

THE ROLE OF MEDIATION IN INDUSTRIAL CONFLICT
RESOLUTION

CATHARINE PHILIP

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SUPERVISOR: JOHANN MAREE

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ABSTRACT

This dissertation analyses the role of industrial mediation within the framework of the relationship between the underlying causes of industrial conflict and the resolution of this conflict. The inextricable relationship between economics and politics means that the underlying causes of industrial conflict need to be located within both the socio-political arena and in the contradictions within the labour process.

The Independent Mediation Service of South Africa (IMSSA) has played a crucial role in facilitating the institutionalisation of extra-statutory or independent industrial mediation in response to the changing nature of industrial relations in the country. IMSSA is rooted in the pluralist approach to industrial relations. Pluralism is rejected in this dissertation for its implicit acceptance of the existing socio-political status quo and for its belief in the legitimacy of the social system as a fair and democratic one. Thus, a critical question in this research is, what is the role of mediation if pluralism is rejected as a starting point for analysis?

A distinction is drawn between manifest and latent conflict in this dissertation. The primary hypothesis, which is confirmed, is that mediation addresses the manifest, rather than the latent conflict. This challenges the claim of the problem-solving approach of mediation that the process uncovers the underlying conflict. Instead, this research reveals that mediation is dispute-specific and has the

potential for solving the immediate conflict, rather than removing the fundamental sources of this conflict. Further, the role of mediation is limited by the very nature of the collective bargaining process which restricts the expression of the latent conflict.

It is argued that, although mediation may be accused of palliating the conflict in the sense that it settles the dispute without addressing the structural causes of the conflict, mediation plays a significant role in the collective bargaining process. This is revealed in the role that mediation plays in improving bargaining skills, empowering the weaker party, legitimising the negotiating parties, educating the parties, overcoming mistrust and promoting understanding between adversaries.

Thus, mediation has the potential for significantly effecting the working relationship and altering the dynamics of this relationship in terms of enhancing the essential relationship-building dimension of this relationship and facilitating an approach to bargaining in good faith. The effects of mediation therefore extend beyond the immediate conflict settlement.

Mediation is not a response to procedural inadequacies and the utilisation of this process does not reflect inadequate negotiation skills. Instead, the increasing number of industrial mediations may be seen to be a reflection of more sophisticated industrial relations which reveal an acknowledgement of the need to compromise as a

prerequisite for successful collective bargaining.

Research was conducted and hypotheses tested through primary research which involved interviews with leading management representatives and trade unionists in the Cape Town and Port Elizabeth-Uitenhage regions and mediators in these two areas as well as in Johannesburg and Pretoria. Interviews were conducted on an open-ended, but structured basis. The two primary regions were chosen for their representation of different trends in the utilisation of industrial mediation. Focus in the Port Elizabeth-Uitenhage region centred on why mediation has been utilised relatively less frequently in this region than elsewhere in the country. It was found that, although specific forces have shaped the unique nature of collective bargaining in this region, the attitude towards mediation arose not from more militant or confrontational policies, but from a number of misperceptions and faulty assumptions concerning the process and role of mediation.

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INTRODUCTION

Mediation is a voluntary process in which an impartial intervenor assists the disputants in a conflict situation to reach a settlement of their differences through an agreement that defines their future behaviour. Thus, "mediation is a process oriented toward assisting the parties to forge to an agreement, the terms of which they, at the end of the day, determine. The mediator will deal with the parties in a way that helps build and strengthen their relationship while reaching an agreement" (Nupen in Human Resource Management 1989:18). It is usually a structured process involving face-to-face negotiations.

Confusion sometimes exists between the processes of mediation and arbitration. Arbitration is a form of adjudication "in which the parties to a dispute jointly ask a neutral third party to hear their respective cases and then to make an award which they undertake in advance to accept as final and binding upon them" (Nupen in Human Resource Management 1989:14). The arbitrator is therefore expected to render a binding decision; the mediator, who assists the disputants to reach their own voluntary settlement, has no such authority (Salem 1985:3).

Recent years have seen a steady increase in industrial conflict action in South Africa. Although statutory provision for mediation was made in the past, the increasing popularity and utilisation of private mediation - a trend which seems likely to increase in the future - can be attributed largely to the Independent Mediation Service of South Africa (IMSSA). This service was established in 1983 to assist the

process of collective bargaining and has gained credibility and recognition - by both employers and employees - as an independent and impartial body. The success of IMSSA has had significant implications for mediation in industry and could have similar implications in community conflict resolution in South Africa.

A theory of industrial conflict in South Africa needs to be integrated with social conflict theory because the inextricable relationship between economics and politics means that the dynamics of industrial conflict cannot be fully understood without this broader perspective. Thus the role of mediation, as a form of conflict resolution in industry, needs to be countextualised within a theoretical framework that takes into account this relationship between industrial and socio-political conflict. Because the legitimacy of pluralism is undermined if society itself is not seen as a reasonable and fair system I reject the pluralist ideology of industrial relations. However, IMSSA is "rooted in a pluralistic notion or theory of industrial relations" (Nupen in Human Resource Management 1989:21).

If pluralism is thus rejected as a starting point and the major influence on industrial mediation lies within this framework, what role is industrial mediation fulfilling? In the light of the criticisms of pluralism and the shortcomings of radical pluralism, (see Chapter 2 where a detailed critique is presented), is mediation serving to settle the dispute, as opposed to resolving the conflict? If this is the case, can mediation be criticised for palliating the conflict in the sense that it is not addressing the underlying causes of the conflict and is only settling the immediate conflict?

My primary hypothesis is that industrial mediation addresses itself to the manifestation of conflict, rather than to the latent conflict. Thus, it contends only with the immediate conflict situation. To this extent mediation may be accused of palliating the conflict since it is not addressing the underlying causes of this conflict. While it may be argued that addressing the latent conflict is a role beyond the expectations of mediation, it is crucial that the role of mediation is justified because of the dangers inherent in simply pacifying industrial conflict. I would hypothesise that the subjects in my interview sample who perceive a link between industrial and societal conflict, i.e. perceive conflict in industry to be a manifestation of broader socio-political conflict, would consider mediation to be a potential palliative. However, I will argue that, although this might be the case, this does not detract from the constructive role of mediation.

I would hypothesise that mediation is fulfilling a constructive role in industry and the utilisation of mediation is not discredited or undermined by one's ideological or theoretical position. This constructive role may be seen, for example, in the significant role mediation plays in the collective bargaining process in improving negotiation skills, in empowering the weaker party and in facilitating negotiation. Further, my hypothesis is that the effects of mediation extend beyond the immediate conflict situation and the process of mediation has indirect constructive consequences. This hypothesis necessitates an analysis of the potential for mediation to affect the working relationship between employers and employees.

A further hypothesis is that recourse to mediation is not a reflection of inadequate negotiation skills, but is rather a valuable aspect of collective bargaining regardless of the level of bargaining skills. Thus, the relatively low utilisation of mediation in the Port Elizabeth-Uitenhage region, in comparison with the national trend, does not necessarily reflect more sophisticated negotiation skills. This would have significant implications for the future role of mediation if the level of negotiation skills is to improve.

These hypotheses will be tested through the integration of theoretical material with the responses of interviewees. This will involve an analysis of the perceptions of mediators, trade unionists and managers concerning the role that they perceive mediation to be playing in industry and their perceptions of what the process is achieving.

Thus, my aim is to analyse the significance, value and role of industrial mediation as a form of conflict resolution. One of the main focuses of the primary research is therefore on why trade unionists and managers, specifically in the Cape Town region, are utilising this process. The Port Elizabeth-Uitenhage region was also chosen as a comparative region for primary research in an attempt to analyse why mediation has not been utilised to the same extent in this region as on a national level and to thus further explore the role of industrial mediation.

Chapter 1 provides the background to conflict in terms of its socio-political context. The inter-relationship between economics and politics means that this context is crucial to a contextualisation of

the role of industrial mediation as a mechanism of conflict resolution. Further, this chapter provides a starting point for an analysis of the theories of industrial conflict in Chapter 2. This chapter substantiates my basic rejection of pluralism. Together these chapters provide the framework for my hypothesis that industrial mediation does not address the underlying causes of conflict.

The role of mediation cannot be fully understood without locating this process within the changing nature of industrial conflict and industrial relations in Chapter 3. This chapter also includes a brief outline of the process of mediation and of the context of the establishment of IMSSA.

The perceptions of mediators, management representatives and trade unionists are crucial in ascertaining the role that mediation is playing in industry in South Africa. The research methodology is presented in Chapter 4 and the interviews are summarised, integrated and presented in Chapters 5 and 6.

Chapter 7 analyses the role of mediation in the Port Elizabeth-Uitenhage region with specific emphasis on why mediation has not enjoyed similar popularity as elsewhere in the country.

These chapters form the basis for an integrated analysis of the significance, value and role of industrial mediation and analysis of the hypotheses in Chapter 8. This chapter attempts to answer the crucial question as to what industrial mediation is achieving, why it is being utilised and what role it is playing in the resolution of industrial conflict, particularly in the light of the structural

causes of this conflict.

Definition of terms: The term 'black' in this dissertation is utilised as a necessary generic term which encompasses those who are classified according to their population group registration as 'African'; 'coloured'; Asian or Indian.

CHAPTER 1

THE SOCIAL CONTEXT OF CONFLICT

INTRODUCTION

This chapter provides a background to the analysis of social conflict in order to afford a framework within which to analyse conflict and conflict resolution, specifically mediation, in industrial relations. Because of the inextricable relationship between politics and economics (a relationship which is explored in Chapter 8), we cannot totally divorce conflict at the workplace from that in the socio-political arena. Social conflict analysis may thus provide deeper insight and understanding of the dynamics involved in industrial relations.

My aim in this dissertation is to analyse the role of mediation in industrial relations within a framework which takes into account the inter-relationship between industrial relations and broader socio-political factors. My hypothesis is that the ability to thus locate mediation within a specifically South African context can lead to a greater understanding of the role and function of mediation in industry in South Africa.

Because it is impossible to find a comprehensive theory which integrates all aspects of analysis, the analytic approach I have utilized is necessarily eclectic. This chapter focuses on the following aspects of analysis of social conflict (derived from Oberschall 1973:31):

1. Definition of social conflict.
2. Underlying causes of social conflict.
3. The resolution of conflict.

This section deals with the difference between the resolution and accommodation of conflict. Its primary function is to provide a background to the notion of problem-solving. It also merely introduces the role of third parties.

4. The functions of social conflict.

1 DEFINING CONFLICT

The definition of conflict is crucial to an analysis of conflict since the way the concept is defined determines our analysis - and has implications for the way we understand the underlying bases of conflict, the functions of conflict and the resolution of conflict. Thus, the definition determines the questions to be asked and the implications for political and sociological practice - for example, if conflict is seen as a breakdown of the system, and the absence of conflict to be peace, conflict is seen as a destructive and negative dimension of society. The definition of conflict must also resist compartmentalisation into any single rigid disciplinarian conceptualisation. The conceptualisation of conflict is further complicated and problematic because it suffers from the same problems of conceptual definition common to all social, as opposed to 'pure', sciences. A definition of conflict also needs to have general applicability, i.e. it must not be limited to a specific typology of conflict, but must apply to all conflict situations regardless of the duration, scale, geographic spread and ultimate outcome of the conflict.

Coser defines social conflict as "a struggle over values or claims to status, power and scarce resources, in which the aims of the conflict groups are not only to gain the desired values, but also to neutralise, injure or eliminate rivals" (cited in Oberschall 1973: 30). While this definition is preferable to that of Schmid who defines conflict in terms of a conflict of incompatible interests in the structural system (cited in Webb 1982:431) and thereby ignores the function of a conflict of needs, Coser's definition immediately presupposes a win-lose approach to the accommodation or resolution of conflict. Coser's definition could be more satisfactorily accepted if it implied that one party would not necessarily 'lose' the conflict.

A more satisfactory definition of conflict can be presented by utilising Kriesberg's definition (Kriesberg 1982:390) and modifying Coser's definition. Conflict may thus be defined as:

A social conflict exists when two or more parties believe they have incompatible interests or needs and the attempt to gain these interests or needs may have the consequence of the neutralisation, injury or elimination of the rival group.

2 THE CAUSES OR UNDERLYING BASES OF CONFLICT

An understanding of conflict requires an analysis of the underlying conditions in conflict situations in order to understand the sources of conflict.

The development of satisfactory conflict resolution mechanisms depends largely on our understanding of the causes of conflict. Such

an analysis is integrally linked to one's ideological and theoretical position .

This section briefly examines some of the major theories relating to the determination of social conflict. In presenting these different theoretical models, I have utilised the often proposed major set of factors as a framework for the analysis of bases of social conflicts (Kriesberg 1982:391). However, these are used in a far broader sense than is generally proposed and these categories serve merely as a starting point for analysis.

The three major sets of factors relating to the development of conflict are:

- 1 those internal to one or more parties;
- 2 the relations between the parties;
- 3 the system in which the parties function.

2.1 Factors internal to the parties

Factors which are internal to conflicting parties are limited to interpersonal conflicts for the sake of this analysis. While personal factors, such as personality etc. obviously play a role in conflict situations, the vast scope of psychological research into conflict falls outside the scope of this particular sociological approach to conflict. The starting point and primary focus here is on the dynamics of group conflict. Thus, internal dynamics are analysed in terms of groups, rather than individuals, and the role of psychological factors and personal ideologies are taken into account from this perspective.

2.2 The relations between different parties or groups as an explanation for the bases of conflict

Conflict as a function of group relations can be seen to arise from structural relations of inequality which are explained in terms of the primacy of economic, political or ideological factors, depending on one's theoretical framework.

2.2.1 Economic determinants of conflict

Marx remains, arguably, the most powerful analyst of asymmetrical relationships of class interests arising from a social system of unequal scarce resource allocation. These class interests are seen to be systematically generated by a structure of productive relations (Coser 1962:139). The capitalist character of production thus "implies the class antagonism between capitalists and wage-labourers" (Marx 1974:57).

Marxist analysis sees the development of the capitalist mode of production as inevitably generating two polarised social classes - the bourgeoisie and the proletariat - as a result of the inequality in the allocation of the means of production. The class relationship arises since "the conditions required for the realisation of labour-power, viz. means of subsistence and means of production, are separated from the owner of labour power, being the property of another" (Marx 1974:31). Ultimately, the bourgeois-minority will be overthrown by the increasingly militant, organised and class-conscious proletariat.

The potential for social conflict is thus inherent as a result of differential access to scarce resources and power. Capitalism generates this potential through the differentially located conflicts of interest which are the cornerstone of capitalist development. The differential distribution of resources and power on the part of different classes creates alternative tendencies and counter-ideologies among the deprived. Therefore, from a Marxist perspective, conflict is an essential and inevitable aspect of capitalist society - the institutional framework of capitalism is rooted in, and built on, inequalities which result in alienation and lead to conflict. For Marx, "the separation of the free worker from his means of production" is the starting point for this capitalist "mode of exploitation" (Marx 1974:37) which occurs through the extraction of surplus value, ie. the value of labour over and above what is paid, which provides the profits for the owners of the means of production.

The intrinsic contradictions in the capitalist social order means that, for Marx, social equilibrium is a special case of disequilibrium, i.e. it is difficult to account for continued societal functioning under relatively stable conditions. This is in opposition to the normative functionalist analysis which perceives the integration of all groups within a common system of norms and values and, therefore, has difficulty in accounting for social change (Coser 1962:141).

Although we might reject Marx' deterministic and reductionistic (in terms of analysing the political order as a reflection of the economic order) analysis, on the basis of historical evidence, Marx's analytical concepts and tools should not be undermined or rejected,

particularly in terms of his identification of the contradictions which result in alienation and class consciousness in industrial societies. (The Marxist approach is further discussed and analysed in Chapter 2, Section 3 in terms of the role of conflict in industry.)

a) Economic Discontent

The debate over the relationship between economic factors and social conflict is not concerned with whether economic changes play a role in social conflict, but over the precise links between economic changes and conflicts, especially revolutionary outbreaks. The causal link between these two facts has not been unanimously accepted.

Two particularly interesting theories that analyse the relationship between economic factors and social change are those of Mancur Olson and James Davies.

Rising expectations but reduced need satisfaction theory

In this theory, Davies juxtaposes the concepts of absolute and relative deprivation and proposes that "revolutions are most likely to occur when a prolonged period of objective economic and social development is followed by a short period of sharp reversal" (Davies 1969:86).

The developing society fosters expectations of greater opportunity and continued ability to satisfy continually rising needs. When these expectations are not realised, the gap between expected need satisfaction and actual need satisfaction (ranging from basic physical to social needs) creates the potential for a revolutionary state of

mind. The crucial factor in this theory is the fear that ground gained over a long period of time will be quickly lost (Davies 1969: 89). Thus, conflict emerges if the government is blamed for suppressing the continued opportunity to satisfy continually emerging needs.

Olson's destabilisation theory offers a slightly different analysis of the link between economic change and social conflict. Olson looks at the destabilising force of rapid economic growth, for example, as a result of the paradoxical situation where there is an increase in the absolute number of people whose standard of living has fallen, despite an increase in the average per capita income of the entire population. In the early stages of economic growth, new technologies, new skills, methods of production etc, increase the inequalities of income. This is a result of the unequal distribution of, and access to, new skills, technologies etc, and the fact that "economic growth as a long-term trend is often associated with short-term downswings, for example, for particular groups, wages may rise slower than prices, increased unemployment may occur, and, indeed wages may decline" (Oberschall 1973:38). Thus, the number of economic "losers" may be significantly increased as a result of economic growth. These findings would contradict the "reformist" argument in South Africa that the redistribution of wealth toward the poor is dependent upon economic growth. Olson emphasises the need to analyse the impact of economic changes upon specific groups in order to understand the potential for social and political conflict.

2.2.2 Political discontent as a determinant of conflict

The theories that emphasise the primacy of political factors as the underlying causes of conflict, focus on the qualities of political power which create differential social and party positions in society.

Weber distinguished three major kinds of inequality which arise from the political structure of society: "class"; "status"; and "party".

"Class" inequality is determined by the ownership of production and, thus, refers to the approximate location in the economic division of labour. Thus, for Weber, a class arises "when (1) a number of people have in common a specific casual component of their life chances, insofar as (2) this component is represented exclusively by economic interests in the possession of goods and opportunities for income, and (3) is represented under the conditions of the commodity or labour markets." "Property" and "lack of property" are therefore the basic categories of all class situations (Weber 1968:927).

"Status" refers to social inequality and arises from the individual's perceived social position, social estimation and prestige. "Status" is often determined by style of consumption which is influenced by race, sex or age, rather than by the source and amount of income (Hund 1983:13). "In contrast to the purely economically determined 'class situation', we wish to designate as status situation every typical component of the life of men that is determined by a specific, positive or negative, social estimation of honour." Thus, "both propertied and propertyless people can belong to the same status group, and frequently they do ..." (Weber 1968:932). This is clearly exemplified in South Africa where the colour-class category obscures

the definition of economic classes to a large extent. Thus the African "status group" is defined by virtue of colour, rather than property and, consequently, comprises people from a range of economic classes.

"Party" inequalities arise directly out of differential political positions within society. The action of parties is oriented directly towards the acquisition of social power. The sociological structure of parties "differ according to whether or not the community is stratified by status or by classes" (Weber 1968:329).

For Weber, the origins of conflict lie in this basic hierarchical structural differentiation which results in inequality in social and political life. The role of these inequalities in their relationship to conflict is further explored in terms of relative deprivation (see Section 2.2.3(c)).

Dahrendorf's theory (1959) relating political discontent to conflict supports that of Weber's in that it is seen to arise from political power which controls or directs the actions of groups in society. Thus, the control over the government apparatus plays a central role in the origins of conflict. This is demonstrated by Dahrendorf's analysis of "class conflict" which he explains in terms of the unequal distribution of power or authority rather than economic benefits.

This emphasis on authority as a source of political discontent is significant and has been further developed by Kornhauser. The structure of individuals and groups in a society which generates social conflict can be linked to the division of authority which arises out of this social organisation and results in relations of

dominance and subordination. Kornhauser distinguishes between four types of authority which can create discontent, and subsequently, conflict (cited in Oberschall 1973:44-49).

"Alien authority" refers to the imposition or extension of an alien, superior, external authority upon groups of people. Discontent arises as a result of resentment over loss of autonomy, particularly in regions with a long history of autonomy. It is important to note that "alien authority" may be foreign or national.

"Exclusive authority" creates discontent and conflict when excluded groups demand greater authority and rights and attempt to achieve full citizenship status and rights by acquiring greater political independence. This is resisted by those enjoying a monopoly of exclusive authority and rights as it is perceived to be a diminution of their exclusive position and privileges. Conflict arises because the "continued denial of political and civil rights, discrimination, denigration of the customs and life styles, and lack of respect and recognition for the achievements, dignity, leaders, and emerging collective pride, of negatively privileged groups becomes intolerable and leads to movements of collective protest and opposition" (Oberschall 1973:46).

