question 3. "Should trade unions be limited to information concerning its members only?"

Cases (Management representatives' responses)

A. Yes, limited TU members only

B. No, should have a clear picture of the organisation's ability to participate responsibly

C. Yes, non-members have right to confidentiality of their info
D. No, would not be sufficient. A thoroughly thought-out approach implemented uniformly is required
E. Yes, personal info limited to TU members. Remuneration info disclosed during wage negotiations
F. Yes, information must be limited to TU members only
G. Yes, we apply this principle. TU not entitled to info of non-members

Five of the management representatives held the view that when information is disclosed to the unions it should only be information concerning the union members. However, two organisations, B and D, disagreed with this view. They were of the opinion that trade unions should not be restricted to information concerning their members only and as one representative put it "*...should have a clear picture of the organisation's ability to participate responsibly*". These views could be described as mature or progressive views on the role which trade unions should be able to play in their participatory function in healthy labour relations.

Cases (TU/worker representatives' responses)

A. No, all workers
B. No, because management rewards so-called loyal staff with rewards such as overseas tours
C. No, information should not only be on TU members
D. No, information on all workers should be available
E. No, information on all workers should be available
F. Yes, disclosure should be limited to members
G. No, info on all workers

Six of the seven worker representatives indicated that they believed information disclosure should not be restricted to information concerning union members only. These views were to be expected as more available information could place the unions in a stronger bargaining position. What is surprising is that one worker representative in organisation F held the view that trade unions should be restricted in their access to information. The motivation for this view relates to the question of confidentiality of information and hence the need for restrictions. This view illustrates that the worker representative has thought of the implications of unlimited disclosure of information.

Question 4. "Has disclosure of information improved collective bargaining (CB) and conflict resolution processes in your organisation?"

Cases (Management representatives' responses)

A. Yes, positive influence on Collective Bargaining and Conflict Resolution
B. Yes, better understanding of organisation's limitations
C. No, explanation by management usually sufficient
D. Not really, honesty/transparency not appreciated by TUs
E. Yes, LRA is silent on info sharing by TU to enable employer to bargain/consult effectively
F. Yes, more information is available and therefore better CB and conflict resolution
G. Not at first, later it improved the collective bargaining process

The views of the management representatives on whether disclosure of information has improved collective bargaining present a mixed picture. Four believe that disclosure of information has contributed to an improvement in collective bargaining and conflict resolution in their organisations. The remaining three representatives, cases C, D and E had reservation about its effects.

Cases (TU/worker representatives' responses)

A. Yes, in line with objectives of LRA
B Only selective information disclosed so it does not help much
C Too little disclosure of information to notice any difference
D Very small improvement as disclosure is limited
E Yes, Collective bargaining and Conflict Resolution is easier with more information available to TUs
F Yes, disclosure of info has improved collective bargaining and conflict resolution
G No, only some info is disclosed

The picture of the responses of worker representatives is the reverse of that of the management representatives. Three of the representatives share the view that disclosure of information has contributed to an improvement of collective bargaining and conflict resolution in their organisations. The four opposing views are based on reasons such as that disclosure of information is too selective or too limited to be of

much use.

It is conspicuous that the management and the worker representatives of three organisations, cases C, D and G, felt that disclosure of information has not improved collective bargaining and conflict resolution in their organisations. Although the management and the worker representatives represent different constituencies, they share the same view of the situation in their respective organisations.

Question 5. "Has disclosure of information affected employee participation in your organisation?"

Table 9.5: Management representatives' responses

	NEGATIVELY /NO	NEUTRAL/UNCERTAIN	POSITIVELY/DEFINITE
A			x
B			x
C		x	
D		x	
E			x
F			x
G	x		

Four of the management representatives gave an outright positive response to the question whether disclosure of information has affected employee participation, as is displayed in table 9.5. This finding corresponds to that of Grosett (1997:38) which found that one of the benefits of disclosure of information listed by employers was increased employee involvement. Two respondents were uncertain or had neutral views about the effect of disclosure of information on employee participation. One representative was of the opinion that disclosure of information had no effect on employee participation.

Table 9.6: TU/worker representatives' responses

	NEGATIVELY /NO	NEUTRAL/UNCERTAIN	POSITIVELY/DEFINITE
A	x		
B			x
C	x		
D			x
E			x

Table 9.6 (continued)

F			x
G			x

Five of the worker representatives were of the opinion that disclosure of information had a definite effect on employee participation in their organisations. Two representatives of the workers, cases A and C indicated that disclosure of information had no effect on employee participation. One possible explanation for these two views is that the workers' representatives expect a much greater effect of disclosure of information on employee participation in their organisations.

Question 6. "What type of information is disclosed ?"

The management representative of organisation D responded as follows:
" *All kinds. Marketing decisions that are not market sensitive, financial information, financial information, production information, how the company is doing (generally) and so on* ".

Table 9.7: Management representatives' responses

	A	B	C	D	E	F	G
Employment equity							x
All relevant	x						
Financial/Budgets		x		x	x	x	x
Production				x			
Marketing				x			
Organisational Performance				x			
Plant, closure and erections					x		
Strategies		x					
Organisational restructuring		x			x	x	
Vacancies			x				
Company notices			x				
Promotion of employees					x		

From table 9.7 it becomes clear that financial or budgetary information is the type of information most frequently disclosed according to respondents in the investigation. The second most frequently disclosed type of information is organisational restructuring.

Restructuring often means loss of jobs which explains why this type of information is so sought after.

Table 9.8: TU/worker representatives' responses

	A	B	C	D	E	F	G
Remuneration policy	x						
Parliamentary grant	x						
Financial status/information	x			x		x	x
External income	x						
Production/ Product changes							x
Bottom line information		x					
Organisational Changes/ Restructuring							x
Non essential information			x		x		

The type of information indicated as most frequently disclosed by four of the seven workers' representatives in table 9.8 is financial information. This is understandable as financial information is essential for the survival of all organisations and thus of importance to managements and workers alike. The second type of information frequently disclosed in the opinion of worker representatives was non-essential information. This is information that is of little value to management and hence the ease of disclosure to worker representatives.

Question 7. "At what stage/when will your organisation disclose information to a trade union?"

Cases (Management representatives' responses)

A When requested/deemed necessary by management

B. When they ask or when we think it can assist the process

C. Only if the majority of employees are in agreement that info is needed by employees

D. On a need to know basis. By delaying disclosure it appears as if info becomes more important to TUs

E. Usually during wage negotiations

F. During wage negotiations or when requested

G. On a continuous basis or when requested

To the question at what stage or when information is disclosed to a trade union, two of the management representatives indicated that information is disclosed during wage negotiations. What the other responses have in common is that information is disclosed to trade unions albeit reluctantly through all kinds of restrictions or requirements that have to be met. For example, comments like " *when requested/deemed necessary by management*" or *"on a need to know basis* ". Organisation D seemed to be toying with the trade union by delaying disclosure and artificially creating a sense of importance of the information for the trade union.

The trade union/worker representative of organisation B responded as follows: "*Only after the salary negotiations have been concluded* ".

Cases (TU/ worker representatives' responses)

A. At monthly meeting-disclosed for consultation with management
B. Only after salary negotiations have been concluded
C. Only when compelled by law
D. When the union needs to know and wage negotiations
E. Some financial information is given at annual wage negotiations
F. During wage negotiations
G. During wage negotiations or when management is asked

Five worker representatives indicated that information is disclosed to the trade unions around the time of wage negotiations. One respondent indicated that information is only disclosed to trade unions in his organisation when compelled to by law. This is indicative of the reluctance amongst management to disclose information to trade unions which was referred to in the above paragraph.

Ngcobo and Howard (1999:9) refer to this reluctance as "*an attitude of minimal compliance*". Employers often approach the disclosure of information in a check list style, making empty statements on each of the issues on which they have to disclose information.

Question 8. "Has your organisation had a dispute regarding disclosure of information?

What was the nature of the dispute?"

Cases (Management representatives' responses)

A. No disputes so far
B. Not really. Handled in-house
C. No disputes
D. Yes, info verified by CA under auspices of CCMA
E. No disputes
F. Yes, over financial information
G. No disputes to date

Two of the seven management representatives have indicated that they had experienced disputes regarding the disclosure of information. In both these cases the disputes involved the disclosure of financial information. Again the importance of financial information is underscored. The remainder of the management representatives report no disputes regarding the disclosure of information.

Cases (TU/worker representatives' responses)

A. Yes, financial structure of organisation and wage information for negotiation
B. Ongoing - every year we experience the same kind of problems to obtain information
C. Yes, difficult to get financial information from employer
D. Yes, on income differences
E. Yes, enough information for bargaining not available to TUs
F. Yes, a wage dispute
G. Yes, management is slow in making information available

All the worker representatives in the investigation indicated that they had experienced disputes concerning the disclosure of information. The respondent of case B indicated that these disputes are "*ongoing - every year we experience the same kind of problems to obtain information*". It is noteworthy that only two management representatives reported disputes whereas all the worker representatives reported disputes regarding the disclosure of information. A possible explanation could be that worker representatives experienced more frustration and disputes with management in the process of obtaining information.

Once again the reluctance of management to disclose information appears to be the cause of disputes regarding disclosure of information. The impression is created that managements are still struggling to come to terms with the new requirements such as the disclosure of information created by the LRA of 1995. (See Ngcobo and Howard's (1999:9) comment under question 7 in this regard).

Question 9. "How were disputes resolved? What process was followed?"

Table 9.9: Management representatives' responses

	A	B	C	D	E	F	G
Negotiations between employer and TU		x					x
Conciliation at CCMA						x	
Mediation at CCMA						x	
Arbitration at CCMA				x			
Not applicable	x		x		x		

The management respondents' responses as to how and what processes were used to resolve disputes regarding disclosure of information are indicated in table 9.9. The table indicates that of the four organisations that experienced disputes two resolved their disputes through negotiations between the employer and the trade unions. The other two organisations utilised the conciliation and mediation processes of the CCMA.

Table 9.10: TU/worker representatives' responses

	A	B	C	D	E	F	G
Negotiations between employer and TU			x	x	x		x
Conciliation at CCMA	x					x	
Mediation at CCMA		x				x	
Arbitration at CCMA							

Table 9.10 displays the responses of the worker representatives. Four worker representatives indicated that the disputes were resolved through negotiations between management and the trade unions. The balance of worker representatives indicated the use of the processes of conciliation, mediation and arbitration offered by the CCMA.

It is interesting to note that there is agreement between the management and worker responses in only two cases, F and G, as to the processes followed to resolve disputes regarding disclosure of information. When comparing tables 9.9 and 9.10 the

discrepancy in the views of how disputes were resolved in the same organisation is explicit. This may be an indication of the totally divergent views held by management and worker representatives in South African organisations about the resolution of disputes.

One of the main potential sources of conflict with the disclosure of business information is the question of confidentiality. It is therefore interesting to note that Germany, the Netherlands (Ottervanger,1996:399) and South Africa (LRA of 1995 section 165) all have provisions to ensure the confidentiality of information disclosed to works councils and workplace forums.

9.3 RESULTS OF THE INVESTIGATION REGARDING COLLECTIVE BARGAINING

Responses in this section are presented in the same format as was adopted in section 9.2. The result of the response data of the management representatives is presented first and thereafter the responses of the worker representatives. Table 9.11 displays the responses of the management representatives of the seven organisations and table 9.12 the responses of the worker representatives.

Table 9.11: Compilation of Management representatives' responses

	A	B	C	D
1.Understanding of the term collective bargaining (CB)	Negotiation between employer and Trade Union (TU)	Annual process of negotiations on substantive issues	Meeting of departmental representatives to discuss improvement of work environment	Negotiations between employer and TUs
2. Practice CB? How often?	Yes, monthly	Yes, annual salary negotiations and monthly meetings with TUs	Yes, annual through employer body and monthly with own employees	Yes, all the time
3. Bargaining structure	Single employer (centralised)	Single employer (centralised)	Multi-employer (sectoral)	Part Multi-employer (sectoral) and single employer (centralised)
4. Describe bargaining relationship	Characterised by mistrust and suspicion	Good, with respect but realistic	Good, we take care of our employees	Not good. Attempting to improve relationships

Table 9.11(continued)

	E	F	G
1.Understanding of the term collective bargaining (CB)	Process of application of pressure to achieve goals	Refers to the process of bargaining between management and TU	We moved from site CB to centralised bargaining at corporate level
2. Practice CB? How often?	Yes, annually and throughout the year	Yes, monthly and once a year with wage negotiations	Yes, monthly and annually on substantive issues
3. Bargaining structure	Single-employer (centralised)	Single-employer (centralised)	Multi-employer (sectoral)
4. Describe bargaining relationship	Bargain in good faith according to social agreement with TUs	The relationship can improve	Adversarial relationship

Table 9.12: Compilation of the TU/worker representatives' responses

	A	B	C	D
1.Understanding of the term collective bargaining (CB)	One or more TUs coming together with employer on range of issues	Where TU and management bargain about salary increases and service conditions	When TU and employer negotiate about service conditions and wages	It means negotiated benefits, conditions of service, contracts of employment etc.
2. Practice CB? How often?	Yes, monthly on agreed dates	Yes, approximately 12 time p/a	Yes, regular	Yes, on continuous basis by different structures/forums within co. and industry at large
3. Bargaining structure	Single-employer (centralised)	Single-employer (centralised)	Single-employer (centralised)	Multi-employer (sectoral)
4. Describe bargaining relationship	Fair to strained at times	A relationship of struggle to promote interests of members	Not good. Management tries to avoid and ignore the TU	Reasonable. Continuous battle to protect members' interests

Table 9.12 (continued)

	E	F	G
1.Understanding of the term collective bargaining (CB)	When TU bargains to improve wages and conditions of members	When the TU and management reach agreement on wage and other issues in interest of workers	The TU and management agree on wages and other benefits for the workers
2. Practice CB? How often?	Yes, once a year	Yes, the union practices CB once a year	Yes, when the union meets management
3. Bargaining structure	Single-employer (centralised)	Single-employer (centralised)	Single-employer (decentralised)
4. Describe bargaining relationship	Management doesn't want to listen to TU position	The relationship can improve and be more transparent	The union can not trust management actions

Question 1. "What does your organisation/trade union understand under the term collective bargaining?"

Cases (Management representatives' responses)

A. Negotiations between employer and TU to reach collective agreement.
B. Annual process of negotiation on substantial issues
C. Meeting of all departmental representatives to discuss issues to improve work environment
D. Negotiations between employer and TUs
E. Process necessitated by conflict of interest by application of pressure to achieve goals of management
F. Refers to the process of bargaining between management and the TU
G. We have moved from site collective bargaining to centralised collective bargaining at corporate level

The management representatives agreed that collective bargaining entails negotiation between the management of the employer and the worker representatives or trade unions. There is also an understanding that collective bargaining is a process.

Cases (TU/worker representatives' responses)

A. One or more TUs coming together with employer on range of issues
B. Where TU and Management bargain about salary increases and service conditions

C. When TU and employer negotiate about service conditions and wages
D. It means negotiated benefits, conditions of service, contracts of employment etc
E. When TUs bargain to improve wages and conditions of members
F. When the trade union and management reach agreement on wages and other issues in the interest of workers
G. TU and management agree on wages and other benefits for the workers

The worker representatives' understanding of the term collective bargaining differs from that of management. The majority of respondents viewed collective bargaining in terms of wages and conditions of service with emphasis on the interests of the workers. This can be explained in that ordinary workers are more concerned about their basic needs and the means of satisfying them.

Question 2. "Does your organisation /trade union practice collective bargaining? How often does it happen?"

Table 9.13: Management representatives' responses

	A	B	C	D	E	F	G
Yes	x	x	x	x	x	x	x
Monthly	x	x	x	x	x	x	x
Annually		x	x	x	x	x	x

To the question of whether their organisations practice collective bargaining all management respondents answered in the affirmative as can be seen from table 9.13. Most respondents also reported that they practised collective bargaining annually as well as monthly.

Table 9.14: TU/worker representatives' responses

	A	B	C	D	E	F	G
Yes	x	x	x	x	x	x	x
Monthly	x	x	x	x			x
Annually					x	x	

The worker representatives (see table 9.14) all agreed that their organisations practice collective bargaining. The majority of worker representatives reported that they practised collective bargaining monthly. In the light of above responses of the worker

representatives which show that they saw collective bargaining mainly in terms of annual wage negotiations and service conditions, it could be expected that they would have indicated the frequency of collective bargaining as annually rather than monthly. On the other hand this shows insight on the part of the worker representatives who view collective bargaining not only as an annual event but a continuous process.

Question 3. "Indicate your organisations bargaining structure."

Table 9.15: Management representatives' responses

	A	B	C	D	E	F	G
Multi-employer (sectoral)			x	x			
Single-employer (centralised site)	x	x		x	x	x	
Single-employer (decentralised site)							x

Examining table 9.15 five of the seven cases indicated that their organisations have a single-employer (centralised site) bargaining structure. The table shows that case D has both a multi-employer (sectoral) as well as single employer (centralised site) bargaining structure. The explanation is that some products fall into different bargaining councils and that certain sections have a bargaining structure for a particular division. Only one case indicated a single-employer (decentralised site) structure as the group also have different sections which negotiate locally but at different sites .

Table 9.16: TU/Worker representatives' responses

	A	B	C	D	E	F	G
Multi-employer (sectoral)				x			
Single-employer (centralised site)	x	x	x		x	x	
Single-employer (decentralised site)							x

The worker representatives' views of their organisations' bargaining structures largely corresponds to that of management of each organisation, except for organisation C where the representative indicated a single-employer (centralised site structure and case D where the representative might not have realised the double bargaining structure of the company.

Question 4. "Describe the bargaining relationship between your management and the trade union or worker representative structure?"

The management representative of organisation E responded as follows to the question. "*The parties will bargain in good faith according to a social agreement*".

Cases (Management representatives' responses)

A. Characterised by mistrust and suspicion
B. Good, with respect but realistic
C. Good, we take care of our employees
D. Not good. Attempting to improve relationship
E. Bargain in good faith according to social agreement with TUs
F. The relationship can improve
G. Adversarial relationship

When the responses of the management representatives are examined three of the seven cases described the relationship between management and the trade unions in positive terms. The responses of the other four cases could be classified as negative.

Cases (TU/Worker representatives' responses)

A. Fair to strained at times
B. A relationship of struggle to promote interests of members
C. Not good. Management tries to avoid and ignore TU
D. Reasonable. Continuous battle to protect members' interests
E. Management does not want to listen to TU position
F. The relationship can improve and be more transparent
G. The union cannot trust management actions

Most of the worker representatives describe the relationship in negative terms. This could be explained that in their quest to achieve better wages and conditions of service for their members worker representatives are frustrated by management. Terms such as "*struggle* " and "*tries to avoid and ignore us*" are used. The most glaring discrepancy between management and worker responses is found in case C where management record that the relationship between the parties is good - "*we take care of our employees*"- while the workers record that it is not good and management does not take

notice of their trade union.

9.4 FINDINGS OF THE INVESTIGATION REGARDING WORKER PARTICIPATION, JOINT CONSULTATION AND JOINT DECISION-MAKING

The responses of the management representatives and workers representatives regarding worker participation, joint consultation, and joint decision-making are presented in tables 9.17 and 9.18 respectively.

Table 9.17: Compilation of management representatives' responses

	A	B	C	D
1. Understanding of worker participation.	Participation of employees through e.g. the WPF	Influencing decisions to the benefit of the organisation	Allowing workers to participate in decision-making	Communication and consultation between parties to reach consensus and joint decision-making
2. Has worker participation increased.	Yes, a Nat. Bargaining Forum has been established	Yes , establishment of WPF, TU representation on Mngt Board and Resources Committee	Yes, comply with sectoral determination which makes for a happy work force	Yes, with more difficulty than before disclosure of info.
3. Understanding of consultation.	Implementing changes only after discussions with TUs	Talk to TUs and allow them to influence decisions	Discussions leading to mutual agreement affecting employees	Mngt views it as info sharing but TU as negotiation
4. Matters consulted on.	New compensation model, Employer contribution Med Aid	Performance bonus, restructuring, smoking policy and policy issues	Provident fund, wages, working hours, overtime	Product changes, retrenchment, policy matters, employment equity and skills dev.
5. What is consultative structure called and its functioning.	Yes, Nat. Bargaining Forum. Reps at each site	Yes, WPF meets mngt to discuss concern of employees	Yes, employment equity and skills dev. committees consult with mngt	Yes, group wide centralised bargaining forum, divisional bargaining structure, site employment equity/ skills dev. committees
6. Understanding of joint decision making.	Discussions until consensus is reached on certain matters	Certain issues on which consensus should be reached	Jointly making decisions with workers that will affect them	Outcome of consultation
7. Matters on which joint decision making have taken place on.	Increased travel allowance	Disciplinary code and procedure, employment equity policy	Employment equity, Training and development of employees	Product changes, retrenchment, policy matters, employment equity and skills development

Table 9.17(continued)

	E	F	G
1. Understanding of worker participation.	Communication and consultation between parties to reach consensus and joint decision-making	Worker participation is where the workers take part in decision-making	The TUs represent their members and convey the peoples' views to management
2. Has worker participation increased.	Yes, employer and TUs agreed to introduce a WPF to facilitate worker participation and decision-making in spirit of LRA	Yes, workers are much more involved than in the past	Yes, with the representative structure. The non-aligned section of work force does not participate
3. Understanding of consultation.	Opportunity to discuss mngt's proposals and for TU to make alternative solutions to reach consensus. Final decision rests with mngt.	This is where mngt have discussions with worker reps to get workers' opinions	They do not see difference between consultation and negotiation
4. Matters consulted on.	Closing/erecting plants, AA, job evaluation and compensation, retrenchment, employment practices	Employment equity, skills development, organisation restructuring, remuneration, job grading	General employment, equity matter, organogram changes
5. What is consultative structure called and its functioning.	Yes, central labour forum consists of WPF and mngt reps negotiates and consults as per agreement	Yes, a WPF that meets with mngt to discuss concerns of workers	Yes, joint consultative forum involved in matters such as employment equity, restructuring and transformation
6. Understanding of joint decision-making.	Compulsory participation and joint decision-making between employer and WPF	Discussion that continue until consensus is reached	Joint decision-making - influencing the decision - making process
7. Matters on which joint decision-making have taken place on.	Performance management, med aid, retirement fund, disciplinary code and procedure	Disciplinary code and procedure and med aid	Restructuring company, disciplinary code and procedure