The exercise of exclusive authority by the white minority South African government clearly exemplifies authority as a source of social conflict. The expression of collective protest by the politically excluded is thus a natural expression of conflict arising from this particular form of authority.

"Arbitrary and illegitimate authority". Discontents arising from this illegitimate authority are closely allied to conflicts generated by politically excluded groups. Political discontent can be engendered by regimes who have utilised illegitimate means of acquiring power and therefore rely on the exercise of arbitrary power, coercion and superior force to maintain their position of authority.

The extensive use of repression in South Africa and the continued imposition of the State of Emergency supports this theory of the need for an illegitimate authority to maintain their position through force and coercion. The illegitimate nature of the South African government arises from their exclusionary enfranchisement.

Alternatively, conservative institutions that are threatened by social change, rely on illegitimate means to prevent the conflict of opposing forces. Such structural violence may leave political opponents no choice but to counter coercion with violence because opposition through peaceful and legal channels is made impossible. This argument provides the basis for the stand of the African Nationalist Congress on violence in South Africa.

The analysis of arbitrary and illegitimate authority has significant implications for the mobilisation of conflict groups. Politically deprived groups may be rallied over the focus of their political domination and oppression, namely the state and its agents of illegitimate authority (e.g. the police and army) rather than around the particular economic system. However, the inextricable relationship between politics and economics means that the focus of

oppression may not necessarily be clearly identified within one of these arenas. Thus, in South Africa, the history of racial capitalism has meant that it is not only the political apartheid state and its agents of enforcement that is identified by the oppressed as the source of this oppression, but also the particular economic system. Consequently, apartheid and capitalism as an intertwined concept have become, in many sectors, to be identified as the source of social conflict. (This relationship is further addressed in Chapter 8.)

"Insufficient authority" results in discontent because the authority is ineffective in that it fails to fulfill the usual and expected functions of the government insofar as it is incapable of solving societal problems. Over time, such accumulated frustrations over the existing authority will undermine the regime's legitimacy.

Apart from these sources of discontent, conflict can also arise from the contest for a greater share of authority by groups with access to power.

2.2.3 Socio-psychological determinants of conflict

The concepts of legitimacy, relative deprivation and the theory of needs, provide an explanation for the determinants of conflict in socio-psychological terms.

a) Legitimacy

The concept of legitimacy is crucial to our understanding not only of authority as a source of political conflict, but also to an analysis of the underlying causes of social conflict.

Legitimacy is not a static concept because it is based on perceptions and group definitions. It is thus variable over time. Legitimacy implies a perceived satisfaction of the needs of those over whom the authority is exercised. Legitimised control "refers to authority that is derived from those over whom it is exercised" (Burton 1979:130). Thus, the essence of legitimised control lies in the fact that authority is only effective insofar as it is accepted and regarded as legitimate by the mass base.

The concept of legitimacy has significant implications for the resolution of conflict - authority imposed by the state on its oppositions does not grant these institutions legitimacy if they are perceived to be unrepresentative by the people they purport to represent. Legality is not equivalent to legitimacy since it is the beliefs, attitudes, perceptions and interests of groups which determine the legitimacy of particular social arrangements, leaders and institutions. Legality is only considered to be legitimate when "(a) it derives from a voluntary agreement of the interested parties; (b) it is imposed by an authority which is held to be legitimate and therefore meets with compliance" (Weber 1968:36).

This concept is again clearly exemplified in South Africa where, in an attempt to confine conflict, the state - in many cases - grants legality to structures which are not viewed as legitimate by those they are intended to represent. A classic example of this are the local black authorities which, despite their legality under the Community Council Act, do not have the legitimate support of their constituencies.

Conflict can, therefore, erupt as a result of competing centres of authority, i.e. legitimate versus legal authority. This links conflict to the problems of ideology since legitimacy can be seen to be related to measures of social justice and consequent relative deprivation. Democracy as an ideal exemplifies the infusion of concepts of justice, authority and legitimacy with elements of ideology.

A legitimate system of stratification thus "rests not only on the rights of the superordinate group, but on the obligations that it has for the welfare of the subordinate group" (Oberschall 1973:59) and is based on group perception. The implication of legitimate control is that members of groups subject to this control willingly accept coercive measures if they are in the interests of public welfare. However, as is occurring in South Africa, a crisis of legitimacy develops and results in conflict if illegitimate authority is exercised for the exclusive benefit of certain groups and the interests of the broader society are not met. In South Africa this crisis may be demonstrated, for example, by the opposition to conscription and to the legality of institutions of justice by those who reject the legitimacy of these structures.

The role of legal institutions in society is also directly related to perceptions of legitimacy and to the study of authority. The law "can be used to define the legitimacy of perceived deprivations of equality in society by arguing that such arrangements are just or necessary" (Hund 1983: 14). Thus, the legal system can be manipulated in order

to confer legitimacy upon social perceptions of stratification and control, and the entire social system. The apartheid legislation and all its ramifications in South Africa illustrates the concept of illegitimate law which legalises deprivations and inequalities. The law itself, therefore, needs to be analysed in terms of its legitimacy and, if necessary, to be devalued as an object of legitimacy. The role of illegitimate law, or law which institutionalises an unequal distribution of advantages in society, in the transformation of injustice into dispute into conflict must not be underestimated.

b) The theory of needs as an explanation for social conflict

Classical and traditional assumptions of social conflict were that conflict developed over the distribution of scarce resources which meant that one party would necessarily "lose" in a situation of conflict. Implicit in these assumptions was that conflict developed out of a conflict of interests. The implication of this theory is that conflict could be reduced or resolved through the socialisation and coercion of individuals. However, recent experience and research suggests that protracted conflict is not over negotiable values such as territory, resources and scarce products, but is concerned with essentially human and identity elements, rather than structural factors. Instead, issues such as recognition, identity, participation and a sense of control play a crucial role in the development of conflict. Thus, it is impossible to socialise individuals into behaviours that deny the pursuit of development, i.e. security, identity, etc.

The development of Paul Sites' theory of needs addresses this idea of conflicts arising from needs rather than interests. His social

theory, based on an extension of Maslow's hierarchy of basic personal needs, argues that some social values cannot be curbed, socialised or negotiated as was previously assumed. This theory, therefore, has significant implications for an analysis of conflict and conflict accommodation or resolution mechanisms. Further, parties in conflict, who, for reasons of history and their own behaviour, have no valued relationships, are unrestrained in their use of violence when pursuing such needs (Sites cited in Burton 1982:177).

This theory makes it possible to distinguish between these ontological needs and other interests, e.g. commercial and role interests. The implications of a needs theory analysis of conflict is that in any conflict situation, interests can be negotiated, but differences, such as human needs and some cultural values, are non-negotiable entities. Thus the implications of this theory for an analysis of South African society would be that the underlying causes of conflict in society are to be found in the lack of ontological need fulfilment of the majority of the population as a result of the exclusive, arbitrary and illegitimate (as defined by Kornhauser - see Section 2.2.2) exercise of authority. As a more specific example this need dissatisfaction manifested itself in industrial relations in the 1970's where the conflict was rooted primarily in the need of African workers to have legal and legitimate trade union representation. Thus, Site's theory would explain this conflict as an inevitable consequence of the lack of satisfaction of basic human needs of identity, participation, security and a sense of control. The parallel of this example, with the state's inability to curb political needs of Africans, is obvious.

Sites' theory of social needs thus refers to the basic needs of the individual as a social unit and these needs are basic to social organisation. These needs are universal and thus understood outside of a particular society. Behaviour is thus motivated by the goal of need-satisfaction and if the satisfaction of a desired need is not met, conflict will develop. Concentrating on the need-dissatisfaction in a conflict could promote the possible resolution of the conflict.

c) The concept of relative deprivation and its role in the manifestation of conflict

Mere frustration will not lead to conflict. However, the concepts of "legitimacy", "relative deprivation" and "reference group" enable us to reach a greater understanding of the complex relationship between inequality and conflict, specifically why, despite objective inequalities, conflict does not always develop.

Relative deprivation is generally defined as "a perceived discrepancy between a person's expectations and actual achievements" (Gurr 1982: 325). Thus, sources of dissatisfaction arise from a discrepancy between what individuals or groups of people have and what they think they ought to have (Kriesberg 1982:393). The emphasis is on the discrepancy between achievements and expectations of rights - material, political or social rights.

The central aspect of relative deprivation is that the perceived discrepancy results from comparison with a reference group or individual. Relative deprivation is perceived if it is believed by the individual or group that they should legitimately have what the

reference individual or group has. This concept of relative deprivation was also addressed by Marx in his essay 'Wage, Labour and Capital' - "The rapid growth of productive capital brings about an equally rapid growth of wealth, luxury, social wants, social enjoyments. Thus, although the enjoyments of the workers have risen, the social satisfaction that they give has fallen in comparison with the increased enjoyments of the capitalist, which are inaccessible to the worker, in comparison with the state of development of society in general. Our desires and pleasures spring from society; we measure them therefore by society and not by the objects which serve for their satisfaction. Because they are of a social nature, they are of a relative nature" (cited in Davies 1969:85). The perception of relative deprivation can lead to a variety of responses. Therefore, aggressive political action only results under certain circumstances and only if the government is held responsible for the perceived discrepancy. The level of repression by the state would be a further contributing factor towards this action (Gurr 1982:326).

Support for aggressive political action is greatest in subgroups which experience substantial just-deserts relative deprivation about matters which are important to them and believe that the government is responsible for failing to deal with the problem (Marsh; Shingles and Zuk cited in Gurr 1982:326). Relative deprivation in itself does not determine political action. Rather just-deserts relative deprivation needs to be understood as a motivational factor that is directly related to perceptions, political attitudes and group identifications - the relationship of relative deprivation and conflict is more than simply the result of the gap between 'wants' and 'achievements'. Relative deprivation plays a greater role in the emergence of conflict

when discrepancy is perceived in terms of political rights rather than failure to achieve expected 'wants'. The concept of relative deprivation as a source of social conflict may be illustrated in South Africa utilising Weber's categories of power distribution within the society (see Section 2.2.2). Thus, for example, Africans in South Africa may be experience relative deprivation as a result of "class" which places them in a disadvantaged position in terms of income, occupational advancement, working conditions etc. This is inextricably bound to their deprivation as a colour status group and, ultimately linked to their "party" relative deprivation i.e. the inability to partake in, and control, the central political machinery. The existence of counter ideologies (see Section 2.2.4) is a manifestation of this experience of relative deprivation.

The concept of relative deprivation supports Davies' theory of rising expectations, but reduced need satisfaction (see Section 2.2.1.1). The period of improvement establishes expectations and the sharp decline creates an intolerable gap between expectations and achievements. Gurr refers to "aspirational relative deprivation" to explain this discrepancy, i.e. deprivation experienced when expectations rise more rapidly than achievements. This is in contrast to "decremental relative deprivation" which occurs when achievements decline while expectations remain constant (Gurr 1982: 326).

Relative deprivation may also partly explain why Marxist theories of proletarian revolution have not occurred in advanced capitalist societies. Thus, where workers have political power, they have used

this to overcome the lack of economic power. This is supported by Korpis' theory (1981 cited in Finnemore 1984:19) that, while accepting the underlying cause of conflict in capitalist society to be the economic structure, the distribution of power resources in society can be assumed to condition the ways in which class conflict is expressed. Thus the impact of increasing relative deprivation may be undermined if the living conditions of the working class have risen.

These socio-psychological theories are significant in that they provide a background to the analysis of underlying causes of conflict. However, they may be criticised for failing to adequately address political and economic structures, and the imbalance of power as determinants of conflict. Thus, for example, Sites' Needs Theory may be criticised for omitting an analysis of why these needs are not realized. These theories must therefore be regarded as a starting point for analysis and must be integrated with political and economic theories.

2.2.4 The role of ideology

Ideology may be described as a way of expressing one's attitude to the surrounding world and an explanation for the structure and functioning of society and of the world as a whole (Kornhauser, Dubin and Ross 1954). Thus, ideology necessarily comprises an interpretation of social and political phenomenon. One's ideology, therefore, plays a central role in the analysis of social conflict. Ideology will determine, for example, the primacy given to economic or political factors in analysing society. When counter-ideologies emerge in

opposition to the prevailing dominant ideology the different definitions and role of society incorporated in the counter-ideologies may account for objective grievances in the population. Thus, sources of deprivation and appropriate responses in the counter-ideology may provide an alternative and more meaningful proposition for the functioning of society.

Ideologies, therefore, play a crucial role in identifying conflict, transforming disputes into conflict, and mobilising conflict groups. Killian identifies four aspects of a full-blown ideology. An ideology interprets the process that has resulted in the present, undesirable situation and the individuals, groups or institutions responsible for this development are identified. Secondly, the ideology provides a blueprint which describes the goals of the movement and the means by which a desirable state of society will be achieved. Thirdly, the social philosophy of the ideology will justify the moral ideas of the movement. Fourthly, the ideology "may provide a novel interpretation of the historical process and may be concerned with the moral re-evaluation of the protest group" (Oberschall 1973:181).

In South Africa, counter-ideologies which have developed as a result of the dissatisfaction with the dominant ideologies of racism, capitalism, Afrikaner nationalism, etc., include the ideologies of Socialism, Communism, Black Consciousness, Africanisation, etc. These ideologies have developed as a result of distributive injustices, structural inequalities and the ensuing conflict created by the unequal distribution of resources. The perception of conflict, the reasons for it and the means of overcoming it vary

according to the primary focus of the ideology. However, "when two organisations in conflict also have different ideological positions and when they come to symbolise these positions, the conflict is usually made stronger" (Boulding 1962: 277).

2.3 The social system within which potential adversaries act as a determinant of conflict

Rigidity of the social system and intensity of conflict are integrally related concepts. Rigid systems which coercively suppress the incidents of conflict in fact promote the emergence of radical cleavages and violent forms of conflict. Conversely, systems which allow open and direct expression of conflict within them, i.e. more elastic systems, are able to adjust to the shifting balance of power created by conflict and are, thus, "less likely to be menaced by basic and explosive alignments within their midst" (Coser 1967:29). If the social system is flexible enough to adjust to the conflict situations, change will take place within the system. However, a social system which allows the accumulation of suppressed conflict and does not address itself to the sources of that conflict, puts itself in a position where dissatisfied groups may become so powerful and aggressive that change of the system becomes one of the only viable solutions.

Because of the integral relationship between the economic and political realms, nearly all conflict has the potential of being politicised because of the dominance of politics over all other institutions, e.g. if strikes are illegal, striking for higher wages immediately appears as a political challenge, not simply a means of

economic improvement.

Any generalisation concerning the social system, or even conflict, is difficult because the context of social conflict is always in a specific situation where the social, economic and political institutions are inter-related in a complex way.

One aspect of the system which plays a crucial role in analysing the causes of social conflict is that of institutionalisation.

a) Institutionalisation

The character of institutionalised procedures for accommodating conflict affects the underlying conflict conditions and affects how conflicts are conducted - for example, the expression of trade union - management conflicts varies with laws pertaining to collective bargaining. Institutionalisation refers to the recognition of established usages governing relations based on generally accepted values and norms. Industrial relations highlights the need for the institutionalisation of conflict resolution mechanisms within a structure that accepts the legitimacy of both parties. Institutionalisation thus presupposes legitimate structures for conflict accommodation which are acceptable to all parties. The existence of illegitimate structures - for example works and liaison committees in South Africa in the 1970's, which though legal, were unable to substitute for legitimate African trade union representation - are liable to exacerbate the conditions of the conflict.

A perspective on the phenomenon of power can assist us in an integration of these different theories on the underlying causes of conflict, and can also lead to greater understanding of conflict resolution.

"One party is said to have power over the other party if it can impose requirements which have to be carried out by that party irrespective of the will or desire of that other party" (Douwes Dekker 1984:2).

Different theoretical orientations explaining the sources of conflict can be seen to be divergent owing, primarily, to their different perspectives as to where societal power resides. Theorists who see economic conditions as underlying societal conflict, e.g. Marx who sees conflict stemming from the ownership and control of the means of production, thus see property ownership to be the source of power. This power provides access to, and allocation of, work, wealth and natural resources. Conflict resolution therefore requires a transformation of the property basis of society and, thus, of power allocation.

Weber's analysis of 'class', 'status' and 'party' as political factors determining conflict, may also be analysed in terms of power. In this theory, power is seen as "a property which the individual has - or is given - by virtue of rank or status in the hierarchy" (Douwes Dekker 1984:2). Thus, power - or the unequal distribution of it - may again seem to be the underlying cause of conflict. The implication of this theory for conflict resolution is that power must not be seen to be

unilaterally imposed and that parties to a conflict must be similarly empowered in order for conflict resolution or accommodation to take place through legitimate, acceptable and, thus, binding agreements reached through negotiation. (The importance of the empowerment of the weaker party is further addressed in Section 4.2).

The concept of power is also relevant to Sites' theory of needs as an underlying cause of conflict. In the conflict that arises from the requirement to satisfy basic needs, Sites attributes effective power, not to governments, but to individuals and groups who will use all the means at their disposal to pursue certain human and social needs and will be constrained only by self-imposed conditions of maintaining valued relationships (Burton 1982:177).

Conflict theory that focuses on the power underlying conflict relationships, therefore, sees the ultimate source of conflict to be found in power, rather than property or authority. The most fundamental social process and the underlying cause of conflict is seen to be the power struggle. Thus, apparently mutually beneficial exchange may appear normative because the oppressed and exploited do not have the power to resist these structural relations.

A critique of all these theories addressing the causes of social conflict is that, with the exception of Marx' theory, they all fail to address the role of industry and the opposing or contradictory interests within the labour process that generate a great deal of conflict in society. Consequently, Chapter 2 focuses on theories of industrial relations which have this industrial conflict as their

starting point for analysis.

4 THE RESOLUTION OF CONFLICT

Definitions of conflict resolution range from the strategic Defence Initiatives, to power-bargaining techniques, normative and legal approaches, to psychological attempts to change the attitudes of participants. Consequently, the focus is frequently on the process involved in managing a meeting between the conflicting parties with the implicit assumption that this is sufficient for conflict resolution (Burton 1982:174).

However, if conflict is understood to be an inherent aspect of social life, and if the objective causes of conflict, particularly in terms of inequalities in power and resource distribution, are seen to be an endemic aspect of society (whether or not these inequalities are subjectively perceived and thus translated from potential dispute to conflict), the common usage of the concept 'conflict resolution' needs to be addressed and refined.

A conflict relationship frequently manifests itself at different levels of interaction. 'Resolution' of the conflict on one level does not necessarily presuppose resolution of the conflict at all levels. This is one of the reasons why the continuation of disputes and conflict may not be terminated by a formal decision. This situation is exemplified if we look at the inter-relationship between politics and economics, particularly in South Africa - the 'resolution' of conflict on an industrial level may be impossible if the underlying sources of this conflict at a political level are not analysed and

redressed. It becomes apparent that a distinction must be made between conflict resolution and the resolution or settlement of a dispute.

The concept 'conflict resolution' refers, more accurately, to a process which involves the addressing of the sources of a specific conflict relationship and, ultimately, the removal of these sources of conflict (Burton cited in du Pisani 1948:8).

To the extent then, that the sources of conflict are removed, i.e. fundamental structural change has taken place, we can talk about conflict resolution. However, the settlement of conflicts, based for example on the notion of mutual compromise, can best be described by the concept 'conflict accommodation'.

Conflict accommodation refers to the institutionalisation of the accommodation of conflict in terms of a particular policy or institutional structure, i.e. an institutional response to conflict is presupposed. The term 'conflict accommodation' has also been used interchangeably with the concept 'conflict settlement' e.g. by Burton and Mitchell (du Pisani 1984:8).

In traditional Western thought, conflicts of interest were seen as inevitable and dependent upon power remedies to 'resolve' the conflict. Within this framework, legal norms are set by the powerful and power and norms are justified ideologically. Conflicts are thus settled by coercion, by repression and through the exercise of legalised norms. This power orientation was firmly entrenched and

unchallenged until the early 1960's despite the fact that the failure rate in industrial dispute settlement was high because coercive power was found to be unacceptable (Burton 1982:1).

In addition, the traditional processes of power bargaining may in fact protract conflicts because they provide only a temporary settlement of the conflict and do not address the underlying causes of the conflict relationship. This process of peacekeeping tends to institutionalise conflict, rather than conflict resolution mechanisms, thereby entrenching conflict within the fabric of society and limiting the potential for any possibility of conflict resolutions.

A further implication of this traditional orientation which is very prevalent today, particularly amongst adversaries, is the idea of the accommodation of conflict in win-lose or victory-defeat terms. The accommodation of conflict is thus seen as a function of distributive bargaining, as opposed to joint or integrative bargaining where the outcome may be a lose-lose or, ideally, a win-win situation.

The effective challenge to the normative and authoritarian approach to the settlement of conflict in classical theory and the traditional power framework came in the 1960's in the field of industrial relations (Burton 1982:175). Blake, Shepard and Mouton (1964) and others adopted a very different approach to conflict handling. The primary focus was on the need for interaction and consultation between parties. This interactive rather than reactive approach revolutionised the thinking in handling conflict. In practice, there was a significant movement from settlement within a coercive or normative framework of the authoritarian model to an interactive model

of decision-making.

4.1 The problem-solving approach to conflict resolution or accommodation

This interactive approach may be seen as a problem-solving, rather than a bargaining, approach to conflict settlement. Problem-solving processes are exploratory and analytical such that an attempt is made to achieve outcomes that meet the needs of all parties involved, i.e. an attempt is made to reach a positive sum, rather than a win-lose, solution. These problem-solving processes of exploring means of achieving such a goal are thus different from the processes required in the traditional bargaining processes. Problem-solving processes include "the costing of policies, costing of the consequences of denial of these basic human needs, costing of resistance to change and costing of change when it is merely the substitution of one elite for another" (Burton 1983:4). Thus, a distinction is made between settlement that involves coercion and settlement that meets the interests of all parties to the dispute. Problem-solving thus attempts to avoid power bargaining and hierarchical approaches to decision-making.

Problem-solving involves prior interaction between conflicting parties so that decisions are not taken as a result of feedback, but rather as a result of this interaction. The process requires the facilitation of a third party to assist in this interaction and exploration of the relationship - in opposition to the classical framework which emphasised third party intervention in a more coercive and decision-

making role. The role of a mediator in contrast to the adjudicative role of an arbitrator, thus has the potential for fulfilling a problem-solving function. (The role of the mediator is further explored in this light in Chapter 8).

Problem-solving may be seen to support the objectivists challenge to the traditional approach to negotiation whereby conflict settlement occurs through a restoration of the status quo. Both the former approaches would attempt to achieve "positive" rather than "negative" peace - where "negative peace" refers to an absence of behavioural violence within "unpeaceful" relations; and "positive" peace is defined in terms of "harmonious relations between parties that are conducive to mutual development, growth, and the attainment of goals" (Webb 1981:432). Negotiations that result in dispute settlement can, therefore, only be seen as ultimately successful if structural changes within the conflicting relationship have taken place - for example, this may involve the alteration of the interests of the parties.

The problem-solving approach also challenges the traditional idea of conflict settlement in terms of victory or defeat. The notion that increasing losses to the other side is equivalent to winning, is often a contribution to prolonged conflict. Problem-solving attempts to convert a potential win-lose struggle into a win-win situation. This involves a challenge to the explicit or implicit underlying assumptions of the possible courses of available action. These constraints need to be challenged so that a qualitative change of assumptions occurs and identification of alternative means and objectives is made available. In reality, it is not always possible to conveniently divide outcomes into distributive and joint solutions.

Conflict settlement may have aspects of both. The aim of problem-solving is to increase the joint or inter-active aspects of negotiation and decrease distributive negotiation.

Conflict accommodation, therefore, needs to be seen as a reciprocal activity rather than an unilateral imposition of power. In order to prevent the conflict becoming a zero-sum situation, both parties need to acknowledge their common interest in establishing an agreement and to emphasise mutual recognition and acquiescence and identify common goals and interests.

Problem-solving techniques have been criticised by those who believe that improving bargaining techniques will improve the potential for conflict accommodation. The theory of needs is significant in this regard because it facilitates in clarifying this confusion.

The theory of needs has an important influence on conflict accommodation and resolution. This theory points to the necessity for conflicting parties to ascertain the "hidden data" of their motivations and intentions and to explore means of satisfying common human-societal needs. Conflict resolution with win-win outcomes is possible if the conflict is over needs that are related to security, identity and other developmental requirements that are not in short supply (Burton 1982:178). In such situations, the traditional dispute settling means are irrelevant and problem-solving techniques are required, e.g. wage disputes may not necessarily be over negotiable interests, but may be directly related to a conflict of needs.

One of the ontological needs in Sites' Needs Theory that has to be met is the need for recognition. This is one of the most fundamental issues that has to be addressed if negotiation is to play a constructive role in the accommodation of conflict. The recognition of the legitimacy of antagonistic parties is the minimum condition for the institutionalisation of conflict resolution mechanisms. If recognition is denied, the discontented groups will remain dissatisfied even if their substantive demands are met by unilateral concessions (Oberschall 1973:243) because a continuous voice in the decision-making process is needed and demanded. This lesson was learnt in industrial relations in South Africa and resulted in the changes implemented after the Wiehahn Commission had identified the need for African trade union representation. South African political relations demand similar changes as these ontological needs will continue to be the source of conflict until they are satisfactorily fulfilled. Failure to recognise the opposition may not only promote and prolong conflict, but may also lead to violent and destructive confrontation.

The potential for successful negotiation also depends on the commitment to bargain "in good faith". This refers not only to the intention of commitment to an agreement, but also to the public acknowledgement of the representation and legitimacy of the opposition. Following this, procedural and substantive rules pertaining to the negotiation process must be agreed upon. The substantive issues include the question of what is to be negotiated, the negotiators' safety from arrest, the order of the agenda, the presence of mediators and preconditions such as the non-negotiable character of some of the demands, tokens of good faith, etc.

(Oberschall 1973:244).

The chances of successful negotiations and thus successful conflict accommodation are enhanced if all parties to the conflict are organised, united and strongly led and the leaders are able to enforce discipline. The likelihood of renewed overt conflict is also diminished under these conditions (Coser cited in Oberschall 1973: 265). Further, if conflict is less strongly centralised, the situation will be characterised by incessant small conflicts and frictions. A centralised, united group thus prefers that its opponent take on similar form such that negotiation with legitimate representatives can take place (Simmel 1955:90).

4.2 Empowerment

Empowerment of the weaker party is a crucial aspect that needs to be addressed. For meaningful negotiation to take place, and thus for the potential for conflict accommodation to be created, there has to be a reasonable balance of power such that each party is capable of inflicting a cost on the other should the need arise. The short term tactic of polarisation is used to attempt to demonstrate independence. However, if the controlling party is maintaining or increasing the power distance, they will force the conflicting parties into positions which attempt to demonstrate their portion of power. In such situations, an emphasis on empowerment is necessary in order to prevent further confrontation and hostility.

Power distance is not reduced through co-option when controlling

parties feel threatened and attempt to acknowledge their interdependence. For this reason, 'participation' systems may result not in greater conflict accommodation, but greater polarisation through the increase of power distance.

In order to reduce the power distance, in addition to the attitudes of the parties, structural constraints need also to be considered. This includes:

- overcoming the socio-psychological handicaps of the least powerful party (e.g. in areas of expertise, skill etc.);
- the necessity for structural reform in order to facilitate interaction - particularly in terms of accommodating rights in the existing structure because rights imply power (e.g. the right to strike is a prerequisite for collective bargaining);
- the recognition of power as an expandable commodity, rather than a fixed sum, which needs to reside in the relationship such that the positive aspects of conflict can be realised (Douwes Dekker 1984:3-6).

5 THE FUNCTIONS OF CONFLICT

The consequences of conflict may frequently be destructive - particularly if the settlement of conflict involves merely a restoration of the status quo, as opposed to any addressing of the underlying causes of conflict, thereby institutionalising conflict, rather than conflict resolution mechanisms, in society. It is important, however, not to ignore the potential constructive role that conflict can play. In the light of the sociologically positive character of conflict, social phenomena may be seen from a different

angle. This has significant implications for an analysis of conflict - specifically for the role conflict is perceived to play and for the subsequent conflict accommodation or resolution.

The constructive aspect of conflict has played a central role in certain conflict theories - most notably those of Hegel, Marx, Simmel and Coser. For Hegel and Marx, conflict was seen as a necessary instrument for change and progress (Boulding 1962:307). Marx saw conflict not only as an inevitable consequence of capitalist society, but also as an essential and necessary aspect of this society. The constructive and positive character of conflict is seen in Marxist theory not only because conflict results in ever-changing relations within the social structure, but also because it is only through conflict that a transformation of the social system is possible.

The constructive aspect of conflict was recognised by Simmel and Coser because they perceived conflict to be an instrument of social integration (Boulding 1962:307). Coser specifically emphasises the positive character of conflict as a force towards greater innovation and creativity and economic and technological progression.

Coser thus sees the role of conflict within social systems as one of preventing the ossification of the social system. Conflict exerts pressure for innovation and creativity and, thereby, revitalises the creative forces in society. This vitality is a function not only of class struggle but of any conflict that results from a clash and tension of values and interests. Coser sees the role of conflict as a means of avoiding the ritualism, precedent and tradition of unchallenged groups or systems that ultimately threatens

organisations. Thus conflict gives rise to consciousness and thought and creates the potential for creative response as a result of obstacles in group interaction (Coser 1967:19-24).

Simmel (1955) emphasises the intensified cohesive function of conflict and, therefore, the constructive role of conflict as the basis of group formation. Simmel sees conflict as frequently highlighting discrepancies and individual alienations within the conflicting groups with a clarity and decisiveness that is otherwise not achieved. In a state of peace, antagonistic members within a group may be permitted because intra-group conflict does not need to be addressed. Conflict thus either secures unity of a group or permanently destroys it.

This increased group cohesion and the emergence of new groups will lead either to a change of or a change within the system. The specific change that occurs will depend on the degree of cohesion that the system itself has attained. Therefore, a well-integrated society would welcome, and adjust to, group conflict; whereas a weakly integrated one would be threatened by, and thus fear, conflict (Coser 1967:35).

Conflict may also serve a constructive and positive function in developing procedural and substantive rules, through the process of negotiation, which are adhered to by all parties. This aspect of conflict is particularly exemplified by industrial relations and the development of such rules through the process of collective bargaining between legitimate and legal representative. Conflict thereby aids the development of mutually binding contracts which are acceptable

because of their legitimacy and thus based on the notion of voluntary adherence.

Of fundamental importance in the realisation of the constructive effects of conflict is the requirement that parties need to interact. Without this interaction, conflict results in the negative consequences of polarisation because hostility remains and latent energy accumulates (Douwes Dekker 1984:1).

The conceptualisation of conflict as a constructive or destructive force, therefore, has significant implications for the perceived role of conflict in society and, consequently, the theoretical and practical approach to conflict resolution.

CHAPTER 2

THEORIES OF INDUSTRIAL CONFLICT

INTRODUCTION

This chapter analyses the role of conflict in three theories of industrial relations, namely:

- a Unitarist approach
- b Pluralist approach
- c Marxist approach

The analysis of these theories is concerned with the explanation for, and consequences of, conflict and it is, therefore, not an exhaustive analysis of the merits of the respective theories. One's ideological and theoretical framework is crucial in terms of the interpretation of the causes of conflict which, consequently, has implications for conflict resolution.

The aim of this chapter is to provide the theoretical background for this dissertation - particularly the basic rejection of pluralism - and to establish the framework for the analysis of the role of mediation, particularly in Chapter 8. Thus, this chapter is the starting point for the integration of the primary research with industrial and social conflict theories in the final chapter.

1 THE UNITARIST APPROACH

The unitarist approach to industrial relations may be seen as the traditional managerial view of organisations. This view, as exemplified by Sir Halford Reddish (Barrett, Rhodes and Beishon (eds)

1977:298-301), sees the working relationship as that of a unified team with a common purpose and common objectives. According to the unitarist tradition, management is seen as the only legitimate source of authority, control and leadership (Fox, A. 1985:31). This single source of authority is legitimised by the unitarists who reject the idea of "two sides" within the organisation and ascribe to the idea that "the company is in able hands clearly working as part of a team" (Reddish in Barrett, Rhodes and Beishon (eds) 1977:299). Thus, all who are members of this team experience a sense of loyalty, pride and joy. Managerial prerogative is, consequently, seen as legitimised by all.

The unitarist emphasis on a single source of authority and loyalty makes no provision for oppositional groups or factions, nor for rival leaders. Trade unions are, thus, viewed as not only unnatural, but an intrusion into the organisation. Further, the legitimacy of trade unions is seen as dubious because they challenge legitimate managerial rule and control. Non-acceptance of the hierarchical structure is seen as irrational and dysfunctional. It is believed that good relations can be achieved without negotiation with trade unions. "Given that management goals and policies are seen as 'rational', it follows that only insofar as employee behaviour is congruent with those goals and policies is it likewise rational". (Fox, A. in Barrett, Rhodes and Beishon 1977:302). Thus, coercive power is legitimised against the few malcontents who have alien sources of loyalty.

Within this unitarist approach, conflict is seen as neither inevitable

nor valid. The emergence of conflict despite the perceived harmony of interest is explained in terms of incompatible personalities; misunderstandings which result in faulty communications; failure to understand the communality of interest - thus stupidity; or the inciting effects of agitators. (Fox, A. in Flanders 1969:405). Conflict thus violates the organisational logic ascribed to by unitarists.

This view of conflict is obviously incongruent with reality and can be criticised for failing to address the underlying causes of conflict, structural antagonisms and conflicts which are inherent in the work organisation. However, this approach confers legitimacy on unilateral decision making and is particularly popular with managements who are not reconciled to trade unionism. Although the increasing size and complexity of work organisations and objective reality has largely discredited the unitarist approach, it survives in small firms or old paternalistic family firms. The failure of this approach to adequately account for existing conflict within industry leads us to alternative models of industrial relations.

2 THE PLURALIST APPROACH

The pluralist approach is not a homogeneous body of analytic unity. Major discrepancies in perspective occur amongst the leading pluralist theorists. However, certain basic assumptions identify this frame of reference. Allan Flanders may be seen as the principle pluralist theorist in this Oxford school of thought which arose against increasing conflict in British industrial society in the 1950's and 1960's. This approach is favoured, either explicitly or implicitly,

by most persons of power, status, authority and influence (Fox 1985:26).

The starting point in the pluralist approach is the concept of plurality of interests, i.e. a recognition of different groups with divergent interests. Thus, in contrast to the unitarist approach, rival sources of leadership are identified and seen as legitimate. This emphasis on different focuses of loyalty means that conflict is seen as natural and inevitable. Indeed, conflict, within certain boundaries, is viewed as having a stabilising function because it results in a balance of forces. A certain amount of overt conflict is seen to be evidence that aspirations are not being suppressed by unilateral power. Conflict may also demonstrate the need for marginal adjustments in the ground rules and more appropriate compromises by management (Fox in Barrett, Rhodes and Beishon 1977:305). Overt conflict is, therefore, viewed as a means of measuring, in the absence of clearcut criteria, the extent to which management is successfully coping with the conflicting tensions among the different interest groups.

The concept of compromise is crucial to the pluralists' view of conflict. Compromise is achieved through collective bargaining which seeks not to dissolve the different interests in the work-place, but to integrate them at a level of mutual advantage. The underlying assumption is that every industrial conflict situation can yield itself to a compromise which all the involved interests will find acceptable. It is in all groups' interests to reduce conflict. This assumption is based on the belief in a stable and agreed-upon social

system which means that values and norms are not so divergent that conflicts over the terms of economic collaboration cannot be resolved through compromises. In this way, the system is maintained through compromises. The pluralist approach thus rests on certain assumptions about society. The concept of compromise is integrally related to the pluralists' belief in "mutual survival", i.e. all groups have a certain common interest in the survival of the system and are mutually dependent.

In accordance with the view of the plurality of interests, trade unions are seen as a manifestation of basic democratic values which respect the right of free association. Trade unions are seen as legitimate regulators of managerial rule and authority. In opposition to the unitarist approach, pluralism sees trade unions as legitimate sources of leadership with whom management must share its loyalty. The endemic nature of conflict in industrial relations is thus expected within this framework. Trade unions do not introduce conflict into the industrial arena, they "simply provide a highly organised and continuous form of expression for sectional interests which would exist anyway" (Fox in Flanders 1969:399). Conflict can thus play a constructive role if the causes of conflict, seen to be the result of group structure, group relations and group policies, are effectively managed and balanced by management. The resolution of conflict therefore lies in the development of more sophisticated and mutually advantageous bargaining techniques.

Flanders defines the purpose of trade unions specifically in terms of collective bargaining and the purposes thereby pursued. Collective bargaining is a rule-making process in which the contents of

collective agreements provide the rules. The function of trade unions is thus to limit the power and arbitrary authority of employers. The effect of rules is to establish rights, such as rights of wages, hours, dismissals, etc., which carry with them corresponding obligations and result in the creation of a mutually agreed-upon social order in industry (Flanders in McCarthy (ed) 1972:21). A form of distributive justice thus emerges through the compromising of divergent interests within collective bargaining. The conflict between the divergent interests (values and material) of management and unions is resolved through the development of procedural and substantive rules. Procedural rules refer to the methods to be used, and stages to be followed; while substantive rules refer to job terms and conditions e.g. rates of wages, working conditions etc. (Flanders in Barrett, Rhodes and Beishon (eds) 1977:22).

The pluralist tradition emphasises the moral commitment to joint negotiations, in which the willingness to make compromises and concessions is seen as central, and the moral obligation of the parties to observe the agreements. This expected obligation implies a belief that a balance of power either can, or does, exist between the principal interest groups so that adequate freedom is experienced, in the absence of extenuating duress, coercion or pressurisation, such that a voluntary agreement has been reached. The moral obligation to honour the agreement rests on the belief that negotiation has been of a free and equitable nature between parties of roughly comparable strength. The equal terms of collaboration in negotiation are achieved through the collective organisation and mobilisation of employees in trade unions. Thus, collective worker organisation

decreases the power imbalance. Although power imbalances are sometimes perceived, these are not severe enough "to discredit the system either from the unions' point of view or from managements'" (Fox 1985:27).

The belief in this reasonable match of power between trade unions and employers' associations, leads to the assertion that penalisation is justified if employees do not act "responsibly", i.e. in terms of observing the jointly negotiated agreements. Transgressors are thus seen as lacking all sense of responsibility and obligation or of holding subversive political views (Fox 1985:29).

The general picture of pluralistic industrial relations is, therefore, one which "though far from free of conflict, contains mechanisms enabling the contending parties, not too unevenly matched, to negotiate their mutual accommodations in a manner appropriate to a society which aspires to industrial and political democracy" (Fox 1985:30). Collective bargaining enables the resolution of healthy conflict within a system in which managements' function is to control and contain the divergent aspirations of interest groups. These divergencies, however, are not so fundamental as to prevent the willingness to compromise. Further, trade unions will only accept restraints on the use of their bargaining power insofar as these restraints have been mutually agreed upon and voluntarily accepted (Flanders in McCarthy (ed) 1972:27). The function of the State is to seek to effect this balance of power which allows for equitable collective bargaining. The pluralist approach may be seen in the recommendations of the Wiehahn Commission in South Africa. This Commission, in response to the increase in industrial conflict in the

early 1970's, recognised the need to change the ground rules of industrial relations through collective bargaining and the need to control conflict more effectively from above through the legal recognition of African trade unions.

The pluralist assumptions which provide for conflict resolution through institutional reform, e.g. the establishment of a more formal grievance procedure, may be criticised on several fronts. The most notable critics of pluralism are probably Fox and Goldthorpe.

From a pluralist perspective, an increase in overt industrial conflict, i.e. strikes, is seen as a reflection of deficiencies and contradictions within the industrial relations institutions. This assumption may be criticised for failing to take into account underlying structural inequalities and conflicts. The fact that the social system is believed to be acceptable by all interest groups means that pluralists fail to address the inherent conflicts in the system itself. Conflict is thus only addressed insofar as institutional reconstruction is concerned. Therefore, the resolution of conflict lies in a more adequate institutional context of bargaining so that conflict is more effectively contained. This approach may be criticised for failing to address social power. The implications in terms of voluntary reforms would be appropriate only in a society in which broad consensus on the principles governing the organisation of production and the distribution of the product already existed, i.e. in a society in which "any disorder in industrial relations could correctly be attributed to institutional malfunctioning" (Goldthorpe 1974:451).

Pluralism thus assumes that conflict is disruptive or destructive when it threatens the existing social order. However, the question is whether the people on the shopfloor also perceive this "disorder" to be in need of reform. If the framework of a mutually acceptable social system is criticised, it cannot be taken for granted that management and employees have the same interest in the survival of the system.

No challenge is raised in a pluralist frame of reference against management's ultimate responsibility for the conduct of the enterprise and the definition of its goals (Goldthorpe 1974:425). Pluralists do not envisage joint regulation resulting in any major change in the organisation of industry or the fundamental distribution of power and control. The status quo in terms of power, wealth and privilege is thus maintained. Therefore, "the 'harmony' that is engineered by the pluralists' accommodation is only possible because the representatives of labour leave unchallenged those institutions, principles and assumptions which ensure to the owners and controllers by far the greater part of their privileges and power" (Fox in Barrett, Rhodes and Beishon 1977:317). The pluralists' interest in conflict regulation within the existing institutions means that negotiation of order within the enterprise is only ever undertaken at the margins of the enterprise. For example, the principle of hierarchical rewards is never discussed (ibid: 318).