Table 9.18: Compilation of TU/worker representatives' responses

	A	B	C	D
1. Understanding of worker participation.	Where workers decide with mngt	TU wants full member status of all decision-making structures. Also Council Exco	When both mngt and TU participate in decisions affecting both	The worker decide with mngt on decisions
2. Has worker participation increased.	Yes, workers are informed and welcomed to participate	Yes, observer status on mngt committee, member of senate and finance committee of Council	No, TU is not involved in decision-making	Yes, there are more forums for workers
3. Understanding of consultation.	Consultation is key thing done by TU reps	Not telling TU what they are going to do but consulting staff and TU with aim of getting agreement or even consensus	When retrenchment takes place affected employees are consulted	Issues affecting workers are discussed by TU and mngt
4. Matters consulted on.	Establishment of WPF, retrenchment, wages, serious misconduct	Retrenchment policy Med aid scheme	Retrenchment, new procedures, skills development	Retrenchment, Employment Equity, Skills development
5. What is consultative structure called and its functioning.	Yes, Nat Bargaining Forum group wide with local reps. Consultation	WPF introduced against wish of mngt by using LRA. Consultation	Yes, employment equity/ skills development committees	Yes, Employment Equity Committees, Divisional bargaining forums. Consultation, bargaining
6. Understanding of joint decision-making.	No part of the relationship has power over the other	Mngt only wants to consult and not allow consensus joint decision-making	When decisions are made by mngt and TU through consensus	Mngt wants to consult but no joint decision-making
7. Matters on which joint decision making have taken place.	Disciplinary code, AA, workplace rules, wages, retrenchment	Med aid	Retrenchment, employment equity and skill development	Policy matters, skills development, employment equity

Table 9.18(continued)

	E	F	G
1. Understanding of worker participation.	Where workers are involved with mngt making decisions	This means TU officials can't negotiate with mngt without workers and shopstewards	When TU is involved in mngt decisions
2. Has worker participation increased.	Yes, the 3 TUs have established a WPF	Yes, has increased through establishment of WPF	Yes, the union is asked to come to more mngt meetings
3. Understanding of consultation.	Mngt asks for suggestions, does its own thing	Mngt shall not uni-laterally change employment conditions without consultation	When TU talks to mngt about proposals made by mngt
4. Matters consulted on.	Retrenchment, Employment equity, Job evaluation	Wages, retrenchment, org changes, skills dev, employment equity job grading	Restructuring, retrenchment, employment equity, export promotion, job grading
5. What is consultative structure called and its functioning.	Yes, Central Labour Forum. Bargaining/consultation	Yes, TU based WPF Consultation	Yes, Joint Consultative Forum
6. Understanding of joint decision-making.	Mngt and TU must reach consensus on decisions	TU and employer must consult for consensus before implementing any proposal	TU decides with mngt what is best for workers
7. Matters on which joint decision-making have taken place.	Disciplinary code, Med Aid	Disciplinary code, Workplace rules, Advance previously disadvantaged persons, Rule changes of social benefit schemes	Restructuring, retrenchment, employment equity

Question 1. "What does your organisation/trade union understand under the term worker participation?"

Cases (Management representatives' responses)

A. Participation of employees through e.g. a workplace forum
B. Influencing decisions to the benefit of the organisation
C. Allowing workers to participate in decision-making
D. TUs believe they should intimately be involved in the running of the business
E. Communication and Consultation between the parties to reach consensus and joint decision-making
F. Worker participation is where workers take part in decision-making
G. The unions represent their members and convey the peoples' views to management

Cases (TU/Worker representatives' responses)

A. Where workers decide with management

B. TU wants full member status of all decision-making structures. Also executive committee of Council

C. When both management and the union participate in decisions affecting both

D. The workers decide with management on decisions

E. Where workers are involved with management in making decisions

F. This means TU officials cannot negotiate with management without coming together with workers and shopstewards.

G. Worker participation is when the union is involved in management decisions

An analysis of the responses of the seven management and seven workers' representatives generally indicate consensus that worker participation refers to the participation of the workers in the decision-making process.

Question 2. "Has worker participation increased in your organisation since the introduction of the LRA of 1995?"

Table 9.19 Management representatives' responses

	A	B	C	D	E	F	G
Yes	x	x	x	x	x	x	x
No							

Table 9.20 TU/worker representatives' responses

	A	B	C	D	E	F	G
Yes	x	x		x	x	x	x
No			x				

All seven management representatives were of the opinion that workers participation increased in their respective organisations since the introduction of the LRA of 1995 as is shown in table 9.19. Only one representative of the workers disagreed with this view.

Question 3."What does your organisation/union understand under the term consultation?"

Cases (Management representatives' responses)

A. Implementing changes only after discussions with TUs
B. Talk to TUs and allow them to influence decisions
C. Discussions leading to mutual agreement affecting employees
D. For management it means information sharing sessions and for the TU it means negotiation
E. Opportunity to discuss management proposals and TUs to make alternative solutions to reach consensus. Final decision rests with management
F. This is where management has discussions with worker representatives to get workers' opinions
G. They do not see a difference between consultation and negotiation and consultation usually end in negotiation

The management representatives generally viewed the concept consultation as an exchange of information between the management of the organisation and the workers and their representatives. It is interesting to note that two representatives of management pointed out the difference in understanding of consultation between management that regard consultation as an information exchange process and the view of the trade unions which regard consultation as a negotiation process.

The trade union/worker representative of organisation A responded to the question as follows: "*Consultation is the key thing done by the trade union representatives*".

Cases (TU/worker representatives' responses)

A. Consultation is the key thing done by trade union representatives
B. Not telling TU what they are going to do but consulting staff and TU with aim of getting an agreement or even consensus
C. When retrenchment takes place the affected employees are consulted with
D. Issues affecting workers are discussed by the trade union and management
E. Management asks for suggestions but does its own thing
F. Our understanding is that management shall not unilaterally change employment conditions without consultation with workers
G. When the union talks to management about proposals made by management.

Although the worker representatives' interpretations of the term consultation are

divergent, the responses of worker representatives share the view that consultation is about discussion or an exchange of ideas. What is noticeable is that three of the worker respondents indicated that managements go through the motions of consultation, but in the end act unilaterally. This could be the reason why trade unions prefer to move from the consultation process manipulated by management, in their view, to the process of negotiation as a result of their past unsatisfactory experiences with the consultation process.

Question 4. "List those matters on which consultation has taken place in your organisation?"

Table 9.21: Management representatives' responses

	A	B	C	D	E	F	G
Compensation/remuneration	x		x		x	x	
Medical aid	x						
Changes in organisation		x			x	x	x
Retrenchment					x		
Performance bonuses		x					
Smoking policy		x					
Policy issues/new procedures		x		x			
Retirement funds			x				
Working hours/overtime			x				
Product changes				x			
Employment equity				x	x	x	x
Skills development				x		x	
Job evaluation/grading					x	x	

The management representatives have indicated a whole range of topics for consultation in their organisations as shown in table 9.21. The two topics that were indicated by four of the seven respondents are: changes in the organisation and employment equity. A possible explanation for the first mentioned topic is the organisation changes often result in job losses which is an extremely sensitive issue for workers in time of high unemployment such as South Africa is currently experiencing. The second topic, employment equity can be explained by recently introduced legislation enforcing employment equity.

Table 9.22: TU/worker representatives' responses

	A	B	C	D	E	F	G
Compensation/remuneration	x	x				x	
Medical aid		x					
Retrenchment	x	x	x	x	x	x	x
Policy issues/new procedures			x				
Disciplinary matters	x						
Export promotion							x
Employment equity			x	x	x	x	x
Skills development			x	x		x	
Job evaluation/grading					x	x	x

The responses of the worker representatives are displayed in table 9.22. The two topics that most are salient from the display are retrenchment and employment equity. The same explanation as used above would apply.

Question 5. "Does your organisation have a consultative structure? What is it called and describe its functioning?"

The management representative of organisation E, responded as follows:" *Yes. The Workplace Forum and the Management Representatives of 'E' form the Central Labour Forum (CLF). The purpose of the C L F is to conduct on a centralised basis the primary function as set out in the Agreement* ".

Table 9.23: Management representatives' responses

		Name	Function
A	Yes	National bargaining forum	Negotiates centrally with local representatives at each site
B	Yes	Workplace forum	Consults with management
C	Yes	Employment equity/skills development committees	Consults with management
D	Yes	Group wide central bargaining forum. Divisional bargaining structure and site employment equity committees.	Centralised bargaining. Consultation at site level.
E	Yes	Central labour forum.	Bargaining and consultation.
F	Yes	Trade union based WPF	Consultation
G	Yes	Joint Consultative Forum	Consultation on employment equity

Table 9.23 shows that all the management representatives indicated that they had one or more consultative structures in their organisation. The structures included for example

WPFs, employment equity and skill development committees, bargaining forums and on site management and trade union meetings. These structures were either used for consultation on site or for bargaining at a central location.

Table 9.24: TU/worker representatives' responses

		Name	Function
A	Yes	National bargaining forum with local representatives.	Consultation
B	Yes	Workplace forum	Consultation.
C	Yes	Employment equity/skills development committees	Consultation with employees and management
D	Yes	Employment equity committees and divisional bargaining forums.	Bargaining and consultation.
E	Yes	Central labour forum.	Bargaining and consultation.
F	Yes	Trade union based Workplace forum.	Consultation.
G	Yes	Joint Consultative Forum	Consultation

The responses of worker representatives are indicated in table 9.24.The responses between the two groups generally correspond with minor differences such as in case A where the national bargaining forum's functioning is described as consultation rather than as bargaining.

Question 6. "What is your organisations/trade union's understanding of the term joint decision-making?"

Cases (Management representatives' responses)

A. Discussions until consensus is reached on certain matters
B. Certain issues on which consensus should be reached
C. Jointly making decisions with workers that will affect them
D. Outcome of consultations
E. Compulsory participation and joint decision-making between employer and WPF
F. Discussions that continue until consensus is reached
G. Joint decision-making - influencing the decision-making process

Three of the management representatives understood the term joint decision-making

to refer to discussions that eventually lead to consensus being reached between the management and the worker representatives.

Cases (TU/ worker representatives' responses)

A. No part of the relationship has power over the other
B. Management only wants to consult and not allow consensus joint decision-making
C. When decisions are made by management and the union through consensus
D. Management wants to consult but no joint decision-making
E. Management and TU must reach consensus on decisions
F. TU understanding is that TU and employer must consult and reach consensus with WPF before implementing any proposals
G. The TU decides with management what is best for the workers

Three of the worker representatives indicated the consensus aspect of joint decision-making as part and parcel of their understanding of joint decision-making. Two of the worker representatives thought that their managements were prepared to consult but were not prepared to enter into joint decision-making with their worker representatives. This could be an indication of a lack of trust between the two parties involved.

Question 7. "Matters on which joint decision-making have taken place."

Table 9.25: Management representatives' responses

	A	B	C	D	E	F	G
Travel allowance	x						
Disciplinary code and Grievance procedure		x			x	x	x
Employment Equity/AA		x	x	x			
Product changes				x			
Retrenchment			x	x			
Policy matters				x			
Training and Skill development			x	x			
Performance management					x		
Medical aid					x	x	
Retirement funds					x		

Table 9.25 displays the matters on which joint decision-making have taken place. Four

of the management representatives indicated that their organisations had joint decision-making on issues such as disciplinary codes and procedures and on grievance procedures. Two representatives indicated that they had joint decision-making discussion regarding retrenchment and restructuring.

Table 9.26: TU/worker representatives' responses

	A	B	C	D	E	F	G
Disciplinary code and procedure/ workplace rules	x				x	x	
Employment Equity/AA	x		x	x		x	x
Organisational changes/restructuring						x	x
Retrenchment	x		x	x			x
Policy matters							
Skills development			x	x			
Medical aid		x			x	x	
Retirement funds						x	

According to the worker representatives' responses displayed in table 9.26 four of the respondents indicated the topic of employment equity or affirmative action on which joint decision-making had taken place. Three of the workers' representatives indicated that their organisations had joint decision-making regarding disciplinary codes and procedures, and workplace rules procedures and medical aid.

9.5 RESULTS OF THE INVESTIGATION REGARDING WORKPLACE FORUMS

The results of the investigation indicate that the organisations that participated in the investigation can placed in two categories: Those organisations that do not have a WPF and provide compelling reasons why they prefer their existing representative structures. The responses of these organisations that do not have WPFs are discussed in section 9.5.1. Of the seven cases investigated there were two cases (C and D) in this category. The management representatives' responses are presented first and thereafter the responses of the workers representatives.

The other category are those organisations that have WPFs functioning in terms of the LRA . In section 9.5.2 the responses of these organisations (cases A, B, E, F and G) that have or had WPFs are discussed. There are five such cases in this investigation.

9.5.1 Organisations that do not have WPFs

Godfrey and Du Toit (2000:16) refer to research done by the Workers College and the South African Netherlands Project for AlternativeS in Development (SAPAD) which found that many non-statutory worker participation schemes, designed and initiated by employers are thriving in companies. Members of unions that rejected WPFs often actively participate in these management-initiated schemes.

Table 9.27: Compilation of responses of Management Representatives of Organisations without WPFs

	C	D
1. Why has WPF not been established	TU insufficiently representative	Current structures work better than WPF
2. What steps are being taken.	None	Discussions and agreement with TU not to go this route
3. What difficulties do you foresee in establishment.	None	None
4. What effects will a WPF have on your organisation.	Another forum for employees	Duplicating existing structures
5. Does your organisation have any other worker involvement/ participation	Employment equity/skills development committees	Yes, group-wide bargaining forum Site level forums and committees
6. Effectiveness of this structure	Making progress	Meet regularly with worker representatives

Table 9.28: Compilation of responses of Worker Representatives of Organisations without WPFs

	C	D
1. Why has WPF not established	Not enough members	Not viable. Existing structures sufficient
2. What steps are being taken.	Recruit more members	None at present
3. What difficulties do you foresee in establishment.	Getting mngt to recognise WPF	Might prove useless or divisive, lack of participation
4. What effects will a WPF have on your organisation.	Issues of all workers can be discussed	No effect
5. Does your organisation have any other worker involvement/ participation	Employment equity and skills development committees	National Congress, Area divisional shop stewards council and shop stewards committee
6. Effectiveness of this structure	Not moving fast enough	Works well

Question 1. "Why has a WPF not been established?"

Cases (Management representatives' responses)

C. Trade union (TU) insufficiently representative

D. Current structures work better than WPF

To the question why their organisations had not established a WPF the two management representatives responded that the trade union was not sufficiently representative of the workforce. In case D the current consultative structure was working better than a WPF according to the representative.

Cases (TU/worker representatives' responses)

C. Not enough members

D. Not viable. Existing structure sufficient

The worker representatives responses correspond to the responses of management and both mention insufficient members and that the current structure for consultation is adequate.

Question 2. "What steps are being taken to establish a WPF?"

Cases (Management representatives' responses)

C. None

D. Discussion and agreement with trade unions not go the route

None of the two employers are taking any active steps to establish a WPF. In case D discussions were held with the trade union and it was decided jointly that they would not proceed with the establishment of a WPF.

Cases (TU/worker representatives' responses)

C. Recruit more members

D. None at present

The worker representative in case C reported that the trade union had decided to embark on a recruitment campaign for new union members, whilst the workers in case D are taking no action as was agreed with management.

Question 3. "What difficulties do you foresee in the establishment of a WPF?"

Cases (Management representatives' responses)

C. None

D. None

Cases (TU/worker representatives' responses)

C. Getting management to recognise the WPF

D. Might prove useless or divisive, lack of participation

Both of the management respondents foresaw no problems in regard to the establishment of a WPF in their organisations. The worker representatives on the other hand mentioned the problem of getting recognition for the WPF by management and in case D that the WPF could have a divisive effect and lack of participation in the WPF as potential problems. Both of the worker representatives' responses indicate a lack of insight in WPFs as in the first instance a properly constituted WPF enjoys statutory recognition and compels the employers to recognise the WPF. Secondly, the core idea behind the establishment of WPFs is to enhance worker participation. However, WPFs may be seen as divisive and as a threat or challenge to their power by some trade unions which do not believe in true worker participation of all workers irrespective of union membership. In this regard Nel and Kirsten (2000:42-43) have pointed out the uncertainty regarding the statutory functions of trade unions in the establishment of WPFs as well as the perceived threat of WPFs to existing trade union representative structures.

Question 4." What effects will a WPF have on your organisation if established?"

Cases (Management representatives' responses)

C. Another forum for employees

D. Duplicating existing structures

The effect of a WPF on their organisations is viewed by both management respondents in negative terms indicating that a WPF established in their organisations would create just another employee representative forum, duplicating existing structures.

Cases (TU/worker representatives' responses)

C. Issues of all workers can be discussed

D. No effect

The worker representative of organisation C was positive and described the effect of the introduction of a WPF would be that all workers' issues would be discussed and not only trade union members' concerns. The worker representative of organisation D foresaw no effects resulting from the establishment of a WPF.

Question 5. "Does your organisation have any other worker involvement/participation structures?"

Cases (Management representatives' responses)

C. Employment Equity / Skills Development Committees

D. A group wide bargaining forum, site level forums and committees

Cases (TU/worker representatives' responses)

C. Employment Equity/Skills Development Committees

D. National congress, area divisional shop stewards council and shop stewards committees

The responses of representatives of management and of the workers of both organisations correspond and report various forums and committees that serve the purpose of worker involvement/participation in their organisations, making the introduction of a WPF in their organisations unnecessary.

Question 6. "Comment on effectiveness of this structure."

Cases (Management representatives' responses)

C. Making progress

D. Meet regularly with workers representatives

Cases (TU/worker representatives' responses)

C. Not moving fast enough

D. Works well

Both the management representatives and the worker representatives of case C were of the opinion that effectiveness of the current worker representative structures could improve. In case D both the management and worker representatives expressed satisfaction with their current worker representative structures. Godfrey and Du Toit (2000:16) and Nel and Kirsten (2000:34-35) have noted the successful functioning of number of non-statutory management-worker participating schemes in companies.

9.5.2 Organisations that have or had WPFs

Table 9.29: Compilation of responses of Management Representatives of organisations with WPFs

	A	B	E	F	G
7. Reasons for establishment.	Effective comm between mngt/workers	Promote worker participation and reach more employees	Promote interests of all workers to enhance efficiency in workplace	To promote worker participation	Have a Joint Consultative Forum and other non-aligned structures
8.Process drawing up constitution.	Requirements of sec 82 of LRA	Prescribed procedures and help from CCMA after referral	CCMA	None	Election in different constituencies. Elected members input into constitution
9. What external help received.	CCMA	CCMA	CCMA	None	Internal resources
10. Number of WPF members.	12	20	14	12	16

Table 9.29 (Continued)

11. Election process of WPF members.	CCMA set election date	Constituencies, nominations and election ito LRA	TU elected their reps with alternate for each member	Mngt not involved but elections were held	Election in different constituencies. Elected members input into constitution
12. How often does WPF meet.	Every second month	Monthly	Once a month	Monthly	at first monthly now quarterly
13. What is discussed.	Performance mngt	Smoking pol, code of conduct, disciplinary code/procedure, restructuring	Disciplinary code/procedure, smoking policy, employment equity	Employment equity, remuneration, smoking, disciplinary process	Employment equity, appointments, budgets, info processes
14. How often does WPF meet with employees.	Every second month	Once a quarter	4 times p/a	every 3 months	Monthly or by need
15. WPF opportunity to make representation.	Yes, Smoking policy	Yes, Smoking policy, code of conduct, disciplinary code/procedure, restructuring	Yes, if they so wish	Yes, WPF is free to do so	Yes, during restructuring the org, with telephone policy and recognition award policy
16. Use of external experts.	Consultants	Legal adviser on disciplinary code	Yes, Labour Law adviser	Yes, company obtained legal advice	Internal resources

Table 9.30: Compilation of responses of Worker Representatives of Organisations with WPFs

	A	B	E	F	G
7. Reasons for establishment.	Effective comm between mngt/workers	Promote worker participation and reach more employees	TUs applied for establishment	Promote interests of all workers whether TU members or not	Have a Joint Consultative Forum and other non-aligned structures
8.Process drawing up constitution.	Requirements of sec 82 of LRA	Prescribed procedures and help from CCMA after referral	TU applied to CCMA and wrote constitution	Process as in sec 82	Election in different constituencies. Elected members input into constitution
9. What external help received.	CCMA	CCMA	CCMA and TU head office	TU head office	Internal resources
10. Number of WPF members.	12	20	14	12	16

Table 9.30 (Continued)

11. Election process of WPF members.	CCMA set election date	Constituencies, nominations and election ito LRA	Nominated persons were voted for as members	Nominations and votes by secret ballot	Election in different constituencies. Elected members input into constitution
12. How often does WPF meet.	Every second month	Monthly	Every month	Every month	at first monthly now quarterly
13. What is discussed.	Performance mngt	Smoking pol, code of conduct, disciplinary code/procedure, restructuring	Restructuring, retrenchment, job grading, education and training	Changes in work organisation disciplinary code and procedure, changes in social benefits schemes	Employment equity, appointments, budgets, info processes
14. How often does WPF meet with employees.	Every second month	Once a quarter	Every three months	Monthly	Monthly or by need
15. WPF opportunity to make representation.	Yes, Smoking policy	Yes, Smoking policy, code of conduct, disciplinary code/procedure, restructuring	Yes, if there are concerns	No	Yes, during restructuring the org, with telephone policy and recognition award policy
16. Use of external experts.	Consultants	Legal adviser on disciplinary code	Yes, CCMA and TU officials	No need so far	Internal resources

As mentioned elsewhere only five organisations fell in the category of organisations that have or had a WPF. The following is an analysis of responses from them:

Question 7. "What was the reason(s) for the establishment of the WPF?"