The pluralist approach to industrial relations is fundamentally conservative in that the present pattern of opportunities for mobilising power, influence and justice are seen as broadly

satisfactory (Fox 1985:21). The implicit assumption, which may be criticised, is that freedoms and opportunities are readily available to all groups within legitimate and recognised channels. Thus, changes seek to promote the more effective integration of labour into the existing social and economic structures. This criticism is highlighted in South Africa. It is particularly difficult to look at pluralist solutions in this country while the bases for pluralism are absent - particularly the provision for all groups to veto solutions. The base of social pluralism in terms of authentic social and political democracy is non-existent. Within this framework underlying problems are thus not always correctly identified. Therefore, the 'best solutions' may be debatable. A weakness of the pluralist approach is this temptation to confine the problem to the organisation itself and a failure to focus on the wider society. The legitimacy of the pluralist approach is undermined if society itself is not seen as a reasonable and fair system.

2.1 The radical pluralist approach

The disregard of the structural inequalities which are generated and perpetuated by capitalism is thus a primary criticism of pluralism. This criticism is embodied in Fox's 'radical pluralism'. This 'radical' alternative "does not accept that the lower strata of society have been able to mobilise political and economic strength to achieve a fair approximation to that of the rich and powerful" (Fox 1985:23). Thus, trade unions' power to challenge management is severely limited. This prevents the potential for essential change to the system because trade unions are not capable of challenging the

fundamental social and institutional framework, e.g. the hierarchical nature of the organisation, the division of labour and the massive inequalities of control, reward etc. Fox sees this situation as resulting from the unions' lack of power and the social conditioning of the employees which promotes the legitimacy of the situation and produces acceptance and submission (Fox in Barrett, Rhodes and Beishon (eds) 1977:317).

A major criticism of pluralism is, therefore, the generally perceived balance of power. This criticism forms the starting point for Fox's radical pluralism. Fox, unlike traditional pluralists, does not see the collective organisation of employees into trade unions as restoring a balance of power. Instead, Fox may be seen to deploy Marxian and Durkheimian categories of analysis at a structural level (Poole 1981:76). Thus, Fox focuses on the asymmetrical power relations between management and employees in his radical pluralism and he identifies fundamental societal inequalities.

Fox sees the employee in a dependence relationship because of his or her lack of property and command over resources (Fox 1985:32). Thus, collective bargaining does not erode managerial control. "Collective bargaining is at worst a mere facade behind which the employer continues to dictate terms, at best a means by which organised employees can marginally get to grips with their masters on some issues although still leaving the latter with the real reserves of power" (ibid:35). Fox emphasises the greatly inferior situation of even unionised employees which allows for the imposition upon them of structural inequalities of property ownership and economic power which are sanctioned and supported by State coercion (ibid:36). Unions are

unable to affect such decisions as management objectives, markets, capital investment etc. Despite appearances which suggest a power balance, "only if labour were to challenge an essential prop of the structure would capital need to bring into play anything approaching its full strength, thus destroying at once the illusion of a power balance" (Fox in Barrett, Rhodes and Beishon 1977:313). Pluralism may, therefore, be criticised as an enlightened managerial approach to contain conflict.

The implications of this criticism have further consequences in terms of the agreements negotiated in collective bargaining. Negotiation is not between free and equal citizens who move off from the same starting point. Negotiations in situations of grossly unequal power balance may be seen to undermine the pluralist emphasis on "moral commitment" to "jointly agreed" negotiated settlements. For employees, "...the severe inequalities of power which subject rank-and-file employees to an inferior and subordinate position exempt them from moral obligation to observe organisational rules which run specifically counter to their own needs and interests. This applies no less to those rules which have been jointly negotiated, for even in this process the employees are seen as being at a disadvantage" (Fox 1985:35).

Wood and Elliot (1977:105-125) query whether Fox's critique of pluralism, as developed in his radical pluralism approach, represents any fundamental break from liberal-pluralism. This criticism is based particularly on the fact that he does not reject pluralist ideology as a means whereby short-term adjustments can be made within the existing

framework, and the goal of mutual survival is implicit in his work.

Fox's analysis is not a Marxist one as it is not based on the concept of class struggle and exploitation as an essential conflict which precludes mutual survival. Neither does Fox question the role of the State in capitalist society. Fox sees the possibility of the initiation of radical reforms through State organisations.

In the harsher terms of Wood and Elliot, Fox's radical pluralism may be no more than a modification of pluralism in response to changing social and economic conditions to provide for more effective management of conflict which would disrupt the existing social order. In other words, a radical pluralist approach may be a more realistic ideology for managers such that the growth of shopfloor activity can be more successfully accommodated. The implications of Fox's radical analysis are, therefore, "that those in power may now have to go beyond pluralist ideology to sustain legitimation for their rule, and may well have to adopt a more 'radical' ideology which acknowledges the inequities pervading our wider social and economic institutions, and recognises that an orderly industrial relations system cannot be achieved through the mechanism of collective bargaining alone, but requires a process of normative reconstruction within the wider society" (Wood and Elliot 1977:119).

In short then, a Marxist critique of pluralism would focus on the concept of mutual survival; the failure to address class-based inequalities in the industrial setting and the broader society; the focus of pluralists on conflict containment, as opposed to conflict generating, processes; and procedural issues which do not accommodate

questions of ownership and control.

3 THE MARXIST APPROACH

Conflict is a fundamental focus of Marxist theory. In similarity with the pluralist tradition, Marxists see conflict to be inherent in capitalist society. However, the Marxists' point of departure is the fundamental cause of this conflict and its consequences for industrial society.

For the Marxist, industrial society is characterised by class exploitation. Thus, industrial conflict cannot be understood without analysing the social causes of this conflict. The roots of industrial conflict are to be found in class conflict because class divisions and inequalities are fundamental to the capitalist social structure. Industrial conflict is thus the manifestation of the exploitative relations of production - the exploitation by the owners of the means of production. Capital and labour are, therefore, not seen as equal interest groups (as in pluralism). Instead, massive structural inequality is seen to exist between management and workers because capital is aligned with the economic, political and ideological power of the ruling class. All management-trade union negotiation is seen to be negotiation under duress. Consequently, there are no moral values attached to the agreement because of the disadvantaged power position of the employees.

This analysis means that industrial relations cannot be studied in isolation from the wider society. Conflict in the workplace cannot be

resolved while class-based inequalities in society exist. Thus, the resolution of conflict lies in the transformation of the mode of production, i.e. capitalism. For this reason, Marxists criticise and reject the pluralist notion of change within, or a restructuring of, the system. Consequently, the pluralist concept of "mutual survival" is denied.

The crucial implications of this approach are that the industrial proletariat, as a function of class struggle, is seen as an agency of structural change; and that conflict is not only inevitable under capitalism, but it is the force that will ultimately lead to change. Conflict thus plays a constructive role in terms of structural transformation.

Industrial conflict between management and workers, even that which appears to be conducted in rather confused terms, brings generalised worker discontents to the surface and reveals the workers' pent-up feelings, deprivations and hostility to the employer (Mann 1973:48). Further, it is through solidarity action with other workers that working class power is experienced. Thus, strikes undermine the supremacy of capitalists and signify the beginning of the working class struggle against the system of society (Lenin 1977:58). Class consciousness is seen as a necessary power to erode the unequal power relationship between capital and labour and managements' aggressive economism and defensive control which is reflected in the institutionalisation of industrial conflict.

Conflict is thus fundamental to the development of class consciousness since "only struggle educates the exploited class. Only struggle

discloses to it the magnitude of its own power, widens its horizons, enhances its abilities, clarifies its mind, forges its will" (Lenin cited in Hyman 1977(a):388). Strikes reflect the rejection of the situation by workers whose apparent compliance at other times is a result of the imbalance of power in industry. The real significance of collective action lies in the growth of class consciousness whereby workers increasingly learn to connect their own collective action and alternative ways of organising production. Thus "explosion" of consciousness will increase until it triggers off the proletarian revolution (Mann 1973:47). Through the growth of class consciousness, the workers will ultimately gain collective control of the means of production.

The emphasis in Marxist theories is on the new form of rationality which emerges during a strike. Strikes develop a consciousness of the capitalist class as the enemy, an understanding of the nature and role of the State and its laws, and a realisation of the need for collective unified action by employees as the working class. Out of this new rationality emerges political and ideological growth. The Marxist analysis of the structural inequalities in the wider society means that the economic movement and political activity are inseparably intertwined. A revolution ultimately results from the constant feeding into each other of the ceaseless economic and political struggles. The unity of economic and political conflict is seen to be reflected in the mass strike (Luxemburg in Waters 1980:185).

However, debate exists amongst Marxist theorists over the precise role

of trade unions and the mass strike in capitalist society. This debate is represented by the syndicalists and the reformists. Syndicalism sees the general strike as the weapon by which capitalist society would be abolished. Trade unions are thus seen as the chosen instruments for achieving socialism. The reformist view is that demands of the unions could ultimately transform the conditions of the working class without necessarily changing the social structure of power (Anderson in Blackburn and Cockburn (eds) 1967:263-264). According to this reformist or pessimist approach, trade union activity may even delay or hold back radical change.

However, the central tradition of European socialism - represented by Marx, Lenin and Gramsci - emphasises the inability of trade unions in themselves to be vehicles of advance towards socialism. A revolutionary movement cannot develop solely out of the sectoral, corporate consciousness produced by trade unions who represent only the working class. The disparity of power between management and labour means that capital cannot be significantly challenged without intervention by a political party or the State. Thus traditional socialist theory insists that trade unions must be transcended by a political party. Lenin's words endorse this view: "For the socialist, the economic struggle serves as the basis for the organisation of workers in a revolutionary party, for the reinforcement and development of the class struggle against the whole capitalist system. But if the economic struggle is regarded as something self-sufficient, then there is nothing socialist in it" (cited in Anderson in Blackburn and Cockburn (eds) 1967:271). The overthrow of capitalism is, therefore, dependent not on trade unions, but on a revolutionary party.

Anderson identifies further limitations of trade unions' activities. He sees unions as suffering from structural limitations which are inherent in the very nature of trade unions. This is largely the result of their being a component of capitalism. Thus, unions merely express the existence of a society based on a division of classes, they do not challenge this relationship. Indeed, trade unions even take on characteristics of the capitalist society, e.g. bureaucracy. Trade unions' action and effect is further restricted by their limited power in comparison to capital and the fact that their maximum weapon is the strike. Anderson sees the efficacy of this action as limited by its very nature and as a political weapon, profoundly ineffectual. The general strike is, therefore, nearly always doomed to failure as it represents, not the substitution of one social order for another, but simply a stoppage of work (in Blackburn and Cockburn (eds) 1967:264-271).

Luxemburg would criticise Lenin's analysis of the general strike. Instead, she sees it to be inseparable from the revolution. The success of the mass strike lies in its mobilising of the widest sections of the proletariat such that a real people's movement emerges. The mass strike is "the method of motion of the proletarian masses" and is the "rallying idea of a whole period of the class struggle lasting for years, perhaps for decades." Thus, it is not simply "a crafty method discovered by subtle reasoning for the purpose of making the proletarian struggle more effective..." (Luxemburg in Waters 1980:182). Luxemburg sees every mass strike as beginning at a purely economic level, but resulting ultimately in political

demonstration.

In conclusion, Marxists would agree that trade unionism represents an articulation of the conflicts generated by the class-based capitalist society. The activity of trade unions in this struggle against capitalism is both necessary and justified. The political significance of trade unions is also recognised. This significance lies in the trade unions' role of forging a working class consciousness through the experience of collective action in conflict situations, and in their aim of raising issues of power and control. Trade unions are seen as essentially conflict organisations which develop in response to the inherent conflict within capitalism. Pluralists would reject this view of the conflict and the Marxists' contempt for "pure and simple" trade unionism. Flanders espouses this view in his belief that "trade unions, by doggedly sticking to their immediate ends and refusing to be captured and exploited by any political party, have gradually changed society" (Flanders in McCarthy (ed) 1972:18). However, Marxists would reject this view and see, instead, a possible transformation in terms of working conditions etc, but no fundamental structural change in society.

CHAPTER 3

THE CHANGING NATURE OF INDUSTRIAL CONFLICT IN SOUTH AFRICA

INTRODUCTION

This chapter examines the nature of industrial relations in South Africa with specific focus on the causes of strikes, the reasons for the increasing industrial conflict, and the changes in the institutionalisation of industrial conflict. It is thus necessary to first briefly examine the concept of collective bargaining.

Analysis has been categorised in three time periods:

1950-1972 - which is background information, rather than detailed focus;

1973-1979 - a significant time period in terms of the changes in collective bargaining;

1980-1987 - significant in terms of the changing nature of industrial relations in recent years and the possibility of prediction of future trends.

The aim in this chapter is to identify tendencies and trends in industrial relations and, consequently, the focus is not on specific case analysis. Thus, attention is not given to specificities such as seasonal, sectoral, regional and union affiliation analysis. Neither is any international comparison undertaken as such a comparison is problematic as a result of different political backgrounds etc. and the most beneficial comparison is thus one with the country's own past.

An analysis of the causes of industrial conflict is integral to the framework of this dissertation which examines the role of mediation within the relationship between conflict resolution and the causes of industrial conflict (see Chapter 8). Statistical substantiation in this chapter is provided in the appendix which includes the number of strikes, strikers and work days lost; the growth in trade union membership; the trigger issues of strikes in the post 1979 period and the case load of the Industrial Court.

It is important to briefly mention basic problems of strike analysis. Measurement of strike action can be based on the number of strikes, the number of employees and the number of workdays lost - all of which may yield different analyses of strike action. Further, strike data is not always accurate as the press, company, union and government frequently give different information, especially when concerning the issues at stake and the number of employees. This problem is compounded by the fact that strike surveys do not always use the same sources for their information and some surveys differentiate between strikes and work stoppages and some include work stoppages in their definition of strikes.

Accident rates, absenteeism, labour turnover, lock-outs, boycotts, excessive waste etc. are alternative ways to express dissatisfaction and may also be manifestations of industrial conflict. However, these actions are difficult to measure as a reflection of conflict because they are not always related to industrial conflict.

Finally, all overt manifestations of industrial conflict may not necessarily be a true reflection of the underlying conflict which may continue to exist in suppressed form.

An understanding of the role of mediation necessitates the analysis in this chapter such that the rise of the Independent Mediation service of South Africa can be seen in the context of the changing nature of industrial conflict institutionalisation and of conflict settlement mechanisms. Section 5 of this chapter consequently focuses on the statutory and the extra-statutory role of industrial mediation in South Africa. This section also examines the origins and aims of IMSSA, the regional differences in the utilisation of these mediators and the increase in the number of mediations. A brief description of the mediation process is also provided in this section.

1 COLLECTIVE BARGAINING

Collective bargaining is defined as "the mutual determination of wages, hours, and other terms and conditions of employment by duly chosen representatives of the employer and employees. It involves negotiation, agreement, and the administration of the agreement" (Kamfer 1982:14).

Collective bargaining is a response to the inevitable nature of industrial conflict and the consequent need to effectively manage this labour-management conflict. Further, within capitalist production, control by management over labour always exists to some degree. The crucial question is how, and to what extent, this control is exercised (Webster 1986:4). Collective bargaining provides for an institutional

constraint on the use of industrial power and control so that differences can be resolved through negotiation and compromise.

Thus, collective bargaining represents a voluntary undertaking by management and labour to abide by the principle of consent and to act in accordance with mutually accepted rules and procedures. The process depends on the principle of free association so that negotiation takes place between legitimate and representative employer and employee organisations. It is important to emphasise that the right of employees to strike or to withhold labour and the right of employers to "lock-out" workers are crucial last resorts in collective bargaining. It is only through the legal provision of these rights that collective bargaining has the potential for approaching a balancing mechanism between the respective needs of the employers and employees.

2 PERIOD 1950-1972

2.1 Collective Bargaining During this Period

The need for the institutionalisation of industrial conflict has been recognised in South Africa since the early 1900's when institutional solutions were sought to the clashes between white miners and the state. Consequently, the Industrial Conciliation Act was passed in 1924 which responded to this need through the establishment of Industrial Councils. Industrial Councils are permanent, statutory bodies consisting of equal representation by employers and employees with equal voting rights. Through this

provision, the Industrial Conciliation Act aimed to provide a legal framework in which parties could formalise and regulate their relationship through the negotiation of wages, hours of work etc. The Councils are given jurisdiction over a specified industry or area. Between 1924 and 1979 Industrial Councils constituted the only statutory form of collective bargaining.

The exclusion of African workers from the definition of "employee" under the Industrial Conciliation Act meant that these workers were excluded from the provisions of this Act and thus from Industrial Council representation. However, the provisions of the Industrial Council agreements were extended to African workers. From 1924 until 1953 no institutionalised forms of collective bargaining existed for African workers. In 1953, the Bantu Labour Relations Regulation (Settlement of Disputes) Act was passed which provided for the establishment of factory-based works' committees for African workers. These institutionalised but non-statutory committees comprised elected worker representatives.

2.2 Brief summary of the nature of industrial conflict

In the post World War II years, strike action occurred mainly in the manufacturing sector. The significant increase in strike action in the retail sector and on the mines is a phenomenon of recent years.

The trade union movement suffered a severe setback following the 1950 suppression of Communism Act which silenced union leaders and resulted in a loss of membership of the Council of Non-European Trades Union (CNETU).

The 1950's were characterised by The South African Congress of Trade Unions' (SACTU) growth and organisation of strikes - some 569 strikes between 1955 and 1961, the majority involving black workers (Sutcliffe and Wellings 1985:9). This period was characterised by a national campaign in protest against the apartheid legislation introduced by the National Party. The specific form that strike action assumed in the 1950's was the national stay-away. For example the general stay-aways in 1958 and 1961 which were aimed primarily at the state. This was in accordance with SACTU's clear position on political involvement, its emphasis on the inseparability of industrial and political struggle and its political alliance with the African National Congress (ANC). Thus, stayaways, freedom rallies and demonstrations were undertaken as an articulation of workers' grievances that were rooted in political discontent. The state responded to this perceived threat through increased State intervention and extensive 'security' legislation in the late 1950's and early 1960's - resulting in the banning of the ANC, the banning and arresting of SACTU officials and the ultimate exile of SACTU.

Thus, the 1960's were characterised by a low number of strikes and strikers (see Appendix A and B). This limited protest at the point of production is particularly significant given the rapid expansion of industrial capitalism and accelerated proletarianisation during this period which occurred concurrently with a rise in black unemployment levels and a decline in black wages relative to those of white wages (Sutcliffe and Wellings 1985:10-11).

This period was characterised by the recognition of the need for fundamental change in industrial relations. The 1979 Wiehahn Commission, which resulted in new labour legislation, can be seen as a response to the 1973 Natal strikes which heralded an era of stark contrast to the apparent industrial 'peace' of the 1960's and early 1970's.

"During the 1960's, an average of 2000 workers went on strike each year. The early 1970's witnessed a slight rise in these figures with six strikes and 5000 strikers in 1972, but in the first three months of 1973 alone 160 strikes involving 61000 workers were called. These were concentrated mainly in Durban, but they spread to East London and the East Rand later." (Lodge cited in Sutcliffe and Wellings 1985:11.)

The industrial conflict of 1973 was generally ascribed to the effect of rising costs of living, particularly transport costs, in the light of a sharp increase in inflation, rising unemployment and the declining value of real wages. The issue of wages was thus the major overt trigger of this strike wave. However, as discussed in the introduction of this chapter, trigger issues are of a complex nature and, although these strikes were overtly economical in nature, it can be argued that the underlying reason went beyond pure economical grievances. The lack of legal union representation, particularly in the light of the lack of broader political representation, cannot be ignored as a possible cause of this conflict and as a factor influencing the particular nature of the conflict.

The 1973 mass strikes in Durban dramatically highlighted the crises of control in work relations and exposed the inadequate statutory framework of dispute settlement. These strikes proved that African workers "could, by their force of numbers, 'illegally', i.e. outside the 'statutory' system, withhold their labour without suffering any severe 'official' repercussions" (Bendix, S. and Swart 1982:2).

The Natal strikes were unique in South Africa because of their scale and spontaneous nature. The strikes were generally of short duration, involved a large number of workers, resulted in few dismissals and spread rapidly. The strikes were also characterised by the avoidance of formal conciliation bodies and negotiations. Concessions were frequently given by management who were unprepared for the unexpected scale and intensity of the strikes.

The lack of an established union movement resulted in low-key trade union involvement in these strikes. Management realised that limited union resources would restrict the length of strikes and, thus, granted only limited wage increases to workers. These strikes highlighted the need for solid shopfloor organisation in order to sustain strikes. The new independent unions which emerged after 1973 thus concentrated on democratic worker organisation, constituted from the bottom up.