Table 9.31: Management representatives' responses

	A	B	E	F	G
Effective communication	x				x
Promote worker participation		x		x	x
Promote interest of all workers			x		
Enhance efficiency			x		

A close look at the management representatives' responses shows that three of the five cases listed the promotion of worker participation as the reason for the establishment of their WPFs.

Table 9.32: TU/ worker representatives' responses

	A	B	E	F	G
Bring union and management together	x		x		x
Co-operative governance		x			
Participative decision-making		x	x		x
Transparency		x			
Trusting relationships		x			
Promote interest of all workers				x	

The same theme of participation as the reasons for the establishment of WPF is also found among the worker representatives where three representatives of the group indicated participation as the reasons for the establishment of their WPFs and three representatives indicated participation in decision-making as the reason for the establishment of their WPFs. This is a positive sign as one of the primary objectives of the LRA of 1995 is to promote employee participation in decision-making through the establishment of workplace forums. Godfrey and Du Toit (2000:15) have pointed out that the drafters of the Act had been given a brief to give effect to government policy as reflected in the Reconstruction and Development Programme (RDP) which called for legislation that would " *facilitate worker participation and decision-making in the world of work* ".

Question 8. "Describe the process followed during the drawing up of the WPFs constitution?"

Cases (Management representatives' responses)

A. Requirements specified in Section 82 of the LRA

B. Prescribed procedures and help from CCMA after referral

E. TU based WPF. Applied to CCMA. Constitution i.t.o. Sec 82 of LRA

F. Discussions between management and trade union and the procedures of sec 82 of LRA

G. Elections in different constituencies and elected members gave input into drafting of constitution.

In describing the process followed during the drawing up of the constitution of the WPFs all the management representatives of the participating organisations reported that they followed the requirements for constitutions as prescribed in section 82 of the LRA of

1995. Only one case reported requesting assistance from the CCMA with drawing-up of a constitution.

Cases (TU/worker representatives' responses)

A. Parties come together and draw-up constitution
B. Consultative process
E. TU applied to CCMA and wrote constitution
F. Followed process as described in section 82
G. Elected members gave input to drafting the constitution

The worker representatives' responses are less sophisticated, but also amounts to the fact that elected members through consultation with reference to the requirements of section 82, drew up a constitution for their respective WPFs.

Question 9. "What external help (if any) did you receive in drawing up the constitution?"

Table 9.33: Management representatives' responses

	A	B	E	F	G
CCMA	x	x	x		
Internal resources					x
None				x	

In regard to the use of external resources in drawing-up the constitutions of their WPFs three of the management representatives indicated the CCMA (Table 9.33). One management representative indicated that his organisation only made use of internal resources. The other management representative reported that his organisation used no external resources in drawing up the constitution.

Table 9.34: TU/ worker representatives' responses

	A	B	E	F	G
CCMA			x		
Internal resources					
None	x	x		x	x
Trade union head office			x		

Four worker representatives (Table 9.34) reported receiving no external help in drawing-up the WPF's constitution. It is interesting to note that of these four organisations in two of the cases the management representatives also reported receiving no external help. One would imagine that the worker representatives would be more aware of the CCMA's assistance in drawing-up the WPF constitution in their organisations and therefore more weight may be placed on the responses of worker representatives who reported that they did not receive assistance from the CCMA. On the other hand it is unlikely that a trade union would have proceeded down the route of establishing a WPF without at least some rudimentary guidelines from the trade union head office.

Had the September Commission's proposal, that a core of shopstewards and union officials be developed in participatory strategies, been implemented as cited by Godfrey and Du Toit (2000:18), one could ask the question whether not more WPFs would have made use of the in-house trade union expertise in the drawing up of their workplace forum constitutions.

Question 10. "How many members does your WPF have?"

Cases (Management representatives' responses)

A. 12
B. 20
E. 14
F. 12
G. 16

Cases (TU/worker representatives' responses)

A. 12
B. 20
E. 14
F. 12
G. 16

Both management and worker representatives reported that the number of WPF members in their organisations ranged between twelve and twenty members. It must be pointed out that the LRA provides for a maximum of twenty members.

Question 11. "Describe the election process of WPF members."

The management representative of organisation E responded as follows: "*The recognised trade union will choose members of the workplace forum from amongst their elected representatives in the workplace. Alternatives are appointed for each member of the workplace forum and are to attend to the elected members duties*".

Cases (Management representatives' responses)

A. CCMA set election dates
B. Constituencies were determined, nominations called and election held in terms of LRA
E. TUs elected their representatives as members with alternates for each member
F. The management was not involved, but elections were held
G. Elections held after nominations from each constituency

The responses of the management representatives indicate that WPF members were generally elected after nominations were called and the elections dates determined. One respondent confused the role of the CCMA and that of the election officer, as the latter determines the election date.

The trade union/worker representative of organisation G responded as follows to the question: "*Nominations are called and workers vote by secret ballot*".

Cases (TU/worker representatives' responses)

A. Members elected by ballot
B. Every faculty, administrative section and satellite campus each have 1 representative
E. Nominated persons were voted for as members
F. Nomination and votes by secret ballot
G. Nominations are called and workers vote by secret ballot

Three worker representatives reported that elections were held after the nomination of candidates. Candidates were voted for through secret ballot in all organisations included in the study.

Question12. "How often does your WPF meet?"

Table 9.35: Management representatives' responses

	A	B	E	F	G
Every second month	x				
Four times per year			x		x
Monthly		x		x	x

Three of the five management representatives indicated that their WPFs meet monthly. One organisation reported that their WPF meets every second month. Case E reported that their WPF meets four times a year. Case F indicated that their WPF equivalent structure met every month at the beginning but has since changed to meeting once a quarter according to their needs.

Table 9.36: TU/ worker representatives' responses

	A	B	E	F	G
Four times per year		x	x		
Monthly	x			x	x

Three of the worker representatives reported that their WPF meets monthly. The other cases indicated that their WPF meets four times a year. Only in cases E, F and G are there agreement between the views of the management representatives and the worker representatives.

Question 13. "What is discussed?"

Table 9.37: Management representatives' responses

	A	B	E	F	G
Performance management	x				
Smoking policy		x	x	x	
Code of conduct		x			
Disciplinary code and procedure		x	x	x	
Restructuring	x	x			
Employment equity	x		x	x	x
Appointments					x
Budgets					x
Remuneration				x	

Information processes					x

The management representatives' views of topics discussed by their WPFs are displayed in Table 9.37. Three topics are indicated by at least three of the management representatives. Of these disciplinary codes and procedures are indicated by three of the five cases. This is in fact one of the topics on which an employer must consult and reach consensus with a WPF in the absence of a collective agreement regulating matters for joint decision-making in terms of section 86(1) of the IRA. The other two topics namely a smoking policy and employment equity can ascribe their "popularity" as discussion topics to recently introduced legislation.

Table 9.38: TU/ worker representatives' responses

	A	B	E	F	G
Changes in work organisation				x	
Plant closures/restructuring		x	x		
Disciplinary code and procedure		x			
Retrenchment		x	x		x
Employment equity					
Education and training				x	
Worker problems	x				
State of affairs of organisations	x				
Job grading		x	x		x
Changes to social benefit schemes				x	

The worker representatives' views of topics discussed by their WPFs are displayed in Table 9.38. The two topics indicated by at least three of the cases are retrenchment and job grading. The reason why retrenchment is such a sensitive issue was explained earlier in the chapter. Job grading is closely linked to remuneration which is extremely important to lower earning workers.

Question 14. "How often does your WPF meet with the employees in your organisation?"

Table 9.39: Management representatives' responses

	A	B	E	F	G
Monthly					x

Every second month	x				
Quarterly/every three months		x	x	x	

The frequency of meetings with the employees according to the management representatives are indicated in table 9.39. One of the respondents indicated a monthly meeting and the other a bi-monthly meeting. Three of the management respondents indicated quarterly meetings.

Table 9.40: TU/ worker representatives' responses

	A	B	E	F	G
Monthly	x			x	x
Every second month					
Quarterly		x	x		

Table 9.40 displays the worker representatives' views of whom three indicated that their WPFs meet monthly with their constituencies. Two representatives indicated quarterly meetings.

Once again the discrepancy between the views of management and the worker representatives in the same organisation is noticeable. Only the representatives of cases E and G are in agreement. One possible explanation could be that managements are not as well informed of the affairs of their WPFs in comparison to worker representatives who may be members of their WPFs and speak from first hand experience.

Question 15. "Has the WPF been given the opportunity to make representations and to advance alternative proposals?"

Cases (Management representatives' responses)

A. Yes, a smoking policy
B. Yes, on smoking policy, code of conduct, disciplinary code and procedure and restructuring
E. Yes, if they so wish
F. Yes, WPF is free to do so
G. Yes, during restructuring

Cases (TU/worker representatives' responses)

A. Yes, representatives are part of decision-making

B. No

E. Yes, if there are concerns

F. No

G. Yes, with restructuring the company

The worker representatives were less positive and only three of the five indicated that their WPFs were afforded the opportunity to make representations and advance alternative proposals. Once again the difference in views of the management and worker representatives in the same organisation is very obvious and indicates a continued divide between the two groups.

Question 16. "Has the WPF ever made use of external experts?"

Table 9.41: Management representatives' responses

	A	B	E	F	G
Consultants	x				
Legal advisers		x	x	x	
Internal resources					x
CCMA					

As far as the use of external experts by the WPFs is concerned four of the five management representatives (Table 9.41) indicated use of external experts. As the management representatives would have intimate knowledge of such external assistance the responses are interpreted to indicate that the managements saw it fit to obtain expert opinion regarding their respective WPFs.

Table 9.42: TU/ worker representatives' responses

	A	B	E	F	G
No external help	x			x	x
CCMA			x		
Trade union officials		x	x		

Three of the worker representatives indicated that they have made no use of external experts for their WPFs (Table 9.42). Two have indicated that they have made use of

external experts. One representative has indicated the CCMA and the trade union officials and another only the CCMA. The responses of the three representatives who have indicated no use of external experts are in doubt as it unlikely that the trade union would not have consulted with their trade union officials about a matter of such importance as the establishment and functioning of a WPF.

9.6 SUMMARY

This chapter examined and discussed findings into the four areas selected for the study of industrial democracy in South African organisations.

From the findings it is concluded that both the management and worker representatives support the disclosure of business information but have divergent views on how this principle should be applied in practice.