It is significant that the demands expressed in the 1973 strikes were grievances of a short-term nature, i.e. did not reflect grievances of the workers as a class. This can also be attributed to the weak trade

union movement at the time. However, the years following 1973 were characterised by a rise of independent African trade unions, a growth in strength of these unions and increasing strike action which reflected the upsurge in working class militancy resulting from economic pressures and rising expectations.

This militancy would support Davies' theory (see Chapter I Section 2) in that rising expectations are not met and, increasingly, the government is seen to be responsible for suppressing emerging needs - both economical and political needs.

As a response to these strikes, and on the basis of employer recommendations, the state amended the existing Bantu Labour (settlement of Disputes) Act that had previously provided for ineffective bargaining through works committees and introduced joint management - worker committees called Liaison committees (Webster 1986:6). Unlike works committees, liaison committees comprised equal numbers of management and worker representatives.

The development of liaison committees may be seen as an attempt to preempt the independent organisation of African workers that began to develop during this period. These committees provided a 'communication' channel whereby management could "explain its policy to workers, while at the same time establishing a formal grievance procedure for workers within a context of tightly defined limits." The 1973 - 1976 period was characterised by trade unions' rejection of this form of management control (Webster 1986:7).

In 1974 the number of strikes increased, although the number of

strikers decreased (see Appendix A & B). This could reflect strikes in smaller companies or in particular sections of the industry. Significantly, despite further increase in inflation in 1974, the demands of the workers shifted from purely wages to wage-related issues (such as overtime). An important feature of the 1974 strikes was their existence on a country-wide basis.

The number of strikes decreased from 1974-1977 with a decrease in the total number of strikers, apart from in 1976 when the number of strikers increased slightly (see Appendix A & B). Working conditions and wage-related issues became increasingly important strike triggers during this period and, in 1978, wage-related factors surpassed wages as a strike trigger. Again, the demands over these years were of a short-term nature, were essentially a response to managements' actions, and little attention was given to structural grievances or attempts to push back the management's frontier of control (Wood 1987:3). The reactive nature of these demands is particularly apparent when compared to the nature of demands in the 1980's. The decline of wages as a strike trigger may also be attributed to the decrease in inflation in 1975 and 1976.

In mid 1976, the economic depression was accompanied by a decrease in strike activity. The relationship between economic depression and strike activity is not necessarily a proportional one. This relationship is complicated by the fact that strike activity has increased over the past few years, despite an economic downswing. (This relationship is further discussed under Section 4.2.)

Although 1976 saw a shift back to large strikes, there were still fewer strikes than in 1974 (see Appendix A). This can be attributed to the severe state repression following the Soweto crisis. In the fact of this repression, most unions adopted a defensive position which was an important period of union consolidation (Sutcliffe and Wellings 1985:12). This consolidated strength of the independent unions was reflected in the strikes of the early 1980's. In 1976, protest activity was in the form of major stay-aways which reflected an increase of political consciousness of African workers. This year also saw a slight increase in the issue of wages as a strike trigger and dismissals caused over 20 strikes (Wood 1986:37).

It may be argued that the need for legitimate and legal African trade union representation was given its final impetus by the outbreak of urban unrest in 1976. "The state feared that the resurgence of popular - democratic struggle in 1976 would lead to the re-establishment of links between organised labour and the popular struggle similar to those in the 1950's and early 1960's. Sophisticated strategists for capital and the state had come to realise that a certain form of trade union recognition could in fact facilitate a separation of the politics of production from 'global' politics, thus hoping to weaken the role that organised workers could play in the national popular struggle" (Webster 1986:8). Consequently, the Wiehahn Commission was established to investigate labour law and the Riekert Commission was set up to examine the use of manpower.

With the 1977 Amendment to the Black Labour Relations Regulation Act (1953), liaison committees were given the right to bargain with employers. These agreements were, however, extra-statutory as they

could not be promulgated as legislation (Bendix, S. and Swart 1982:1). Further, African workers had little effective bargaining power as their trade unions were prohibited from being registered.

1977 saw a continued decrease in strike activity and continued state repression. The emergent unions were not in a position to attract further repression through overt industrial action. Dismissals were a proportionately greater cause of strikes in 1977 than in previous years (Wood 1986:38). This particular strike trigger increased in 1978 - when pay-related issues i.e. dismissals, wages and working conditions, surpassed wages as a trigger factor for the first time - and increased further in the 1980's.

Thus the post-1973 years were characterised by an increase in the size and length of strikes as a result of the growth in strength of the independent union movement, the resultant increase in worker organisation and the rise in working class militancy, which developed hand-in-hand with the increasing political activity of trade unions.

The fact that only one legal strike by African workers out of a total of 743 strikes, excluding work stoppages, occurred in the years 1973-1979 (Cooper 1980:15) reflected the inadequacy of the labour relations system. Procedures set out in the Black Labour Relations Regulation Act and the Industrial Conciliation Act were not followed as the lack of legal recognition of African trade unions prevented real negotiations from taking place. Thus, strikes rather than collective bargaining procedures were resorted to.

The traditional policy of segregation in South Africa thus resulted in a dualistic, or two-tiered, industrial relations system in which rights were granted or withheld differentially according to the worker's population group classification. The non-African tier was represented by centralised industry-wide collective bargaining within the Industrial Council system for 'coloured', white and Asian workers; the African tier, on the other hand, comprised decentralised, plant-level collective bargaining within the works and liaison committees (Galín 1982:5). African workers were consequently excluded from the central bargaining machinery although they had the right to shopfloor representation.

The unacceptability and dysfunctionality of the industrial relations structure was revealed specifically by the separation between statutory procedures and labour practices with the growth of the independent trade unions. The implementation of the Wiehahn Commission recommendations in the form of an amendment to the Industrial Conciliation Act in 1979 was significant because it reflected the state's realisation that control of African unions depended not on exclusionary means and the continued use of force and repression, but on the institutionalisation of industrial conflict resolution.

The Wiehahn Commission's solution to the crisis of control was the deracialisation of the industrial relations system by incorporating African workers into the established structures, in particular, Industrial Councils. This incorporation required the granting of state recognition to African trade unions and, thus, provision was made for the registration of these unions as legitimate and legal

representatives of their members. The Wiehahn Commission recognised the right to freedom of association and trade union autonomy as prerequisites for the meaningful exercise of negotiation and collective bargaining.

The consequent Industrial Conciliation Amendment Act of 1979 (now the Labour Relations Act, 1956), together with later amendments, drastically altered collective bargaining in South Africa. Of fundamental importance was the redefinition of the term 'employee' to include workers of all races, including 'foreign' and local migrant workers and commuters. This redefinition gave African workers the right to belong to and form registered trade unions and, therewith to participate in the statutory bargaining machinery which centred around the established Industrial Councils (Bendix, S. and Swart 1982:2). Trade unions and statutory rights to form trade unions are integral to industrial democracy. The ineffectiveness of liaison and works committees revealed the fact that legitimate collective bargaining cannot be attained simply through the conferring of legal rights upon state or management initiated structures.

1979 was thus a watershed for African trade unions in that the potential to form registered trade unions was made available - although it was initially rejected by many unions because of the racial stipulations (later amended) and the perceived extension of State control. The new legislation, however, did not curb strike activity. Both the total number of strikes and of strikers involved rose steadily in the years following 1979 (see Appendix A and B).

The majority of strikes in 1979 were over wages. In many cases, wage grievances had a legitimate basis in the light of the many cases where wages were below the Household Subsistence level. Moreover, the body which computed the HSL figures argues that 50 percent should be added to them to arrive at a minimum wage. The lack of a trade union or a works committee which was accepted as legitimate by the workers, as well as the unwillingness on the part of employers to discuss workers' demands were further factors in the workers' choice of the strike as a weapon to achieve their aims (Cooper 1980:18).

Strikes over trade union representation or the recognition of works committees were another important category of strikes in 1979. These strikes indicated a dissatisfaction with the collective bargaining system and with managements' refusal to recognise legitimate systems of representation. The issue of union representation was particularly pertinent following the Industrial Conciliation Amendment Act and the policy of companies to recognise only registered trade unions. Managements attempts to deal directly with workers, thus "bypassing" the union, resulted in conflict - e.g. Fattis and Monis.

Strikes in 1979 set a precedent for the characterisation of strikes in the 1980's. Strikes were characterised by an increase in consolidation of African trade unions - expressed in an increase in solidarity strikes; a growth in trade union membership; an increase in working class militancy as a response to the political environment; a greater number of strikers involved in strikes; a concerted effort to challenge managerial control and to push back the frontier of control - as opposed to a simple response to managerial actions; and improved working class organisation and consciousness - reflected in the

increased militancy and the increase in the number of large strikes. Thus, of particular significance is the concern with socio-political issues as manifested in the workplace. Conflict resolution was characterised by an increase in arrests and detentions of union members and leaders; charges under the Riotous Assemblies Act, and state and police intervention.

4 PERIOD: 1980-1987

4.1 Introduction to the nature of collective bargaining since 1979

The period from 1979 to the present has seen significant changes in the nature of collective bargaining and of industrial action in South Africa. The Industrial Conciliation Amendment Act made provision for the recourse of African workers to the complex statutory procedure for the settlement of industrial disputes. In brief, the provisions under this Act mean that when a deadlock exists between management and labour, the dispute must be referred to an Industrial Council, or if a council does not exist, to a Conciliation Board. If agreement is unable to be reached at this level after three consecutive meetings of the Council (a "cooling-off" period), the Industrial Council or Conciliation Board may decide to refer the unresolved dispute to the Industrial Court. Under the Labour Relations Act, 1956, no person may take part in a strike unless the matter has been considered by an Industrial Council or a Conciliation Board and until the Council or board has reported to the Minister of Manpower or a certain time period (30 days) has expired.

The history of Industrial Councils in South Africa and the particular

industrial relations dynamic meant that black workers did not simply whole-heartedly embrace their new statutory rights. Instead the emergent unions questioned the collective bargaining procedures facilitated by Industrial Councils. The reason for the rejection by these unions of Industrial Councils included their historic symbolism of the apartheid regime (although this was not the main issue); the initial unwillingness of the new independent unions to seek registration which was a prerequisite for entrance to these councils; and more important, these councils were perceived to be undemocratic, bureaucratic, removed from the factory floor, and in danger of diluting the trade unions' power base and usurping the shop stewards' role. Further, the independent African unions were not strong enough to compete with established unions at an industry of national level (Bendix and Swart 1982:6), since they did not have effective bargaining power at a plant level.

Consequently, Industrial Council came under concerted attack by many black unions for being too cumbersome to deal effectively with disputes and preventing workers from active participation in bargaining over their conditions of work. The unions argued that some employers could afford to pay much higher wages than the Industrial Council minima and plant-level bargaining between unions and individual employers would allow for a more realistic setting of conditions of work (Horrell 1981:194).

Further the negotiations carried out in the great majority of Industrial Councils do not constitute legitimate collective bargaining because the council structure means that the unions do not constitute a party which is representative of all the workers covered by the

jurisdiction of that council (Donwes Dekker 1985:38).

Between 1924 and 1979, Industrial Councils took on a highly centralised, bureaucratic form which was more suited to highly organised craft unions. By 1980 there were approximately 100 Industrial Councils. Their high degree of centralisation was reflected in the fact that less than ten of these council accounted for more than 80% of workers covered by the councils (Bendix and Swart 1982:1).

Instead of the 'statutory' collective bargaining machinery of Industrial Councils, African unions have opted for plant level recognition agreements which constitute a 'non-statutory' form of collective bargaining in that such agreements are not enforced through legislation. Thus, despite the equity under the law, a form of dualism reminiscent of the pre-1979 era still exists with established, most 'non-African' unions firmly entrenched for the most part in Industrial Councils and the more recently registered African unions opting for plant level agreements (Bendix and Swart 1982:2,3).

Recognition agreements express a relationship of trust between employers and employees since these agreements cannot be promulgated by law. These voluntary agreements typically cover a wide ambit of collective bargaining procedures including those pertaining to grievances, discipline, wages, strikes, dismissal, conditions of employment, trade union membership, etc. These agreements thus set out formal procedural structures which will govern the conduct of parties.

It was estimated by the National Manpower Commission in 1988 that at least 400 000 workers fell under or were affected by collective bargaining agreements outside the statutory structures. This commission concluded that the feasibility of bargaining at two levels, i.e. at the Industrial Council level or at plant level over the same issue should be left to the parties themselves to decide. However, in the event of a dispute, the dispute-setting machinery available under the Labour Relations Act of 1956 should be used (Survey of Race Relations in South Africa 1987/88:640).

By 1983 it was generally accepted that plant-level bargaining was "here to stay". In contrast to the problems with Industrial Councils, the system of plant-level recognition agreements was showing great progression. Fifty new agreements were reported to have been concluded during 1983 which meant that there were approximately 350 recognition agreements in existence in 1983. This was in contrast to the 104 Industrial Council agreements in existence in the same year (Bendix, S. 1984:13). By 1984, it was estimated that there were over 400 recognition agreements in existence (Bendix, D.W.F. 1984:43).

Industrial Councils have consequently assumed the role more of administrative bodies - "than hard and tough negotiating bodies" - that set and police minimum wages, standards and conditions of work (Bendix, S. 1984:12).

However as unions grow in strength and organisation, it seems likely that plant-level bargaining will be unable to accommodate their ambitions and a more centralised bargaining system will have to be

considered. While such bargaining does not cater for specific local problems, it does offer advantages which include: its suitability for wider provisions such as pensions, medical aid and training; more experienced negotiators; the provision of uniform standards; the potential for the attainment of long-term objectives, etc. It is important to stress that plant-level and centralised bargaining are not interchangeable systems. They should be used to supplement each other since they cater for different needs and differing circumstances (Bendix, S. and Swart 1982:7).

In recent years more African unions have joined Industrial Councils in addition to pressing for factory level bargaining (Race Relations Survey in South Africa 1984:323). This fact substantiates the above argument and reveals the fact that the rejection of Industrial Councils has not been a rejection of centralised bargaining per se, but of the particular history and context of these councils.

4.2 The predominant tendencies and trends of industrial conflict from 1980-1989

A significant change in the nature of strikes was heralded by the community support in the 1979 Fattis and Monis strike. This link between trade unions and the community, expressed for example in consumer boycotts, reflects the increasing strength of the trade union movement. The increasing involvement of the wider community has become a feature of certain strike action in the 1980's. The precedent set by the Fattis and Monis dispute was continued into the 1980's by the Meat Strike in Cape Town, the Frame Strike in Durban and the boycott of Wilson Rowntree products, East London. The relationship between

increase in politically motivated stayaways since 1984.

This period revealed the fallacy in the generalisation of the level of unemployment acting as a dampener on strikes and worker militancy. Evidence challenges the assumption that economic recession and the level of strike activity are in a directly proportional relationship. High levels of unemployment cannot be seen as a simple deterrent of strike action. The relationship is obviously more complex as unemployment can increase the number of dependents per worker, thus eroding net incomes, and consequently increasing long-term working class militancy and the willingness, therefore, to partake in strike action (Wood 1987:5).

Possibly the best explanation for this complex relationship is that "economic growth and the overall level of employment exert a more direct influence on a unions ability to win a strike rather than the decision of whether to engage in strike action or not." (Levy 1986:3).

The increase in strike activity despite severe economic recession seems to suggest that levels of political activity and rapid changes in levels of union membership can be more important factors having a direct influence on the level of strike action than an economic boom or recession. The consolidation of organisational structures is thus possibly more important than recessionary conditions. It also seems possible to generalise that fewer strikes for higher wages occur in times of economic recession and proportionally more strikes occur in the same period as a result of disciplinary action by employers against workers (National Manpower Commission 1986:31).

It is also possible that experience of relative deprivation (see Chapter 1 Section 2c) increases during periods of economic recession thus acting as a source of conflict at the workplace.

The post-1979 period 1979 to 1985 has been characterised by a growth in union membership (see Appendix D). This was influenced by the extension of statutory trade union rights to African workers in 1979 which, despite initial rejection by these workers, ultimately resulted in a large increase in the number of trade unions and of trade union membership.

Levy (1986:4) sees the growth in trade unions as a reflection of aggressive recruitment which suggests an increase in militancy. However trade union growth can also be seen to reflect an increasing politicisation of African workers and their dissatisfaction with the status quo being expressed through their only legitimate vehicle of expression. If political frustration, structural violence and increasing politicisation are accepted as determinants of strike activity, and factors influencing the long-term strike trend, continued political dissatisfaction is likely to have important implications for future strike trends. This underlying conflict is manifested in the increase of all types of industrial action, i.e. including action which is less overt than strike action.

Appendix E indicates the major triggers of strike action. The causality of strikes is complex and it is therefore possible to identify strike triggers without necessarily defining the underlying cause with certainty. Further strikes are frequently multi-causal and

the strike trigger is often merely the event which crystallised the dispute.

It can be seen that the most important causes of strikes over this period have been wages; dismissal/discipline; grievances - which in this case refer to dissatisfaction with supervision, working practices, hours of work, shifts, shift composition; and other factors, i.e. triggers which do not conveniently fall into the other categories, e.g. pensions.

The dissatisfaction with wages can be seen as a predominant trigger of strikes. This seems likely to remain a major source of conflict for as long as the extremely low minimum wages for African workers persist and the huge gap between white and black wages remain unchanged (Bendix and Graham 1987:25) and wages fail to meet the increase in the rate of inflation. The dissatisfaction with wages also arose from the method of setting wages at an Industrial Council level. Workers demanded the more realistic setting of plant-level wage bargaining in addition to the minimum wages set at council level. Levy argues that the preponderance of wage strikes reflects the underlying growth of trade unionism and, with it, the extension of collective bargaining as a means of wage determination. Wage strikes thus seem likely to continue as collective bargaining continues to extend with trade union growth (1986:6).

Trade union recognition was a major trigger of conflict in the light of legislative amendments from 1979-1982. However, by 1985 this source of conflict had decreased significantly as many African unions were either recognised or were in the process of signing recognition

agreements.

The strikes and industrial conflict over trade union recognition support sites need theory (see Chapter 1 Section 2c) in that needs of recognition, participation and a sense of control were being denied to African workers in the economic arena. The failure to fulfill these needs results in heightened industrial conflict since these needs are also denied in the political arena.

The fact that the early 1980's were characterised by industrial conflict over the issue of representivity further supports the fundamental requirement of need fulfillment in site's theory. The concept of legitimacy is crucial to our understanding of this conflict. As discussed in Chapter 1 (Section 2c), authority and control is only effective insofar as it is accepted and regarded as legitimate by the mass base. The issue of representivity as a trigger for industrial conflict reflects this legitimacy principle in that institutional forms of representation imposed by the state were rejected by workers as illegitimate despite their legality.

In 1982 and up to early 1984 pensions were a significant source of grievance. Employees objected to the appropriation of funds, and demanded representation on pension boards and worker control of funds.

This challenge to the arbitrary exercise of managerial prerogative can also be seen to be an underlying source of conflict which resulted in strikes over dismissal and disciplinary issues. However, this period saw a relative decline in these issues as strike triggers. This may be

attributed to an increasing recourse to the dispute settling mechanism of the Industrial Court. (See Appendix F for an indication of the Industrial Court's increasing case load). This increase represents the willingness of employees to challenge managerial actions and the alternative action which the Court provides may be seen to decrease industrial action in that the Court's decisions are used as country-wide guidelines. After a rather shaky beginning, the Industrial Court - which was established in June 1979 - has exerted an increasingly significant influence on labour relations. This has occurred particularly through its judgements on unfair labour practices and the application of Section 43 of the Labour Relations Act which allows it to make status quo orders granting interim relief to an aggrieved party involved in a dispute pending a further hearing at which the dispute is adjudicated (survey of Race Relations in South Africa 1983: 190). The impact of the Labour Relations Amendment Act of 1988 means that the role of the Industrial Court is presently undergoing some changes. (This is addressed later in this chapter.)

Although the limited white strike activity in 1982 and 1984 was more similar to present experience than the strikes of 1964, 1976 and 1979, it is significant that the numbers of workdays lost by whites is high in relation to the number of white strikers, indicating relatively longer strikes (Shane and Farnham 1985:37). This indicates both the greater satisfaction of white workers with the collective bargaining procedure - and thus a perception of commitment to the statutory system, as well as the availability of greater resources for sustaining a prolonged strike. African workers have smaller resources for maintaining a lengthy strike and also face a greater risk of losing their jobs. Dissatisfaction with the cumbersome statutory

procedure means strikes are often undertaken by African workers before the statutory measures have been exhausted and these strikes are generally of a shorter duration than those of white workers.

The period from 1984 - mid 1985 saw a significant number of strikes triggered by retrenchments and retrenchment procedures. The number of arrests and detentions of striking workers and union leaders, and the incidence of police intervention, show an upward trend from 1984.