Should the finding that the majority of organisations which participated in the study and had chosen a single-employer (centralised site) bargaining structure, be representative of the preferred bargaining structure in South Africa, this could be construed as an indication of little support for sectoral centralised bargaining favoured by government.

Both management and worker representatives expressed the view that worker participation refers to the participation of workers in the decision-making of their employers and indicates support for the idea of workers influencing decisions that directly affect the workers.

The promotion of employee participation in decision-making is one of the primary objectives of the LRA of 1995. The study found that the enhancement of worker participation was one of the frequently advanced reasons for the introduction of workplace forums in organisations.

CHAPTER 10

CONCLUSIONS, CONTRIBUTION AND RECOMMENDATIONS

10.1 INTRODUCTION

In this closing chapter the conclusions drawn from the investigation into the four aspects of workplace democracy are summarised and linked to research literature. The distinctive contribution of the study to the four aspects of workplace democracy in South Africa is placed in perspective. A number of recommendations which flow from the investigation and which may be of benefit to various role-players and other researchers are proffered.

10.2 CONCLUSIONS

As indicated before, the study set out to determine the views of management and workers towards four specific aspects of industrial democracy in a number of South African organisations since the introduction of the Labour Relations Act No 66 of 1995 in November 1996. These four aspects are disclosure of business information, collective bargaining, consultation and joint decision-making and workplace forums. Conclusions were drawn on these aspects from the replies given to the questionnaire completed by the two groups of respondents and follow-up elucidating interviews with them. These conclusions are examined sequentially below:

10.2.1 Conclusions regarding the disclosure of business information

Bearing in mind South Africa's past where secrecy rather information sharing was the norm, the new openness regarding access to information for South African citizens could be viewed by some parties with trepidation and resistance while others welcomed it. The climate and surrounding environment first has to be prepared to support the new culture of openness. In the work environment in particular it was the LRA of 1995 that made provision for the disclosure of information for the first time in South Africa.

From the findings on the question of respondents' views of section 16 of the LRA which provides for the disclosure of information, it is concluded that both the management and worker representatives support the principle of the disclosure of business information

but they differ on how the principle should be applied in practice. For some managements this meant disclosing some information and only when requested to do so. The non-disclosure of certain information is viewed by the worker representatives as a reluctance in general to disclose information. These opposing expectations could be a source of disputes and conflict between the two parties.

Trade unions view information disclosure as a means of promoting their objectives by extending negotiation and joint regulation into areas that were previously the sole sphere of management. Some employers regard statutory obligation to disclosure of information to trade unions as a threat to their management prerogative. The need for commercial secrecy and effective decision-making are the basis for their objections.

The representatives of management as well as the representatives of the workers expressed the view that requests for the disclosure of information should come from worker representatives or individual employees. It is interesting to note this agreement of viewpoint between the representatives in spite of the fact that they serve different constituencies. This view is interpreted as a positive phenomenon and also shows that internal users of disclosed information are preferred by both the management and the workers of the organisations which participated in the investigation.

The representatives of the two groups disagreed about whether information disclosure should be restricted to that pertaining to union members. The majority of management representatives were of the view that information disclosed should be restricted to that relevant to trade union members. The worker representatives held an opposing view, that as much information as possible should be disclosed, including information on non-union members. Ballace and Gospel (1983) point out that the Employment Protection Act of 1975 in the United Kingdom restricts information disclosure and trade unions can only demand information for employees within their bargaining units. Our LRA also places restrictions on certain types of information.

A small majority of management representatives believed disclosure of information improved collective bargaining in their organisations, however, the same size majority of worker representatives believed that insufficient information was being disclosed. Grosett's (1997) finding amongst South African organisations that information disclosure leads to improved collective bargaining and reduced conflict in the organisation could

thus be supported by the present study.

Management and worker representatives were in agreement that disclosure of information had a positive effect on worker participation in their organisations. This is similar to findings by Grossett (1997) who also found that employers reported an increase in employee involvement in decision-making following disclosure of information.

The representatives of management and workers agreed about the type of information disclosed. Both groups indicated that financial information is most frequently disclosed, highlighting the importance of financial information to both management and the workers. Financial information is also one of the items of information which Grossett (1997:39-40) suggests should be disclosed to employees. It is noteworthy that financial information is not directly mentioned in any of the items listed in sections 84 or 86 of the LRA of 1995. However, section 16(3) provides that the employer must provide all relevant information to the representative trade union for effective consultation or collective bargaining.

Responses from the management representatives and the worker representatives have generally indicated that disclosure of information normally occurs at the time of wage negotiations in their respective organisations. Some reluctance amongst management representatives to disclose information to trade unions was also detected from the responses. This indicates that although managements have accepted the principle of disclosure of information as provided for in the LRA of 1995, they have not yet agreed on how this should take place in practice.

All the worker representatives in the study have pointed out that they had experienced disputes on the issue of the disclosure of information. Management reluctance to disclose information appears to be the main cause of these disputes. Some of these disputes may have as cause the relevance of the information requested for disclosure. Ngcobo and Howard (1999:7) cite the Pep Stores case were Judge Landman held that " *relevance .... is directly connected to the purpose of disclosure* .....". Therefore some disputes may be avoided if the purpose for which information is requested, is clearly specified. In the United States many of the refusals by employers to disclose information are based on objections to the mode in which employers are expected to provide the information. For example the information might not be available in the format requested

by the union and would first have to be converted to the desired format at considerable effort and expense (Ballace and Gospel,1983).

In the United Kingdom employers have used the checks and exemptions in the Employment Protection Act of 1975 very successfully in refusing to disclose information to trade unions (Ballace and Gospel,1983).

Analysis of the results of the study shows that an equal majority of representatives of both groups preferred resolving disclosure disputes through negotiation. This could indicate that the parties involved in disputes regarding the disclosure of information prefer to solve their disputes internally rather than through third parties such the CCMA.

If all the conclusions regarding information disclosure is considered it appears that in spite of some disparate views on certain aspects both groups of representatives are generally positive about information disclosure and its effects in their organisations. This is interpreted as indicating that the disclosure of information is contributing to the democratisation of the workplaces which participated in the study.

10.2.2 Conclusions regarding collective bargaining

Collective bargaining has been practised in South Africa since 1924. As a result of the historical links with Britain, the South African collective bargaining system shares many of the characteristics of British collective bargaining. Collective bargaining has been employed by previous governments as well as the present government as a means of exerting control over the labour market.

The South African government's promotion of centralised sectoral bargaining appears to be out of step with Western Europe where there is a strong preference for plant level collective bargaining which by its nature offers greater employee participation and enhances industrial democracy.

From the results of the investigation it was found that both the management representatives and the representatives of the workers understand that collective bargaining constitutes a process of negotiation. This view of collective bargaining as a process of negotiation also corresponds to the definitions of collective bargaining given

by the Webbs (1902) as well as more recently by Davey, Bagnanno and Estenson (1982:2).

Both management and worker representatives indicated that their organisations were engaged in collective bargaining. Most of the representatives from both perspectives viewed collective bargaining not only as an annual event but as continual information exchange between the management and the workers. This finding is interpreted as a mature view held by both management and the workers regarding the nature of collective bargaining. Read together with the abovementioned finding that organisations preferred to resolve disputes through internal negotiation the central position that collective bargaining holds in South African labour relations practice becomes apparent.

In the present study the majority of management representatives and the majority of worker representatives indicated that their organisations had a single-employer (centralised site) bargaining structure. Should this finding that the majority of organisations that participated in the study and had chosen a single-employer (centralised site) bargaining structure prove to be representative of the bargaining structures in South Africa, this could be interpreted as an indication of little support for the sectoral centralised bargaining favoured by government. This preference is proclaimed in section 1(d)(ii) of the LRA of 1995 where one of the purposes of the Act is indicated as the promotion of collective bargaining at sectoral level.

The negative description by both management and worker representatives of the nature of their bargaining relationship is cause for concern and it appears as if the open and trusting relationship between employers and workers which the government wants to promote is slow to materialise. The previously negative attitudes which have been shaped by past conflicts still linger in the collective memories of the respective groups. This is addressed again in 10.4.

Taking all the conclusions of this section together it is concluded that collective bargaining has not made the contribution to the advancement of industrial democracy in the organisations investigated which it could have done, had the negative view of the bargaining relationship and an open and trusting relationship between management and the workers been addressed more constructively.

10.2.3 Conclusions regarding worker participation, joint consultation and joint decision-making

From a review of the literature(Fisher, 1978; Imai,1991; Kochan, Katz and McKersie, 1986 and Lansbury and Davis,1992) it is concluded that the understanding of the concept worker participation, differs from country to country. One of the approaches in categorising worker participation would be whether participation of workers is of a direct or of an indirect nature. Even within these two broad categories countries differ in their approaches to applying worker participation in work situations.

Involvement is a concept that is often used in discussions of employee or worker participation. From the literature (Ledford,1993) it appears to be the term preferred by researchers of worker participation in North America. Some authors restrict the meaning of participation to the lower level workers in an organisation and this is also the stratum where the direct form of worker participation is found.

Joint consultation between management and labour is a well established practice in most Western countries albeit in different forms. Joint consultation is practised because there is a belief that employees can contribute to management's decision-making and that it creates an opportunity for workers to influence management's decisions. Since the introduction of the LRA of 1995 in South Africa matters for consultation through workplace forums are clearly itemized in legislation (Section 84).

All the management and all the worker representatives in the study under discussion indicated that worker participation refers to the participation of workers in the decision-making processes in their places of work. This view of worker participation by management and worker representatives corresponds with Horwitz's (1981) definition of worker participation as the perceived degree of influence which workers have on decisions affecting them.

The concept of worker participation is a fundamental element of industrial democracy and means that workers must be involved in and have an influence on the decision-making processes in their work environment. While demands for greater worker control and involvement in decision-making on the shopfloor originated from the trade unions it is ironic that many have refused to enter into or support participative arrangements

because they are suspicious of the intentions of management. They fear that their shop stewards and shopfloor members will be co-opted. These are also some of their arguments against Workplace Forums. It is ironic that Godfrey and Du Toit (2000:7) cite research which found situations where members of trade unions that oppose WPFs, actually play active roles in the management initiated participative structures.

In contrast all this study's participating management representatives and six of the worker representatives concurred that worker participation has increased in their organisations since the introduction of the LRA of 1995. A similar increase in worker participation also occurred in Australia after the introduction of enabling legislation, for example, the 1983 Prices and Wages Accord, the Public Sector Reform Act of 1984 and the Affirmative Action (Equal Employment Opportunity for Women) Act of 1986.

Both groups of respondents in the current research viewed consultation as discussions and/or an exchange of views. Two of the management representatives noted that their understanding of what is meant by consultation differed from the trade unions' view that consultation is synonymous with negotiation. Workers also believed that managements were not serious about consultation and in any event made their own decisions. This mistrust of the consultation process on the part of the worker representatives in the study could be a possible reason why worker representatives and trade unions prefer to move from consultation to negotiation in which process they can play a far more active and rewarding role in the interest of their members.