Working conditions and safety increased significantly in 1985 as causes of industrial conflict reflecting unions' movement away from the short-term demands which characterised the strikes in the early 1970's and an increasing challenge by workers to management's control of the labour force.

It is significant that the number of legal strikes increased from one in 1983, to eleven in 1984 and twenty seven in 1985 (Bendix and Graham 1987:30). The fact that the vast majority of strikes continue to be illegal reveals the shortcomings of the existing statutory procedure, particularly the lack of protection afforded legally striking workers.

There is a significant downward trend in the number of strikes with no overt union involvement from 1982 through to 1985. This may be attributed to the fact that employees are becoming more unionised and, consequently, unions are taking over the role of initiating strikes (Bendix and Graham 1987:29).

COSATU was responsible for 72,2% of the unionised strikes from

December 1985 - March 1986 (Levy 1986:13) which indicated the likelihood of COSATU following in the footsteps of FOSATU as the confederation of unions most involved in industrial action.

Strikes on a national scale are not recognised features of labour relations in South Africa. The organisation reflected in, for example the national wage campaigns co-ordinated on an industrial level by the Metal and Allied Workers Union and the National Union of Mineworkers, as well as the national organisational ability demonstrated by unions calls for, or support of, national stay-away activity, suggests that the potential for national strike action is likely to increase.

The year 1986 saw further increases in the levels of strike action with the highest levels of industrial action ever recorded. The percentage increase of this action from 1985 has been particularly high in relative terms (Levy Annual Report 1986:17). The political turbulence of society seems to be at the root of this increase in industrial conflict.

The increasing politicisation of workers - seen particularly in COSATU's increasing focus on broader political issues - resulted in an increasing complexity of industrial issues in 1986, i.e. no discernible pattern of strikes emerges as the strike triggers are no longer simple or clear. However, there was a continued decline in discipline and dismissal issues as strike triggers, while retrenchments were an important trigger. Again, this may be attributed to the improved handling of dismissals as a result of the developing body of jurisprudence, related to unfair dismissals, by the Industrial Court. This is reflected in the fact that the case load of

the Industrial Court increased by nearly 400% in the period from 1984 to 1986 (Levy Annual Report 1986:18).

The Industrial Court has been instrumental in advocating substantive fairness (i.e. the existence of a valid reason for the discipline) and procedural fairness in the workplace. The Court "has enforced agreed dismissal procedures and declared it an unfair labour practice to dismiss an employee without a fair procedure where a representative union has sought to discuss the implementation of such a procedure." The Industrial Court has thus declared that "the onus of showing good reason for any dismissal rests with the employer" (Webster 1986:11). Such rulings were upheld in, for example, the Stobar and O'Kiep court cases (see the Survey of Race Relations in South Africa 1983:191) and in the Court's ruling in favour of the reinstatement of unfairly dismissed legal strikers at the General Mining Union Corporations Marievale gold mine in 1985 (survey of Race Relations in South Africa 1985:194). The majority of the Industrial Court's decisions have dealt with three general categories: unfair dismissal of individual workers, retrenchments and dismissal of striking workers (survey of Race Relations in South Africa 1986: 264). the court's rulings and decisions have set a significant precedent for the negotiation of, and agreement on, procedures between employers and employees.

A significant indication of statistics for 1986 reveals an increasing tendency of strikes in terms of length where strike action is taken in support of a wage claim, particularly when this action occurs after the start of negotiations (Levy Annual Report 1986:13).

Large scale work stoppages occurred in 1986 as a result of the

imposition of the State of Emergency and detentions under these powers resulted in strikes in over 70 outlets (Levy Annual Report 1986:14). While the State of Emergency possibly reduced the workdays lost because of limitations on organisation, mass meetings, public gatherings and the detention of trade unionists, it is impossible to ascertain the effect of the State of Emergency on strike action. The Labour Relations Act was not directly affected by emergency regulations and the greatest majority of strikes continued to be illegal.

There was an increase in sympathy strike action in 1986 as well as many cases of action or threatened action by workers not directly involved in disputes. A significant phenomenon of protest in this year was the stayaway - most of which relied on union support for community organisations. Although these stayaways were largely unconnected with labour issues, the most effective stayaways were those where COSATU unions were involved. The frequency of stayaways and consumer boycotts has increased as the level of unrest in the country has increased - from one in 1982, four in 1984, twenty two in 1985 and approximately twenty five in 1986 (Levy Annual Report 1986:19). The threat of workplace discipline failed to override the community pressure and possibly even increased solidarity of the working class. Many employers resigned themselves to stayaways, feeling that the issue lay beyond their control (Levy Annual Report 1986:20).

Levy (1986:18) argues that 1986 is probably more notable for changing attitudes rather than the greater number of strikes. For management,

strikes were generally regarded as legitimate, although often ill-advised, responses which reflected dissatisfactions requiring joint negotiated settlements - rather than being seen as sinister actions and an assault on capitalism. Conversely, for trade unions and workers, work-related grievances have become increasingly invested with a character which reflects the perceived synonymous systems of capitalism and apartheid which lie at the basis of workplace grievances. This perception of trade unions is likely to continue to actuate high levels of strike action in South Africa.

The political character of industrial relations was the predominant feature in industrial conflict in 1987. The increasingly political stance of unions can be largely attributed to the State of Emergency clamp down on community groups, the United Democratic Front, etc. which has impelled African trade unions further into the political arena. The increasing political consciousness of Africans can be seen in the higher incidents of national and sympathy strikes which reflect union solidarity.

However, the major strikes in 1987 were not overtly political, but were triggered by wage and retrenchment disputes. Significantly, the scale, duration and level of strike action and violence was probably unparalleled in the history of South Africa (Financial Mail 1988:24). Union membership continued to increase.

COSATU's "living wage campaign" can be seen as a demand for negotiation of the whole job i.e. a demand for an improvement in wages and working conditions. It is significant that COSATU unions secured higher wage increases than any other group of employees in South

Africa, and unionised African workers appear to be the only workers whose wages have kept up with inflation (Financial Mail 1988:23).

By 1987 the institutionalisation of collective bargaining was recognised. The source of conflict in industry can be, thus, partly attributed to the content of this bargaining. Jowell maintains that 1987 "saw the beginnings of union dialogue with business on broader social and economical issues. COSATU leaders appeared more frequently on business platforms in 1987". (Financial Mail 1988:24).

Wage issues accounted for 29% of strikes in 1986, 32% in 1987, 48% in 1988, and 48% for the year to the third quarter in 1989. This latter figure is exactly in line with the trend in 1988. Thus, wage issues continue to account for the majority of strikes. This is expected to remain the largest single cause of strikes until the historical wage imbalances are fully corrected (Institute for Industrial Relations 1989:2).

Dismissal or disciplinary matters have declined in recent years - probably attributable to the increasing number of recognition agreements concluded where the parties have agreed that private arbitration will be compulsory in disputes of right, ruling out strike action. Recognition, retrenchment and sympathy strikes continue to remain at low levels in 1989. The effect of the 1988 Labour Relations Amendment Act ruling a sympathy strike an unfair labour practice has probably contributed to the low incidents of such strikes in 1989 (Institute for Industrial Relations 1989:3).

The Labour Relations Amendment Act which has been branded by COSATU as

a conservative back lash is likely to have a significant effect on collective bargaining as unions pressurise employers to 'opt out of the Act'. In brief, the unions opposition to this Act centres around the removal of the indemnity clause from unions and their officials in all 'illegal' strikes; the delineation of the unfair labour practice; the ruling that sympathy and solidarity strikes are illegal; and the fact that consumer boycotts constitute an unfair labour practice (Bendix, W. 1989:47,48). 'Opting out' of this Act refers essentially to two principal issues: firstly, by-passing the Industrial Court as an arbitration body with the procedures and powers of a court of law; and, secondly, the rejection of the procedures for the conducting of a 'legal' strike prescribed by this Act in preference to procedures agreed upon between the parties themselves (Bendix, W. 1989:45).

At present the debate rages as to whether the procedural agreements signed by parties to by-pass the provisions of the Labour Relations Amendment Act to in fact represent an 'opting-out' of this Act (see for example Bendix 1989:35-52). While it is unnecessary in this dissertation to examine this debate, it is important to highlight the possibility that this trend will result in a greater recourse to extra-statutory mechanisms of industrial conflict settlement. It is consequently possible that the role of independent mediation as a form of conflict settlement will increase in importance. It is thus important at this point to examine the process of mediation and its role as a statutory and an extra-statutory process.

5.1 Statutory provisions for mediation

Statutory mediation is provided for by article 44 of the Labour Relations Act of 1956. Under this Act, an Industrial Council or a Conciliation Board can request the Minister of Manpower to appoint a mediator in the event of a dispute. Alternatively, the Minister can appoint a mediator should he or she deem it to be necessary. A mediator thus appointed would act as a 'chairperson' at the meetings between the parties at the Industrial Council or Conciliation Board.

Although the chairperson of an Industrial Council probably often acts as a mediator in an informal sense, the official procedure for invoking mediation is lengthy and complex and such formal, statutory mediation has seldom been used in South Africa (Kamfer 1982:36-37). Further, no known format of the mediation used by Industrial Councils exists (Douwes Dekker 1985:36).

In the light of the labour unrest in the 1970's, a number of commissioners recommended in the early 1980's that a National Mediation, Conciliation and Arbitration Authority be established in order to intervene in industrial disputes where requested by the employers, employees or under the discretion of the minister (Survey of Race Relations in South Africa 1982:182). However, the problem in establishing such a state - initiated body would centre around the issue of the impartiality and acceptability of these mediators. Given the historical exclusion of the majority of the workers from effective bargaining rights for so long, the lack of political reform and the political nature of trade unions, it is not surprising that state

provisions for mediation services have been largely ignored (Anstey 1988:5). Further, Anstey's survey on perceptions of mediation in the Eastern Cape indicated clearly that government officials are not perceived by employers and employees to be acceptable as mediators (Anstey 1988:9).

The National Manpower Commission (1988) found that the potentially major mediating function of Industrial Councils had been largely ignored. It recommended that the Department of Manpower should launch a promotion campaign among Industrial Councils regarding this function (survey of Race Relations in South Africa 1987/88:642).

5.2 The context in which IMSSA was established

The establishment of the Independent Mediation Service of South Africa (IMSSA) took place in response to the major changes in industrial relations and collective bargaining as a result of the implementation of the Wiehahn Commission (see Sections 3 and 4). With the extension of the central collective bargaining machinery to African workers, we saw the rapid unionisation of African workers and the increase in collective bargaining between black unions and management - specifically through the development of recognition agreements, grievance and dispute procedures and the introduction of the concept of an unfair labour practice through the establishment of the Industrial Court. "In the presence of a rapidly developing collective bargaining system, and in the absence of acceptable state service, a clear gap arose as regards conciliation or mediation services" (Anstey 1988:5,6).

"The people who conceived IMSSA recognised that, with the growing formalisation in relations between trade unions and companies, a fundamental issue with which the parties would have to deal, was how to address disputes as and when they arose in the workplace" (Nupen in Human Resource Management 1989:10).

The provision of mediation services by IMSSA thus represents an extra-statutory dispute resolution framework for parties who eschew the statutory route and privatise their dispute procedures. Another option open to parties is to negotiate a dispute procedure containing optional referral to private mediation, but in the absence of agreement on either course of action, the parties are free to pursue the statutory route (Nupen in Human Resource Management 1989:10). The establishment of a permanent union presence in most companies has been accompanied by significant changes in the employer-employee relationship - in particular recognition agreements which govern the terms and conditions of the employment contract and established grievance and dispute procedures. The disputes arising out of this phase of collective bargaining differ markedly from those which arose as unions sought to establish a permanent presence and bargaining relationship. These latter disputes involved the ground rules for the management - trade union relationship - for example, recognition disputes, disputes over the definition of an unfair labour practice, disputes concerning victimisation, dismissals etc. These disputes were dealt with most effectively by the Industrial Court.

Although such disputes will continue to require adjudication for their solution, the present phase of negotiation has produced materially different types of disputes which include: disputes concerning the

wage structures, the interpretation of provisions of agreements entered into between management and unions, and disputes about the applicability of provisions of the contract.

Disputes arising out of this phase of negotiation will increase significantly and will require new forms of conflict resolution. The Industrial Court will also be unsuitable for the determination of this type of dispute. Alternate forms of dispute resolution are thus of considerable importance (Pretorius 1985:59-63).

Thus, it is against this framework that IMSSA developed and continues to grow. Their present growth may be attributed to the increase in the conflict of interests - i.e. conflict arising out of this second phase of negotiation over scarce resources and cost implications of demands, for example, wage increases, working conditions, piece-rate systems, pension fund contribution etc. Conflict of rights i.e. those arising out of the alleged violation of agreed standards arising from negotiated agreement (Douwes Dekker 1985:89) are generally more suitable to settlement through adjudication such as arbitration.

5.3 The establishment of IMSSA

In 1981 a number of leading trade unionists and industrial relations managers met together to discuss the feasibility of a mediation service in South Africa. This was followed by two workshops in which participants were drawn from black as well as established unions and prominent corporations.

By August 1982 considerable interest and support had been expressed for the establishment of a private mediation service. The need for such a service to be established on a non-profit basis was further highlighted by the Steering Committee's investigations. Consequently IMSSA was established in 1983 with a full-time secretariat guided by a Board of Trustees consisting of academics, management and trade union representatives. The existence of joint labour-management policy guidance was seen as essential. A panel of mediators was formed who offer services on a part-time basis. These services are made available through the secretariat (IMSSA 1983:5-10). The membership of this panel which originally stood at eight mediators, now comprises seventy four part-time mediators (Nupen in Human Resource Management 1989:14). There are also two full-time mediators. Members of the mediation panel consist of lawyers, academics, political scientists, priests and industrial psychologists.

IMSSA was established in terms of the following principles:

- " - a mediation service must be independent and impartial;
- mediation intervention is dependent upon the voluntary and mutual agreement of both parties;
- mediation is a resource assisting the process of collective bargaining;
- mediation recognises the principle of self-governance where the regulation of the relationship is left in the hand of management and trade unions" (IMSSA 1983:7,8).

5.4 The process of mediation

Mediation is a resource in the process of collective bargaining and

thus its use does not deny the right to a strike or a lock-out. It is a voluntary process which provides an alternative to the more costly actions of strike, lock-out, arbitration or litigation. The parties retain the right to withdraw from mediation at any stage of the process. Further, the parties retain the unfettered right to their own decisions. "That is why irrespective of the stage of development reached in industrial relations systems, it is appropriate to provide mediation services" (IMSSA 1983:4).

The mediator seeks to re-open and maintain the flow of negotiation and to thereby assist labour and management in reaching an agreement acceptable to them. The mediator aims to identify blocks to bargaining, to identify and clarify the real issues in the conflict and the real wishes of the parties, to establish the scope of the dispute, to channel the negotiation, to discover areas of compromise and to identify alternative solutions to the conflict. The mediator controls the process not the solution and can thus not make binding decisions or recommendations. This is the fundamental difference between mediation and arbitration since the arbitrator is given the power by the parties to make a final binding decision. The parties thus forego their decision-making rights. Arbitration is most appropriate in conflict of rights.

The mediator thus plays a crucial role in providing an opportunity and setting for the parties to explore and discuss the conflict issues and of legitimising the parties as participants in the negotiation i.e. facilitating the acceptance of each party of the other as one with a legitimate constituency and a genuine grievance (Salem 1985:25).

In the absence of clear criteria for success in mediation, it is difficult to identify techniques which would provide a blue-print for successful intervention. Thus, although literature exists on the necessary skills and strategies of a mediator (see, for example Kressel (1972)) the behaviour of the mediator is likely to be complex and varied. "Labour mediation, like any intervention which attempts to affect complex human relationships, must, in some fundamental sense remain a mystery, even to its most successful practitioners" (Kressel 1972:31).

However, the essential technique of mediation may be summarised as follows: "The mediator, once called in, takes charge. He/she controls the setting; shapes the agenda; directs the meetings, decides on the timing and adjournment of joint and separate meetings; can use pressures (deadlines and publicity); asks for a list of outstanding issues and their priorities; determines the how of exchanging proposals as well as alternatives and encourages movement towards settlement" (Douwes Dekker 1985:34).

5.5 The increase in mediation and the regional distribution

The increase in the demand for IMSSA's mediation services is demonstrated in the following table:

TABLE 1

YEAR	NUMBER OF MEDIATIONS
Until Sept 1983	15
1984	39
1985	60
1986	139
1987	199
1988	313
Until 22 Sept 1989	374

(Director's Report 1988 and IMSSA newsletter October 1989)

Recourse to mediation increased by over 50% from 1987 to 1988 and has continued to increase in 1989. This may be attributed to: the ever increasing unionisation of workers in South Africa and a wider range of parties resorting to third party intervention to resolve disputes; the continued utilisation of the process by parties who have experienced mediation; the fact that parties are turning with greater frequency to independent and third party neutrals to assist them to resolve disputes - this is particularly true within the present political climate and the attitude of the major trade union federations to the recent amendments to the Labour Relations Act (IMSSA Review August 1989:1).

IMSSA estimates that approximately 70% of all disputes referred to mediation are settled during the course of the mediation. However, movement generated during the process is often the catalyst to

settlement after the termination of mediation (IMSSA Review 1989:2).

The majority of mediations occur in the Transvaal. The regional distribution of mediations is reflected in the following table for the period 1 January 1989 until 30 April 1989:

TABLE 2

MEDIATION STATISTICS					
	OFS	TVL	NATAL	E.CAPE	W.CAPE
JAN	1	9	4	3	6
FEB	-	24	7	1	3
MAR	-	12	1	2	5
APR	-	16	3	2	3
	1	61	15	8	17

The relatively low number of mediations in the Eastern Cape is significant in the light of the strike statistics for 1989. Up until September 1989, the PWV area accounted for 54% of the strikes in the country, followed by the Eastern Cape (13%), Natal (12%) and the Western Cape (9%) (Institute for Industrial Relations' statistics in The Argus, 10/10/89).

In comparison to their respective strike figures, parties in the Eastern Cape utilise mediation far less frequently than their counterparts in the Western Cape. In order to analyse the reasons for this regional distribution, primary research for this dissertation was conducted in these two regions. This primary research is presented in Chapters 5 and 6. The situation with respect to mediation in the Port Elizabeth-Uitenhage region is addressed and analysed in Chapter 7.

CHAPTER 4

RESEARCH METHODOLOGY

The objective of this study was to analyse the significance, value and role of industrial mediation within a framework of the relationship between conflict resolution and the underlying causes of industrial conflict.

The relationship between economic and socio-political factors necessitated secondary research with an initial survey of the literature on social conflict. This research aimed to provide a context to the fundamental causes of conflict in industrial relations in terms of structural inequalities arising from the economic and political framework. The key aspects of this research were thus: the definition of conflict, the causes of social conflict, and the resolution and functions of conflict.

Secondary research also included an analysis of the causes of the escalation of industrial conflict in recent years in South Africa, the concept of collective bargaining and the institutionalisation of industrial conflict, the process of industrial mediation, and theories of industrial conflict. The secondary sources consulted are to be found in the bibliography.

The perceptions of mediators, managers and trade unionists on the role of industrial mediation are crucial in the development of an analysis of mediation within this research framework. Therefore, primary research in this study consisted of interviews with representatives of these three groups.

1 THE SAMPLE POPULATION

The total sample population comprised 41 interviewees of which 16 were mediators, 12 were trade unionists and 13 were management representatives. The full list of interviewees appears in Appendix I.

The mediator interviewees were all drawn from the board of the Independent Mediation Service of South Africa (IMSSA). While this population may be criticised on the basis of common training and, potential common ideologies on the basis of their affiliation to IMSSA, the fact that the vast majority of mediations in industry are conducted by members of this service means that these mediators may be seen as representative of the mediation process in the country.

The primary focus in the study was on the role of mediation as perceived by the major protagonists in Cape Town and the Port Elizabeth-Uitenhage region. These two regions were chosen because of their representation of different trends in mediation (see Chapter 3). While the use of industrial mediation in Cape Town has not been on as extensive a scale as in the Johannesburg area, accessibility, time and financial constraints contributed to the choice of this centre. However, in an attempt to analyse these two centres within the framework of the national trends and perceptions in South Africa, mediators in the sample population were drawn from Cape Town, Port Elizabeth and Johannesburg.

In the sample population of management representatives and trade

unionists, an attempt was made to include interviewees from the major trade unions in the two centres and from the most significant industries. The advice of a member of the Industrial Relations Unit at the University of Port Elizabeth was instrumental in constructing the sample population in this region.

2 THE RESEARCH METHOD

Interviews were chosen as preferable to surveys or questionnaires because the aim of the primary research was to ascertain the perceptions on mediation. Thus, an in-depth method of data collection was seen as more advantageous and beneficial in adequately assessing these perceptions.