Organisational restructuring and employment equity were topics indicated by most management representatives on which consultation had taken place. The topics reported by most worker representatives were retrenchment, employment equity and skills development. It is noteworthy that the topics indicated by both groups on their consultation agenda are those topics that are currently matters of serious concern for both groups. If Workplace Forums existed in these organisations they would have been entitled to be consulted on most of the above issues and the others listed in section 84 of the LRA.

All representatives of management as well as the workers indicated that their organisations have consultative structures and that these structures serve to facilitate consultation and bargaining between the management and worker representatives in

their respective organisations. (See also Godfrey and Du Toit, 2000:7).

Joint decision-making is also an innovation in South African labour law. The notion for this approach has its roots in the German system of co-determination (Schregle, 1970). Similar co-determination rights have been introduced to South Africa through section 86 of the LRA of 1995 which sets out the joint decision-making rights of workplace forums.

From the responses of both management and the worker representatives in the investigation it appears that both groups interpret joint decision-making as denoting workers participating in the decision-making process with their employers.

Three of the management and three of the worker representatives referred to the consensus aspect when describing their understanding of joint decision-making. This emphasis on joint decision-making would fall into Schregle's (1970) broader definition of participation in decision-making where both parties maintain their independence with the trade union's role seen as moderating or influencing management decisions. There is little agreement between the management and worker representatives in terms of issues on which joint decisions should be taken. This indicates the totally divergent views held by management and workers in the same organisations. If this finding is indicative of the general position in most South African organisations, joint decision-making will have a slim prospect of succeeding as intended by the LRA of 1995.

If WPFs existed in the participating organisations the employers would have been compelled to consult and reach consensus with the WPFs on all matters for joint decision-making listed in section 86. Although factors such as the political milieu and legislation in South Africa facilitate joint decision-making in the workplace, Coldwell (1992) has noted that the extent of workers' participation depends on several other factors besides the two mentioned above. These factors relate to whether the country concerned is socialist or capitalist oriented, the permissiveness or prescriptiveness of the rules and regulations pertaining to unionisation and the existing economic situation in the country.

Based on the conclusions discussed in this section, there are indications that democracy in the workplaces surveyed has been increasing through worker participation.

10.2.4 Conclusions regarding workplace forums

From the Explanatory Memorandum on the draft Labour Relations Bill, it is obvious that the drafters were strongly influenced by structures and practices in Western Europe, most notably the works council systems of Germany and the Netherlands. (See also Anstey, 1997 and Godfrey and Du Toit, 2000:15).

Superficially workplace forums also bear some resemblance to works committees established in terms of the Black Labour Relations Act of 1953 and works councils provided for in section 34 of the LRA of 1956 (Du Toit *et al*, 1998:45). However, the system of Workplace Forums is in fact totally dissimilar from the above two systems because it constitutes a system of statutory worker participation of which the aim is to promote industrial democracy.

The following sub-sections detail the conclusions reached in regard to worker participation in organisations – 1. which do not have statutory forums, and 2. those which have functioning WPFs:

10.2.4.1 Conclusions in regard to organisations that do not have WPFs

The management and worker representatives in these organisations were in agreement that a WPF was not established due to a lack of representivity by the trade union and also because existing structures were more than adequate to represent the workers.

No active steps were being taken by the managements to encourage the establishment of a WPF. The establishment of a WPF is the responsibility of the workers of a particular organisation through a representative trade union and may not be initiated by management. In one case the trade union is aiming to increase its membership to become more representative. This could mean that the trade union may in future make attempts to establish a WPF. It is interesting to note that Nel and Kirsten (2000:38) found that sixty percent of employers in their survey indicated that they would initiate the establishment of a WPF if given the opportunity to do so.

The management representatives foresaw no difficulties if WPFs were to be established

in their organisations. The worker representatives responses however showed a lack of understanding of the purpose and functioning of WPFs and their potential benefits. Godfrey and Du Toit (2000:18) cite research which drew a similar conclusion. This insufficient insight may be the one of the reasons why some trade unions oppose WPFs and regard them as a threat. Hopefully the opposition will diminish when the benefits are better recognised as happened in other countries. Sterner (1996:9) notes that when works councils were first introduced in Germany in 1891 the trade unions opposed the dualistic representation system, favouring a unified worker representation at plant and industry level through the unions.

The management representatives judged that the establishment of a WPF would be duplication of existing structures. This finding is interpreted as concern of management that they could end up with two structures with similar function which could lead to an unnecessary waste of time with little benefits for the company. Nel and Kirsten (2000:44 -45) have also raised managements' concern regarding the many direct and indirect costs associated with WPFs. One of the worker representatives believed that the establishment of a WPF would have positive effects for the employees. The other representative felt that the introduction of a WPF would have no effect on the organisation in which his members work. Both worker representatives' views could point to a lack of understanding of WPFs as discussed above.

The representatives of management as well as of the workers reported that their organisations made use of various forums and committees to enable worker participation/involvement to take place. The conclusion drawn from this finding is that although these two organisations opted not to establish a statutory recognised WPF these organisations met the need for worker participation by means of various forums and committees established by mutual agreement. The conclusion is confirmed by research cited by Godfrey and Du Toit (2000:17) and Nel and Kirsten (2000:34-35) which found many successful non-statutory participative schemes.

The representatives of both sides in one of the cases expressed a need for the existing worker representative structure to improve its functioning, whilst in the other case both representatives indicated the promotion of worker participation as the motivation for the establishment of their worker participation/involvement structure.

It appears that management and workers in these two organisations have to an extent overcome the antipathy which generally exists between the contradictory interests of capital and labour. By means of various forums and committees which they have created communication between management and workers has been improved leading to better understanding of each others' needs, position and expectations. Due to the resultant information sharing, interaction, consultation and participation in decision-making industrial democracy has been increased considerably, but admittedly there is still room for improvement.

10.2.4.2 Conclusions in regard to organisations that have WPFs

The enhancement of worker participation is the common theme that emerges from an examination of the reasons given by respondents why their respective organisations introduced a WPF. This is an encouraging development as one of the primary objectives of the LRA of 1995 is the promotion of employee participation in decision-making through the establishment of workplace forums (Government Gazette No 16861) and Nel (1999).

Management representatives as well as worker representatives reported that the requirements for constitutions as prescribed in section 82 of the LRA of 1995 were followed in drawing up the constitution of the WPF in for their respective organisations.

With regard to the use of external resources that their organisations used in drawing up the constitutions of their WPFs three of the five management representatives indicated that advice was received by employees from the CCMA. Four of the worker representatives reported that they received no external help in drawing up their WPF's constitution. One would generally believe that the worker representatives would be aware of the availability of the CCMA's assistance in drawing up the constitution for their WPF. It is also unlikely that a trade union would venture into the establishment of a WPF without some guidelines from the trade union head office or officials. A possible explanation for this unexpected response could be that the worker representatives do not regard the union officials with whom they interact as an external source of assistance.

The number of the WPF members in the organisations in the investigation ranged from

twelve to twenty members. Twenty members is also the maximum number of seats provided for in Schedule 2, item 2(d) LRA of 1995 (Government Gazette No 16861).

From an analysis of the data gathered from both management and the worker representatives, it emerges that the election process employed consisted of a call for nominations of candidates followed by an election of members by secret ballot. This shows that all the organisations that participated in the investigation broadly followed the requirements for constituting workplace forums as laid down in section 82 of the LRA of 1995 (Government Gazette No16861).

Section 83(1) prescribes that the workplace forum must meet regularly. The frequency of holding meetings is left entirely at the discretion of the workplace forums. Agreement as to the frequency of WPF meetings could only be found in three of the five cases between the responses of the management representatives and the worker representatives. Both groups of representatives indicate monthly meetings of the WPF as the most used frequency for holding meetings. The frequency of holding meetings is interpreted to indicate that the WPF meetings have followed the trend of the various other management meetings in organisations which are generally held monthly.

From an analysis of the discussion topics reported by the management representatives the most frequently mentioned are smoking policy, disciplinary codes and procedures and employment equity. The worker representatives indicated restructuring and employment equity as the topics most frequently discussed by their WPFs. As the worker representatives are closer than management to the WPF more weight is placed on their views of topics discussed in the WPF.

On the question of how often their WPFs meet with the employees in the organisation the following information emerges. Out of the five management representatives two reported that their WPFs meet monthly with the employees and two representatives indicated that their WPFs meet with the employees every three months. Three of the worker representatives indicated that their WPFs meet once a month with the employees of their respective organisations. It is interesting to note the discrepancy between the frequency of these meetings indicated by management and the worker representatives in the same organisation. One explanation could be management is not intimately involved in the running of the WPFs and consequently less well informed

about the frequency of their meetings with employees which often take place informally during meal breaks.

All the management respondents indicated that their WPFs were given the opportunity to make representations to management. Only three of the worker respondents agreed that their WPFs were given the opportunity to make representations to management. The more opportunities created to make representations to management, the greater are the prospects of the WPFs influencing decision-making in their organisations and thus enhancing industrial democracy in workplaces in South Africa.

As far as the use of external experts by the WPFs are concerned, four of the five management representatives indicated that use had been made of external experts in respect of the WPFs in their organisations. As the management representatives would have intimate knowledge of such external assistance the responses are interpreted as indicating that the managements saw it fit to obtain expert advice regarding the functioning of their respective WPFs.

Three of the worker representatives have indicated that they had made no use of external experts for their WPFs while two have indicated that they have made use of external experts. One of these representatives indicated using the CCMA and trade union officials and the other only the CCMA. The responses of the three representatives who indicated no use had been made of external experts are in doubt as it unlikely that the trade union concerned would not have consulted trade union officials about an important matter such as the establishment and functioning of a WPF. From the above it appears that members of these WPFs have not made much use of section 82(10 (t) of the LRA which provides that any expert may be invited to attend meetings of the WPF including meetings with the employer or with the employees (Government Gazette No 16861).

The paucity of functioning WPFs in the area covered by the study indicates that WPFs have not been eagerly accepted by either management or labour. This is also the trend elsewhere in South Africa (See also Godfrey and Du Toit (2000) and Wood and Mahabir (2001).) However, where WPFs are functioning there has been an improvement in interaction, in goodwill and co-operation between the managements and workers even though the full potential for employee participation has not been exploited up to now.

This investigation clearly indicates that management and workers are well disposed to the concept of participative management while still being at variance on various aspects of its implementation. Nel and Kirsten (2000:53) have suggested that employers, workers and trade unions should receive training regarding the role of WPFs.

The strong presence of participative structures which included five WPFs out of the seven cases, is interpreted as indicating that participative structures and WPFs in particular have contributed to the democratisation of the participating organisations.

10.3 CONTRIBUTION OF THE STUDY

Very little empirical research information on the disclosure of information in South African organisations is available. Furthermore no information is available on the views on this topic of both management and the workers in the same organisations.

Although the scope of the current study is limited it has contributed some insight into the views of management and worker representatives in the same organisations. Both management and worker representatives agreed on the principle that information should be disclosed for proper functioning of worker representatives and for consultation and collective bargaining. However, they differed on how this principle should be applied in practice. This indicates that official investigations will be required to reach agreement between the parties on matters such as the timing, extent and level of information sharing.