The interviews were structured in that there were specific questions. However, the open-ended interviews allowed for further discussion and questions relating to the basic questions if it was seen that analysis would benefit from individually focused questioning.

The face-to-face interviews lasted on average eighty minutes, but many extended up to two hours. The advantage of this in-depth method was that the data degradation of other research methods was prevented. Internal validity of the sample population was consequently high.

Apart from the constraint in terms of time, a major criticism of this in-depth method may be seen as the problem of representivity and thus the ability of the researcher to make generalisations. However, my sample population reflected a wide range of industries, and trade unions and a divergence of opinions and views which is significant for

representivity. I thus feel confident that my sample population could be deemed representative of the Port Elizabeth-Uitenhage and Cape Town regions. Further, representivity in the form of, for example, questionnaires would have been at the expense of internal validity. The most constructive method of reducing this criticism would have been in the triangulation method of research which would have been undertaken had time permitted. This would include surveys and questionnaires such that the hypotheses emitting from the in-depth interviews could be adequately tested.

The questions to mediators, trade unionists and management representatives in Cape Town centred on the reasons for the increase in industrial mediation, the value and role of mediation in terms of the working relationship and the contribution to fundamental conflict resolution, and the skills and expertise desired in a mediator. The interviewees' attitude to the role of conflict in industry was also ascertained because this was significant in terms of the research framework and the theoretical basis i.e. the role of mediation within the framework of the relationship between conflict resolution and the underlying causes of industrial conflict.

Where mediation had been utilised in the Port Elizabeth-Uitenhage region, the same standard questions were asked in the interviews. However, these questions were largely inapplicable in the vast majority of interviews in this region where the experience of mediation was completely non-existent. It seemed more appropriate to base the interviews not on a pre-planned schedule, but on questions which related specifically to the particular situation. Thus, in

order to gain an in-depth understanding of why mediation is not utilised as extensively as might be expected on the basis of the Cape Town and PWV areas, questions were adapted to specific situations so that attention was given not to the dynamics of the actual mediation process, but to the reasons for the lack of utilisation of mediation.

These interviews were therefore based on questions relating to the internal dispute resolution mechanisms, the attitude towards third party intervention, the perceptions of the nature of industrial relations in this region and, obviously, the reasons for the attitude towards mediation.

All interviewees were given the option of confidentiality of their responses. It is significant that the majority of mediators interviewed chose to remain anonymous. However, within the group of mediators, those who were academics by profession contrasted with the majority of mediators in that they were prepared to be quoted. The high request for anonymity by mediators can be seen to be directly related to their professional legal status and the fact that the majority of IMSSA mediators are in the legal profession (see Appendix H for list of mediators' full-time professions). In contrast to the sample population of mediators, the vast majority of trade unionist and management interviewees were prepared to be quoted or referred to directly.

The primary research is integrated in two chapters - 'Interviews with mediators' (Chapter 5) and 'Interviews with trade unionists and managers' (Chapter 6). The latter chapter is presented in two parts: Section A which integrates the perceptions of trade unionists and

managers in Cape Town; and Section B which integrates the perceptions of the equivalent interview sample in the Port Elizabeth-Uitenhage region. For the reasons discussed above in relation to the questions asked in the latter group, the presentation of this section differs from that of the other interviewees' responses. The material presented in this chapter is analysed in Chapter 7 which focuses on why mediation has not been utilised to the same extent in the Port Elizabeth-Uitenhage region as in Cape Town and the PWV area.

Finally, the findings of the primary and of the secondary research are integrated in the final chapter of the dissertation in which specific emphasis is placed on this integration within a framework of a critical analysis of unitarism, pluralism and Marxism. Thus, the interviewees' perceptions of mediation are contextualised within a theoretical framework.

3 INTERVIEW QUESTIONS

3.1 Questions asked of mediators

- 1 Do you think conflict ever plays a constructive role in industry?
- 2 What factors have contributed to the increase in industrial mediation?
- 3 Is there a dependency on mediation developing?
- 4 What are the most important skills a mediator requires?
- 5 Is it possible for mediators to be neutral?
- 6 Does your ideological or theoretical position influence your techniques, aims or assessment of the mediation process?
- 7 What do you see the value and the role of mediation to be?
- 8 What is the effect of mediation on the working relationship? To what extent do mediators have the potential for changing this relationship, for preventing stagnation into an adversary relationship pattern?
- 9 Is mediation pacifying the employer-employee relationship?
- 10 Does the situation in South Africa make mediation in this country unique?

3.2 Questions asked of trade unionists and management representatives

- 1 Do you think conflict plays a constructive role in industry?
- 2 What factors have contributed to the increase in mediation?
- 3 What criteria do you use in choosing a mediator?
- 4 Is it possible for mediators to be neutral?
- 5 What are your expectations of the mediator and of the mediation process?
- 6 What do you see the role and value of mediation to be?
- 7 What is the effect of mediation on the working relationship?
- 8 Is mediation pacifying the employer-employee relationship?
- 9 Is there a dependency on mediation developing?
- 10 What is the role of dual mediations?
- 11 Do you perceive a continued increase in the utilisation of mediation?
- 12 What will be the effect, for you, of the Labour Relations Amendment Act of 1988 in terms of mediation?

CHAPTER 5

INTERVIEWS WITH MEDIATORS

INTRODUCTION

This chapter is an integration of the interviews conducted with sixteen of the thirty eight mediators on the IMSSA panel in 1988. In the months following this primary research, a further 35 mediators have been trained by Charles Nupen with the assistance of Tony Shepherd. Membership of the IMSSA mediation panel now stands at 74 (IMSSA Review 1988 in Human Resource Management 1989:19). The sample population of mediators in my primary research was drawn from Cape Town, Port Elizabeth and the Johannesburg area. Refer to Chapter 4 for research methodology and interview questions.

The purpose of this chapter is to integrate, rather than critically to analyse these interviews. Although some analysis is included in this chapter, the focus is on summarising and presenting this primary research. This material provides a basis for some comparison with the perceptions of trade unionists and managers in the following chapter (Chapter 6). More significantly, this chapter together with Chapter 6, provides the background to the evaluation and analysis of the role of mediation in the final two chapters of this dissertation. Thus, this material is subjected to evaluation within the theoretical research framework in Chapter 8.

The majority of the mediators interviewed were clearly pluralist in terms of their perceptions of industrial conflict - many of them classified themselves as pluralists. In accordance with this theory, the mediators saw conflict in industry as "endemic", an "inevitable" aspect of industrial relations and "fundamental" in industry. Conflict was seen to be the result of competing and conflicting interests in the workplace and, even, a prerequisite for industrial relations. Conflict is, thus, seen as a process in the employer-employee relationship, and a natural function of the divergence of interests, objectives and goals of the two parties.

It was pointed out that the question "Do you think conflict ever plays a constructive role in industry?" is immediately a value laden question as the answer would depend on defining whether it is constructive for employers or employees. The underlying objection thus voiced would appear to lie in the perception that conflict may be detrimental to one party while being constructive to the opposing party, i.e. conflict cannot result in a win-win situation as espoused by Burton. This was supported by the view that conflict may be constructive for workers in that it can provide the tools to redress the power imbalance, but it may at the same time be detrimental to managers as profits could be negatively effected. Managers and workers would, consequently, have opposing perceptions of conflict. This divergence of perceptions is particularly exemplified in the case of managers holding a unitarist position - a managerial position that was identified as very prevalent by many mediators. Managers in this

school of thought would support the "management myth" that "improved communication" is required in order to resolve conflict. Such managers would, thus, hold distinctly different views on conflict - and possibly even the role of mediation - from mediators interviewed.

The majority of mediators expressed the idea that it is not industrial conflict per se that is constructive, but conflict can be constructive if it is channelled successfully. Conflict is the expression of natural discontent and the repression of industrial conflict results in an artificial, unhealthy relationship which provokes the eruption of latent discontent. Conflict can, therefore, be utilised constructively, and to the benefit of both the parties, if it can be regulated within certain parameters. The emphasis placed on the constructive role of conflict thus shifts to the potential for constructive conflict resolution within a labour dispensation which provides a framework for conflict regulation such that gains may be enjoyed by both sides.

In the light of the potential for conflict to play a positive role in industry through constructive conflict resolution, overt industrial conflict may be seen as a "generator for change" and a "driving force" behind a learning process towards adjustments in the working relationship and better negotiations. Conflict may lend a "sense of reality about negotiations" in terms of defining the limits and scope of negotiations and through the identification of the power of the parties. The crystallisation of underlying discontent in an overt conflict situation may bring latent tensions to a head and, through this "ultimate demonstration of power" can "force a solution to the conflict". It is debatable, however, as to what extent latent conflict

is resolved in the settlement of industrial conflict. This is addressed in Section 3.3 in this chapter and in Chapter 8.

Mediators felt that conflict may thus act as a catalyst for improved communications and improved working conditions by forcing management to react to workers' grievances. The constructive utilisation of conflict can result in higher levels of trust and mutual understanding between management and workers. Thus, the consequences of conflict are perceived as potentially constructive by all the mediators interviewed if successful channelling of the conflict occurs such that the "proper preconditions for a new start" are created. Conflict and confrontation thereby lays the basis for potential progress if the conflict is successfully resolved.

Very few mediators expressly linked industrial and societal conflict and, where some relationship was suggested, it was seen as rather tenuous. When suggested, the increase in industrial conflict was seen as some form of parallel to the increase in societal conflict, but the latter factor was viewed as of secondary importance to the growth of trade unions. However, mediator A saw the relationship between the increase in societal conflict, reflected in industrial conflict, as resulting in a growth in the need for dispute settling mechanisms. Only one mediator, a labour lawyer, expressed the idea that conflict in industry could be constructive in terms of developing a "fairer society", i.e. constructive channelling of conflict in industry could have repercussions in society in general. The same lawyer expressed the opinion that the roots of industrial conflict lie in social conflict.

The most predominant reason given for the increase in industrial mediation in recent years was the fact that mediators saw the process of mediation to be gaining acceptance. This acceptance was attributed to factors such as word of mouth by parties who had found mediation to be a successful form of conflict resolution, public talks about the role of IMSSA and the experience of mediation itself. Thus, both management and trade unions are perceived by mediators to have gained faith in mediation as the process itself has proved to be successful and parties have experienced the benefits of mediation. Mediation has gained credibility as "strength in succeeding is revealed" (mediator B). The increase in mediation was frequently attributed to IMSSA's track record which has resulted in a "widening group using mediation as knowledge of mediation filters out from parties who have used mediation" (mediator L).

The increase in trade union strength was also seen to be a significant factor in the increase in mediation. Trade unions' increasing power was seen to result in the necessity for "more sophisticated industrial relations practices to regulate conflict" (mediator C), and "every resort" of conflict resolution is being utilised. Parties are, thus, "increasingly sophisticated in their use of alternative means of conflict resolution." The wielding of more power by the trade unions has meant that the resolution of industrial conflict "does not lend itself to coercion." Instead, parties are now increasingly seeking a middle-ground solution in contrast to the strikes and capitulation of the last decade (Clive Thompson). New alternatives to the Industrial

Court and arbitration are being sought. The need for mediation has also increased as collective bargaining on a plant level has increased as a result of union membership growth (mediator G).

This need for alternative means of conflict resolution was further elaborated on by mediator B, a labour lawyer, but was attributed as a motivation for mediation specifically to management. He saw the strength of labour to have "softened management", i.e. labour's increasing power has made management, particularly, "more amenable to other forms of conflict resolution" because traditional, hardline approaches are no longer so successful and management may "lose" in cases of judgement, for example, in arbitration. In contrast, he saw the main motivation of trade unions to use mediation to be the fact that it "is less costly than litigation." He also expressed the view that management and trade unions used mediation for different purposes - that trade unions have a "long-term view of the conflict that they are engaged in". Mediation is thus, not an end in itself, but a step towards increasing union strength.

The cumbersome labour regulations were also identified as a factor resulting in increasing use of mediation (mediator G). Mediation was seen to be preferred as a "cheaper, quicker" form of conflict resolution. The fact that other legal forms of conflict resolution were too expensive and were becoming increasingly academic was further supported by mediators A and D.

Mediator N saw an increasing incentive to use mediation especially by trade unions. This was attributed to the rising expectations of

workers, "specifically with regard to wages which have increased recently but cannot continue to do so at the same rate." Trade unions, thus, use mediation to "inject a realism into members' expectations" which trade union leaders are unable to do. He attributed managements' increasing motivation to use mediation to "an increasing faith in mediation to avoid strikes."

The popularity of certain mediators was seen as a contributing factor to the increase in mediation by one mediator who saw this factor to be based on the popularity of certain personalities.

The increase in mediation has, however, not been on a uniform national scale - the increase has been most marked in the PWV area although there has recently been a growth in the platteland areas as knowledge about the process of mediation has filtered into these areas (Charles Nupen). Pretoria has also experienced an increase in industrial mediation and seems to be on a "learning curve as regards mediation" (Professor Le Roux). However, a similar growth exponential is not being experienced in the Port Elizabeth area despite the fact that there has been relatively more recourse to mediation in this area in 1989 than in past years (Nupen).

This was attributed by Mark Anstey, a mediator based in Port Elizabeth, to the regional differences in the nature of the collective bargaining process. The situation in the Eastern Cape is "more robust" than elsewhere in the country with a higher propensity to strike action and a lower use of procedural regulation. The fact that the Eastern Cape is "the home of strong political drives" has meant that this region has "tended to take the lead in conflict, rather than

conflict resolution." The substantial number of small businesses and the very high unemployment rate (50-60%) may be seen as contributing factors towards the preference for repeated confrontational stances in industry (Anstey). Anstey also attributed this approach to the fact that members of trade unions often take independent industrial action and to the lack of managerial sophistication in the negotiation process. This is reflected in the level of negotiation skills and the process itself as well as the level of ideology - both management and unions hold fundamentalist and very principled ideologies which promote conflict escalation. The parochial nature of industrial relations in the Port Elizabeth area means that specific attention needs to be given to conflict resolution patterns in this region (Anstey).

The different approach to mediation in the Eastern Cape was attributed by a mediator in Port Elizabeth to the skeptical attitude of management towards mediation "because trade unions have achieved more than employers in cases of mediation." The "problem of identification" was addressed as another reason for the situation in the Port Elizabeth area, i.e. the parties' identification of mediators with either trade unions or management as a result of the perceived public sympathies of the mediators. There seems to be a doubting by the parties of the neutrality of mediators as a result of public profiles. This was seen to be the case particularly in relation to being accepted by management "because trade unions have benefitted more than management from mediations in Port Elizabeth" (Mediator I).

The situation in Port Elizabeth thus seems to arise from the tradition

of organisational pressure that has characterised industrial relations in this region (see Chapter 7 for an analysis of the industrial relations dynamic in this region).

It was suggested by a mediator in Johannesburg that the relatively low utilisation of mediation in the Port Elizabeth-Uitenhage region may be as a result of the lack of support structures for unions in this area, i.e. a lack of legal help from specifically labour-orientated law firms which make legal aid readily accessible to unions.

Apart from one mediator, all the other mediators interviewed felt that the growth exponential of industrial mediation will continue in the future although the curve may level off. This potential increase was attributed to the fact that more people will have access to, and use, this particular form of conflict resolution; the inevitable increase of the cost of legal action; the perceived increase in the stresses associated with the rising expectations of workers; the increasing demand for conflict resolution mechanisms; and the 1988 Labour Relations Amendment Act. This legislation and the fact that the Industrial Court is "decreasingly adequately providing what it is meant to" were seen by mediator M as contributing towards the increasing popularity of mediation for trade unions in the future. The idea was frequently expressed that the increase in mediation in the future would be accompanied by an increasing sophistication of both management and unions in their use of mediation.

This projection into the future was rejected by mediator L who foresees a decrease in mediation in the future as parties develop a more sophisticated approach to negotiation. He felt that mediators

will still be necessary, but will be needed for different reasons from those when mediation was initially introduced. Initially, mediation was addressing a problem of inadequate negotiation skills. However, he sees a more selective use of mediation in the future with mediators being needed to offer "fresh insights and for specific areas of the negotiation process - rather than to address the whole collective bargaining process."

The general feeling amongst the mediators interviewed was that the increase in mediation is not developing a dependency on mediation because "mediation is rarely used prematurely" (mediator L) and because mediation is used only at the parties' request. Mediator L suggested it is only mediators themselves who supported "that dependency theory"! Two-fifths of the mediators felt there was the risk of developing a dependence on mediation although this was not seen to be problematic. Mediator G, an academic, felt that the potential danger of dependency on mediation especially in wage negotiations where mediation is becoming an "automatic process", which he identified as a dilemma, arose because "mediation is essentially an educational process and mediators do not have the time to ensure that the lessons are learnt." He feels that this may be as a result of the lack of full-time mediators.

3 THE VALUE, ROLE AND SIGNIFICANCE OF MEDIATION

3.1 The mediators' role in facilitating the collective bargaining process

Many mediators attributed the recent increase in industrial mediation to the specific role of mediation and, particularly, the fact that mediation allows the parties to retain control of the collective bargaining process. All the interviewees at some stage pointed to the fact that mediation plays a significant non-binding form of conflict resolution within a process wherein the power and final decision is left to the parties involved. This decision, the parties' solution, is aided through this specific form of third party intervention which does not impose solutions, but makes solutions possible. Thus, the parties "can only gain from mediation" (mediator D) and "the process is more satisfactory for parties than other forms of resolution" (mediator I).

The way that such a solution is made possible is through the opening up of a deadlocked bargaining situation. The mediator's role in making this negotiation possible was expressed in some of the following ways:

- Mediation's value in solving conflicts lies in "removing personal tensions, and misunderstandings and can help convey technical intricacies" and thus "generate the possibility of compromise and equilibrium" (mediator J);
- Mediation can remove friction because it "allows for more honesty between the parties" and the mediator can use this knowledge to bring the parties closer together by avoiding the "bluff and counter-bluff of bargaining positions" (mediator C);

- The mediator "guides, prods and suggests" solutions and "forces the parties to look at themselves" (mediator F). This "introspective approach" decreases the "us against them" idea (mediator I);
- "The fact that the situation is not one of litigation promotes the possibility of the continual adjustments to demands" in a situation where parties "become aware of their own strengths and weaknesses as well as those of the antagonistic party" (mediator B). Further, the fact that the mediation process is "less adversarial than normal litigation" promotes the willingness of the parties to arrive at a compromise (mediator E).

Compromise may also be aided by the very presence of the mediator which helps to dissolve antagonism because each party feels that "we don't have to face them (i.e. the antagonistic party) alone" (mediator K). This mediator also expressed the idea that compromise in a mediated settlement may also be a "face saving measure" for the parties when reporting back to their constituencies - particularly in the case of wage disagreements. This idea was supported by mediator M who felt that mediation often "provided an acceptable way of dropping demands" and the mediator provided more room for the parties to manoeuvre their demands.

The significance of mediation was also attributed to the "intrinsic value of the process of mediation" (mediator L). This was linked to the opinion that parties reach a deadlock in their negotiations as a result of a "lack of negotiations which frequently result from the parties' beliefs that their demands reflect reality." This results in a failure to trust the other party and, consequently, "psychological

inhibitions" in the negotiation process. In South Africa, the levels of mistrust between parties are particularly high as the situation is exacerbated by the "two different worlds of management and workers" who have "no experience of the other's reality." This was supported by mediator K who saw mediation to be bridging "the different economic realities of trade unions and management."

"Management has little real appreciation of the needs and desires of workers" and "this ignorance services mistrust" which makes constructive and fruitful negotiation impossible (mediator L). The process of mediation plays a vital role in "breaking these psychological inhibitions" because the process of mediation itself "is an acceptable process for the parties to explore solutions within an uninhibited process." One crucial way that this is achieved is through the physical separation of the parties. This was supported by mediator N, a labour lawyer, who felt that the possibility for parties to negotiate "without looking at each other" was a significant value of mediation. He sees the physical separation as so important that he rarely has the parties negotiating together. This separation allows him "to advance the union's argument in a less threatening way" because parties "are more inclined to listen if they are physically apart."

Thus, the role of mediation was seen by mediators in the interview sample to be one of reformulating proposals in mutually acceptable terms such that the parties retain control of the bargaining process. The value of this process was seen by this sample population as contributing to the management or resolution of conflict because it

promotes engagement and thus the potential for negotiation and compromise. A good mediator was perceived as one who can thus channel conflict such that the constructive aspects of conflict are realised.

In order to fulfill this function, the mediator must "assist the parties in defining the problem" (mediator H). Mediators must "identify the underlying problem, not simply the manifestation of the problem, and then channel the parties to recognise and act on the problem" (mediator I). Mediators thus "identify hidden agenda and latent issues" and "put these on the table" (mediator L). In other words, "the role of the mediator is one of problem-solving" (mediator G). These views would suggest that the emphasis in mediation is, therefore, on the mediator's ability to define the latent, as opposed to the manifest, causes of conflict. (The potential of the mediator to identify and address the latent conflict is explored in Section 3.3 of this chapter.)