The system of collective bargaining through industrial councils dates back to the Industrial Conciliation Act No 11 of 1924 and was continually amended until terminated by the Labour Relations Act No 66 of 1995 which introduced a system of bargaining councils. Both management and worker representatives see collective bargaining as a process of negotiation. From the findings of the current study it appears that there is little support for the centralised sectoral bargaining favoured by government. If these views are indicative of managements' and workers' views in general in South African organisations, it may be advisable for the government to rethink its position on centralised sectoral level bargaining as provided for in section 1(d)(ii) of the LRA. (Government Gazette No 16861).

Only since the introduction of the LRA No 66 of 1995 are matters for consultation and joint decision-making rights in organisation in South Africa clearly set out.

Findings of the study indicate agreement between the management and worker representatives regarding the meaning of worker participation and the fact that it had improved in their organisations since 1996.

From the findings there are indications that the meaning of consultation is not shared by managements and workers. Workers did not believe that managements were serious in obtaining the views of workers and made their decisions regardless of the views put forward by the workers. If these findings represent the general position in South African organisations much needs to be done to bring these two groups in the employment relationship closer to each other in terms of the process of consultation between them.

Little agreement was found between the management and worker representatives regarding issues for discussion leading to joint decision-making. Notwithstanding the listing of these issues in the LRA of 1995 management and workers have such divergent views on the issues suited for joint decision-making that it appears that joint decision-making is doomed to failure if these views are representative of South African organisations.

Much of the negativity found on both sides of the employment relationship can be ascribed to experiences of discrimination and militancy of the past. It is feasible to expect that as democracy in the political arena and in civil society takes root and expands, the mutual distrust and suspicion will diminish. So will the militancy of the trade unions and they will move towards greater accommodation and engagement with employers.

Although some research has been undertaken into workplace forums since their introduction in November, 1996 no investigation has obtained the views of both management and workers in the same organisation.

The findings in connection with WPFs point to a relative failure of an excellent vehicle for the promotion of most components of industrial democracy. This is mainly due to the attitude of trade unions towards WPFs which they regard with suspicion and concern

that such forums will undermine their position on the shopfloor. There appears to be a lack of knowledge or understanding among unions and workers of the ultimate benefits which can be derived from WPFs.

If the findings of the study are representative of the views of management and workers in South African organisations in general, the findings have the following significance for industrial democracy in South Africa. Information disclosure is an essential component of industrial democracy and both management and worker representatives agree on the principles of disclosure of information but differed on how it should be applied in practice. Managements and trade unions need to devote time and energy in order to reach consensus on this important aspect.

Centralised sectoral collective bargaining is not widely supported. There appears to be agreement about the meaning of worker participation but divergent views on consultation and joint decision-making between management and the workers. Those organisations that do not have WPFs are content with their existing worker representative structures.

Although the management and the worker representatives differed in their views on workplace forums, it can be stated categorically that the provision for such employee forums in the LRA has created more opportunities for workers to make representations to management than ever before. WPFs provide excellent vehicles for workers at plant level to consult with and participate in decision-making with their employers. The law has brought industrial democracy to workers but it is up to the workers themselves to avail themselves of their new rights.

10.4 RECOMMENDATIONS

The representatives of management and the representatives of the workers agreed on the principle of the disclosure of information, that disclosure of information had a positive effect on worker participation in their organisation and on the type of information disclosed. The representatives of management and the representatives of the workers however differed in how disclosure should take place in practice. If a mutually agreed procedure could be developed between the national representatives of business and labour such a nationally accepted procedure would clear up a lot of uncertainty

surrounding the disclosure of information and avoid unnecessary disputes between employer and workers regarding the disclosure of business information.

The importance of information-sharing cannot be overemphasised. There can be no meaningful interaction between management and workers if all relevant information is not made available to them. They need information if they are to contribute to efficiency and productivity improvement and participate in decision-making. Proper consultation is also entirely dependent on sharing of information between the parties. Employers' organisations, trade unions and government agenda's should devote their best efforts to create the proper climate for sharing of information if South African enterprises hope to compete on a global basis.

If the findings that the majority of the participating organisations had voluntarily chosen a single-employer bargaining structure are representative of bargaining structures in South Africa, it could indicate that there is little support for the sectoral centralised bargaining favoured by government and the COSATU unions.

It would then be advisable for government to reconsider its preference for sectoral centralised bargaining which in any event is out of step with the trend towards plant level bargaining found in Western Europe were some of our country's major trading partners are based.

It is evident that there is still a great lack of understanding between employers and employee and this requires intensified efforts to improve communication between them. The autocratic leadership styles of the past are still found in some organisations. In such climates workplace democracy is slow to take root. Union attitudes have also contributed to this state of affairs because they have continued with the combative, militant approach which they have employed with success in the past. Managements need to change their attitudes and empower their workers to develop and utilise their full potential. If unions wish to transform power relations in the workplace they should develop a proactive approach rather than react and oppose management initiatives particularly in regard to worker participation.

If this underlying mistrust is representative of the employer and worker relationship in South African organisations it is recommended that this be scientifically assessed and

that programmes be developed to build trust between employers and the workers if industrial democracy is to succeed in South Africa.

From the findings into workplace forums it appears that WPFs, the South African model for the enhancement of industrial democracy, have not enjoyed the popularity that it should have. This is mainly due to opposition from trade unions whose fears are unfounded. Du Toit *et al* (1998:289) point out that because trade unions are already entrenched where WPFs are introduced and functioning, the possibility that such WPFs will be able to subvert union activities is remote. It is recommended that several of the legal requirements for the establishment of WPFs be relaxed. For example the requirement that only organisations with a minimum of a hundred employees may establish a WPF. Many of the smaller employers are thus automatically excluded if this requirement remains unchanged. Many participative structures initiated by managements are functioning extremely well in South African organisations and it is therefore recommended that managements also be permitted to establish WPFs and this not remain the exclusive right of trade unions.

The current study encompassed seven organisations each of which was each regarded as a separate case. These participating organisations were all based in Gauteng. It is therefore recommended that future studies of industrial democracy ideally should include respondents from all nine provinces or at least an additional one or two other provinces to ensure greater representivity of South African organisations, management and workers.

Although the seven cases are representative of seven different sectors of the economy it is recommended that future studies attempt to include even more sectors of the economy.

10.5 CLOSING REMARKS

There are some encouraging signs that industrial democracy is taking root in South Africa but it needs a lot of nourishment. Even in more sophisticated societies such as Britain experiments in industrial democracy through joint consultation had not succeeded initially and Germany experienced difficulties with co-determination. With continued efforts from both managements and trade unions the South African labour

relations scene should look totally different in years to come.

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ANNEXURE A

INDUSTRIAL DEMOCRACY SURVEY QUESTIONNAIRE

Dear Respondent

You have been selected to take part in a study of the democratisation of the workplace in South Africa. The South African society is well on its way of becoming a true political democracy. However democratisation of the workplace has only begun. The aim of this study is to establish what progress has been made in democratising the South African workplace.

Kindly complete the questionnaire as requested and return it to the person who gave it to you, as soon as possible. Thank you for your time investment.

GENERAL INFORMATION

Please tick the appropriate block.

1. Are you a representative of:

Management-senior	☐	Trade union	☐
-middle	☐		
-lower	☐	Employees' representative	☐

A. DISCLOSURE OF INFORMATION

1. Section 16 of the Labour Relations Act (LRA) of 1995 provides for the disclosure of information. How does your organisation/trade union view this provision?

_____

_____

_____

_____

2. Who should make requests for disclosure of information?

3. Should the trade union be limited to information concerning its members only? Please explain.

4. Has disclosure of information improved the collective bargaining and conflict resolution process in your organisation? If so how?

5. Has disclosure of information affected employee participation in decision-making in your organisation? Please explain.

6. What type of information is disclosed? Please explain.

7. At what stage/when will your organisation disclose information to a trade union?

8. Has your organisation had a dispute regarding the disclosure of information? Please explain the nature of the dispute?

_____

_____

_____

_____

9. How was this dispute resolved? Please indicate the process followed to resolve the dispute.

Negotiation between employer and the trade union ☐

Conciliation at the CCMA ☐

Mediation at the CCMA ☐

Arbitration at the CCMA ☐

By the Labour Court ☐

Other: Please explain.

_____

_____

B. COLLECTIVE BARGAINING

1. What does your organisation/trade union understand under the term collective bargaining?

_____

_____

_____

_____

2. Does your organisation/trade union practice collective bargaining in the workplace ? How often does this happen?

_____

_____

_____

_____

3. Indicate your organisation's bargaining structure by marking the appropriate box

Multi-employer (sectoral) ☐

Single-employer (centralised site) ☐

Single-employer (decentralised site) ☐

Two-tier (Minima at multi-employer level and actuals and bonuses at single employer level) ☐

Other. Please explain

_____

_____

4. Describe the bargaining relationship between your management and the trade union or worker representative structure?

_____

C. WORKER PARTICIPATION, JOINT CONSULTATION AND DECISION-MAKING

1. What does your organisation/trade union understand under the term worker participation? Please explain.

2. Has worker participation increased in your organisation since the introduction of the LRA of 1995? Please give examples.

3. What does your organisation/trade union understand under the term consultation? Please explain.

4. List those matters on which consultation has taken place in your organisation.

5. Does your organisation have a consultative structure ? What is it called and describe its functioning.

6. The LRA of 1995 provides for joint decision-making. What is your organisation's/trade union's understanding of the term? Please explain.

7. Indicate those matters on which joint decision-making have taken place.

D WORKPLACE FORUMS (WPFs)

D1 ORGANISATIONS THAT DO NOT HAVE WORKPLACE FORUMS (WPF's)

1. Why has a WPF not been established?

2. What steps are being taken to establish a WPF?

3. What difficulties do you foresee in the establishment of a WPF?

4. What effects will a WPF have on your organisation if established?

5. Does your organisation have any other worker involvement/participation structure? If yes, please give details.

6. Comment on the effectiveness of this structure?

D2 ORGANISATIONS THAT HAVE OR HAD WPFs

7. What was the reason(s) for the establishment of the WPF?

8. Describe the process followed during the drawing up the WPF's constitution?

9. What external help (if any) did you receive in drawing up the constitution?

10. How many members does your WPF have? (That is, the members of the Forum only)

11. Describe the election process of WPF members.

12. How often does your WPF meet?

13. What is discussed? Please give examples.

14. How often does your WPF meet with the employees in your organisation?

15. Has the WPF been given the opportunity to make representations and to advance alternative proposals? Please give details.

16. Has the WPF ever made use of external experts? Describe their contribution.

17. Has your WPF ever been dissolved? Please give details.

18. Is there anything you would like to add regarding the democratization of your organisation? If yes, please give details.

THANK YOU FOR YOUR PARTICIPATION.

If you would like to receive a copy of the survey results kindly indicate your full name, designation, company name, postal address, e-mail address, fax and telephone number.