The mediators interviewed found the following skills to be necessary in fulfilling their role - experience in industrial relations, familiarity with issues, credibility, sensitivity to game playing, patience, creativity, consistency, discipline, confidentiality and powers of persuasion.

3.2 The effect of mediation on the working relationship between labour and management

Given the role of mediation as expressed by the mediators, to what extent do mediators have the potential for changing the working relationship or affecting it insofar as preventing stagnation into an

adversary relationship pattern? i.e. can mediation be a catalyst for effective change of the working relationship? Mediators saw their effect on the working relationship as "changing parties' perceptions" (mediator N); "promoting harmonious relationships" and affecting the working relationship "if a new relationship emerges out of the mediation", or "if parties learn from the mediation experience" (mediator J). Mediation can change the working relationship in terms of facilitating agreements and coming to an understanding of the opposite side and their interests - "although this may not be very far reaching" - and thus helping to "prevent clogged channels of communication" (mediator C).

In contrast to these typical responses which suggest a limitation on the potential of mediation to affect the working relationship, one mediator, (A), supported the basic theoretical premise of the problem solving approach that a "win-win" solution is possible. Thus, he saw that mediation has the potential for changing the working relationship, "and does in fact do so" because it "removes the winner-takes-all approach to negotiations. The mediator is, therefore, "in a powerful position to influence the situation." This idea was strongly rejected by mediator J who said that it is a "fallacy" that the potential exists for a win-win solution through mediation.

Mediator K felt that the effect of mediation on the working relationship is to "help prevent bitter fights" and to thus "indirectly build a better working relationship" because "without mediation, the working relationship may be destroyed." This mediator felt that mediation per se does not build a better relationship, but

it "might help the overall relationship pattern." Mediator E said that mediation can only affect the working relationship insofar as the parties are willing to allow this to happen.

Lack of time was again identified as a factor influencing this aspect of mediation. Mediator K felt that the lack of full-time mediators in South Africa reduced the potential for effecting better relationships between parties because "there is not enough time to educate the parties, to keep in contact etc." This was supported by mediator E who felt full-time mediators in the United Kingdom were better able to effect change in the working relationship since they had more time to commit to training the parties involved.

The views expressed as regards the effect of mediation on the power balance between management and workers were also directly contradictory. Mediator A felt that mediation "has led to a greater power balance between the parties"; while mediator C said that mediation "cannot empower trade unions" and, thus, "cannot fundamentally effect the power balance." (The ideas on empowerment are further addressed under Group A's responses in Section 3.3.1.)

These responses of mediators suggest that mediation is affecting the working relationship solely in terms of facilitating understanding, acceptance and trust such that negotiation may continue. The majority of mediators do not perceive mediation to have the potential to affect fundamental or structural change in the working relationship. While I would agree that this role of mediation expressed by mediators fulfills a constructive role in collective bargaining, it is possible that the majority of mediators are analysing the effects of mediation

in terms which extend no further than the immediate conflict situations. I will argue my hypothesis in Chapter 8 that the role and influence of mediation goes beyond this immediate conflict settlement situation and, in particular, has significant implications for the empowerment of trade unions. I would thus disagree with mediator C in this respect. To the extent that mediation can reduce the power distance, the mediation process may be seen to have an important and fundamental effect on the working relationship because one of the preconditions for successful negotiation is a situation in which both parties have the power to inflict a cost on the other.

3.3 The role of mediation in terms of addressing the fundamental causes of conflict

The effect of mediation on the working relationship is obviously linked to the broader question of what mediation is ultimately achieving. Is mediation pacifying the conflict in the sense that it is addressing no more than the immediate conflict situation and is thus simply appeasing and palliating the latent conflict? Or does mediation have the potential for addressing the fundamental causes of conflict and thus contributing to structural change?

The mediators' responses to this question can be classified in three groups:

- a) Those mediators, 56,2%, who felt that mediation is not pacifying the situation as this is a role which is beyond that of the mediator.
- b) 25,0% of the mediators felt that mediation either does identify,

or has the potential for addressing, the fundamental causes of the conflict - thus mediation goes far beyond pacifying the situation.

- c) 18,8% of the mediators felt that mediation is possibly simply pacifying the situation.

3.3.1 GROUP A: Mediation does not address the latent conflict, but neither does it pacify the situation

The majority of the mediators interviewed, i.e. 56,2%, felt that, although mediation may not address fundamental causes of conflict, it is not correct to think of it simply pacifying the situation as this is not within the power of the mediator - the very role of mediation, as a distinct conflict resolution mechanism, ensures that power and control remain in the hands of the parties to the mediation, thereby eliminating the possibility of the mediator simply pacifying the situation.

Mediator B "strongly disagreed" with the view "that mediation is a palliative" because if conflict is not resolved it grows and erupts, often uncontrollably. Thus, although mediation "does not go to the root of the conflict or address social conflict" this does not undermine the role of mediation. Further, the expectations of management and trade unions and their perceptions of mediation - "which are unlikely to be identical" - were seen to determine the extent to which they would involve themselves in mediation and consequently, these expectations influence where and how mediation will aid the parties.

The extent to which the parties' control over the process influences the role of mediation was further addressed by mediator C who said "mediators do not have the capacity to pacify the situation." No mediator has this power. Neither is the role of the mediator to suppress symptoms of conflict, but to actively promote the pursuit of a solution by the parties from within the passive mode of the mediator. The parties ultimately reach the agreement. The mediators' role is thus to "remove areas of conflict, not the sources of conflict."

Similarly mediator J, a labour lawyer, felt that mediation is not addressing fundamental causes of conflict - neither does it have the potential to do so. Mediation "is not solving anything. It does not address fundamental problems." He felt that the idea that mediation can result in "peace and harmony" was no more than "a myth" and that, instead, mediation resulted only in "reluctant agreements between adversaries".

Although he did not underestimate the value of mediation in the role of aiding a compromise solution, he felt that mediation plays a role in "unfolding conflict" rather than resolving conflict. However, he also rejected the idea that mediation simply dilutes conflict because "trade unions are not being used by mediation." Mediation is not imposed on the parties and is used by the unions "only if they feel it will aid their struggle."

A similar argument was promoted by mediator H who said that although Marxists may scapegoat mediation, the mediator does not appear unless the parties request mediation. Thus, the mediator "applies as much

band aid as the parties want him to do." Mediation may thus be "used strategically" by Marxists since there is the potential for the weaker party to progress because mediation "assists parties in making more objective decisions" and in no way takes away rights from the parties. This point was picked up by mediator D who said the "parties are not enslaved by mediation." The mediator acts only as a facilitator within a consensual process and is thus not in a position to pacify a conflict situation. Mediator N endorses this view and believes mediation to be "a service" to industrial relations which "allows for a more effective process of reaching a settlement." As a labour lawyer, mediator N sees the role of mediation in going beyond the settlement of the immediate conflict to the winning of short-term demands by unions so that the unions have the confidence to develop more demands and more organisation. He said that although mediation initially empowered trade unions through the provision of legally trained articulate spokesmen, he would not overstress the ability of the process of mediation to empower trade unions "as power remains firmly in the hands of the parties at all times of the mediation process."

Mediator M also saw mediation to be a "service to industry" and as such not a pacifying measure. Although he said that mediation "may be seen as reformist in the sense that it is canalising conflict, i.e. channelling conflict, it is unrealistic to expect mediation to address broader causes of conflict." Again, mediator M repeated the argument that mediation is requested and not imposed - "Trade unions would not use mediation if they thought it was simply reformist." Although mediation in itself does not address broader or root causes of

conflict, mediator M, a labour lawyer, also focussed on the broader role of mediation in empowering trade unions, and the consequent potential for the "expedient use" of mediation. "Trade unions cannot successfully address any of their demands if they do not have the power or membership. Therefore, they need to first address factory floor issues in order to build up their support." Mediation may thus be seen as beneficial or useful in this regard. Further, "mediation is often the best alternative in the face of dismissals, retrenchments and litigation."

Although not seen as pacifying, mediation was seen as "dispute settlement specific" by mediator M. This was supported by mediator J who felt mediation "always addresses only the immediate conflict" and said that he "went into mediation for reasons other than thinking (he) could change fundamental conflict" - factors such as "excitement, in touch with developments other than academic, meeting interesting people" etc were more of a motivation for him.

In summary, this group of mediators acknowledges that the underlying causes of conflict are not being addressed by mediation. However, they also emphasise that this does not imply that mediation is pacifying industrial conflict. This group's argument could best be summarised by mediator C's opinion that the role of mediation is "to remove areas of conflict, not the sources of conflict." However, it is precisely this idea that mediation is only settling the specific dispute that would substantiate the argument that mediation is acting as a palliative to conflict since it is alleviating the problem without actually 'curing' anything. In other words, because the root causes of the conflict are not being addressed, mediation is not

necessarily resolving the conflict even though it may facilitate the settlement of a dispute. Thus, for example, although a mediated settlement might be reached in a wage dispute, the underlying causes of this conflict - which may be ascribed to the inherent contradictions in industry and to the specific colour - class structuring of the political economy which determines the colour-class nature of the wages of the working class - are not addressed.

This group of mediators emphasised that the addressing of the structural and fundamental causes of conflict is a role which is beyond the bounds of the mediator. However, many mediators in this group expressed the opinion that mediation certainly has a greater potential for addressing underlying conflict than arbitration. Yet, this potential was not substantiated by these mediators. The role of the mediator is therefore seen as a dispute - specific one and one which is not perceived by these mediators to have the power to pacify the conflict. This group felt that the very nature of the mediation process - in particular the fact that mediation is never imposed, but always requested, and that the parties retain the power and control of the process - ensures that it is not pacifying the situation.

3.3.2 GROUP B: Mediation addresses the fundamental or latent causes of industrial conflict

Mediators in this group, 25% of the total sample population of mediators, believed that mediation addresses the fundamental causes of conflict. This occurs through the identification by the mediator of the real problem - rather than simply the manifestation of the conflict. Mediators in this group did not see mediation as simply

smoothing over the problems, but as playing an active and positive role in the identification of the fundamental causes of conflict. Thus, "if the purpose of mediation is to dissolve the immediate conflict then mediation is unsuccessful" (mediator I).

This group thus directly contradicts the views expressed by mediators in Group A in that the opinion of mediators in Group B is that mediation does identify the fundamental causes of conflict. This implies that the mediator identifies and addresses the causes of the latent conflict beyond the manifest conflict.

However, I would dispute the fact that the mediator is able to address the latent conflict. It would seem that the mediator's role in this respect is limited by the nature of the collective bargaining process and by the fact that, although the latent conflict may be correctly identified, the negotiating structures disallow for its direct resolution. This seems particularly true of grievances which are a manifestation of socio-political structural inequalities.

It is significant that 75% of the mediators in this group are management lawyers. In contrast, apart from one academic, all the mediators in Group A are labour lawyers. It is thus possible that personal ideologies might influence the analysis of the fundamental causes of the manifest conflict. To the extent that these causes are identified within the employer-employee relationship and are negotiable issues, the mediator may be in a position to address the conflict which is not necessarily manifested overtly.

I would agree that mediation, above any other form of conflict

resolution, does have the potential for addressing the causes of conflict as a result of its problem-solving, as opposed to adjudicative, nature. However, this potential seems to be limited to the immediate causes of the manifest conflict as opposed to the latent causes of this conflict.

3.3.3 GROUP C: Mediation is possibly simply pacifying the situation

These mediators, who comprised 18,8% of the sample population of mediators, felt that there is a possibility that mediation simply pacifies the situation. Significantly, these mediators had all earlier expressed the view that the roots of industrial conflict lay in societal conflict. Thus, in the short term any industrial agreement would not be addressing fundamental causes of conflict. These sources of conflict were seen never to be solved in industrial negotiation, but addressed only in the broader socio-political arena. However, it was emphasised that the purpose of mediation is not to solve ideological conflicts and the benefits of mediation were in aiding the mutual survival of the parties - which both desired (mediator G). This mediator suggested that the possibility of simply pacifying the situation might arise as a result of the lack of time on the part of the mediator which limits the potential for educating the parties.

Mediator A, a labour lawyer, suggested that mediation may play a role in "blunting perceptions" about the fundamental conflict and thus "delaying the struggle" - particularly in the light of the power imbalance in industry. In this regard, mediation may be seen to be pacifying the conflict situation.

Thus this group supports my hypothesis that where the underlying causes of conflict are located in socio-political structures, the possibility of mediation pacifying the situation is identified. The underlying reasoning behind this argument is that if the latent causes of conflict are not addressed, the settlement of the conflict may be doing no more than palliating the situation.

However, this group would agree with Group A that the role of mediation is neither intended, nor expected by the parties, to resolve the socio-political causes of industrial conflict. Thus, despite the fact that mediation may palliate the conflict situation, this does not undermine the role of mediation.

4 THE NEUTRAL ROLE OF MEDIATION

4.1 The question of neutrality in the light of the mediator's personal ideological position

Given the role of mediation to identify problems and channel the conflict, to what extent do the mediators' own views, or their opinions, as a reflection of their own theoretical or ideological positions, influence the process? This question is tied in with the neutral role of mediation. The neutrality of the third party is one of the prime characteristics of this particular form of conflict resolution. But, to what extent is this neutrality possible? - particularly given the public profiles of the mediators and the fact that the vast majority are professionally biased or publicly

identified as more sympathetic to one of the parties.

The general feeling amongst mediators was that although mediators are not ideologically neutral and are not perceived as such, the process is dependent upon the mediators harnessing their prejudices such that the parties "reach a settlement which is the parties' own decision" (mediator E). Despite the fact that "there is not one mediator who is neutral - no, maybe there are a couple" (mediator K), the process of mediation depends on people acting neutrally within the process (mediator G). Thus, ideas such as the mediator "putting on a neutral cap for the sake of the mediation" such that the mediator makes no value judgements (mediator F) and the fact that the parties are "counting on a neutral mediator" (mediator J) were emphasised.

It was pointed out that "neutrality does not necessarily mean the mediator will be good" and that credibility with the parties was more important than neutrality (mediator K). Confidentiality was also seen as more important than neutrality by mediator M who said that "despite the mediators' natural bias, their aim - like that of trade unions and management - is to settle the conflict."

Acceptability was another factor seen as more important than neutrality, but mediators "develop a discipline of neutrality by refraining from imposing their own point of view" (mediator L). Mediator H also felt acceptability was the "key thing." He made a distinction between impartiality and neutrality and said he "did not think that mediators should be neutral." He felt there should be a separation between an "interested and a disinterested" third party. He emphasised that the process of mediation "must be looked after" and

that the process reveals impartial mediators, i.e. those "with the capacity to be objective." This was echoed by mediator L who said that neutrality in the process is so important that "the survival of the mediator" depends on him/her being neutral.

Neutrality can also be seen as "only part of the larger question of trust" (mediator N). Mediator H had found that parties rated experience of the mediator, rather than the perceived neutrality, as more important. It was also pointed out that perceived neutrality of the third party is more important in arbitration where the third party has the power to make the final decision (mediators E and N).

Thus, the most important aspect of neutrality was that the parties develop trust in the process of mediation as an acceptable and credible third-party intervention mechanism. The mediators' techniques are therefore the professional reflection or manifestation of neutrality. The mediators' neutrality is expressed in the process of mediation through their not interfering in the solution because "if the mediator tries to influence the process, he or she will pick up a reputation." Ultimately the decision is the parties' and the mediator "does not act on behalf of either party" (mediator G). The mediator manages the process, rather than the parties (mediator F).

Thus, mediators felt that their own ideological beliefs or theoretical underpinnings played no role in influencing a mediated settlement. Mediators said that they never gave their own opinion because "mediators would not be serving the parties' interests if they gave their own opinions" (mediator F). It is the "parties' conflict"

(mediator H) and thus, the "parties' solution", i.e. the parties take the initiative in the solution (mediators F and C). The mediator does not express his or her own opinions "because one must recognise one's responsibilities to the parties" (mediator C). Where solutions are offered these are "neutral suggestions" (mediator F) or given in "passive terms to suggest the underlying problem" (mediator I). Mediators thus give specific advice which is a function of the third party (mediator M). A similar viewpoint was expressed by mediator G who said he would offer his "opinion and would offer suggestions or alternatives", but that "the mediation can fail if the mediator acts in a biased way." The emphasis may thus be seen as the ability of the mediator to suggest, but not impose, creative solutions and possibilities which the contending parties may have overlooked.

Mediator I expressed two apparently contradictory ideas viz: "the mediated settlement is not dependent on ideological perceptions" and then, later in the interview, "the mediators' perceptions will influence the outcome." This is contradictory if perceptions of conflict and the causes of conflict are shaped by ideological or theoretical positions as I suggested as an explanation for the difference in opinion between Group A and Group B. However, possibly implicit in this statement, as well as in those opinions which expressed the possibility of "neutral suggestions" in "passive terms" etc, is the idea that the underlying causes of conflict are objectively identifiable regardless of the mediators' theoretical or ideological position, i.e. the mediator is in a position to identify the causes of conflict in a neutrally objective way such that any solutions offered are also neutral and objective.

The opinions of two mediators, both labour lawyers, with whom I would agree, may be seen to contradict this idea to some extent. Mediator B felt that the mediator determines "what parameters are drawn." This was supported by mediator A who said that the mediators "establish the parameters and the extremities of bargaining" and the mediator's own viewpoint may come into account when deciding how far or in which direction to push the parties. He felt one's own position "inevitably influences the process" insofar as the mediator "pushes the extremities."

4.2 The public profile of mediators

Despite the mediators' own perceptions of themselves as neutral in the process of mediation, many expressed ideas that suggested that the public profile of mediators did affect the parties' choice of mediators.

Mediator A, a labour lawyer, felt that management understand the concept neutrality and the profession of mediation more than unions because of the "misunderstanding about the rules of mediation" which he saw linked to the lack of process information and training. A similar view was expressed by mediator E, a management lawyer, who said that fraternisation of the mediator with management tended to reduce the neutrality of the mediator in the unions' eyes.

Mediators also suggested that both management and unions use mediation strategically and the mediator's public bias is often taken into account within the parties' strategic plan. Over 50% of the mediators

said that "more sophisticated management use trade union - pro people" (mediator N). This was attributed to the idea that management believe it will "help (them) to have someone whom trade unions trust" (mediator J) because it will aid management's argument if the mediator has credibility with the trade unions (mediator K). Or in other words, "management likes 'lefties'" because "management try and win mediators to their side to influence trade unions" (mediator M).

Similarly, mediator K said that trade unions use people who have credibility with management, e.g. employer advisors, for the same reasons. However, trade unions' preference for management associated mediators was not seen as so prevalent as that of management for overtly union or labour orientated mediators. Mediator H felt that the "perceived expertise of mediators is more important to trade unions than management." He attributed this to the power imbalance and to the unions' idea that they are less likely to be abused or exploited by management if the mediator is skilled.

Further, various mediators felt that specific mediators were used for different situations - for example, an Afrikaans employer advisor might be more suited to mediating in an Afrikaans, establishment firm. Thus, the mediator's "partiality can stand in the way" of the parties' selection of mediators (mediator C).

This strategic use of mediation by the parties is possibly based on the parties' perception of the mediator's ability to shift the opposing party to their side, i.e. parties make their choice of mediation on "their (the parties) perception of the mediator's ability to resolve conflict and the mediator's ability to shift the perception

of the other party" (mediator H). This substantiates the idea that the strategy of mediation is, itself, not neutral and that, consequently, mediators with clout are more popular to the parties than neutral mediators. The consequent inherent danger is that parties may misperceive which mediators have clout if this quality is equated with public profiles, rather than with mediation skills.

It was suggested by mediator I (a Port Elizabeth mediator) that dual mediation, i.e. the process conducted by two mediators, is "a built in check for neutrality". He saw the phenomenon of dual mediation resulting from the fact that mediators are not seen as neutral and, thus, foresees no decrease in dual mediation in the future. This was strongly contradicted by mediator F (in Cape Town) who saw dual mediations to be "on the way out" because parties are developing a "faith and confidence" in the process and dual mediations reflect "a lack of understanding of the process mediation." However, he felt that dual mediations will continue where issues of complexity are concerned. This was supported by other mediators who felt that the role of dual mediations will continue for cases of big or complex conflict situations (mediators H and K) and when the parties are very far apart (mediator D). It was generally felt that dual mediation is already firmly entrenched and will not necessarily decrease in the future.

4.3 The assessment of the mediated settlement

The ideological or theoretical positions of the respective mediators do not effect the mediators' assessment of the mediated settlement

because none of the mediators said that they assessed the settlement. Where some assessment was made, it was an assessment of the process itself rather than the outcome of the process (mediator F). Thus, if success is measured by the mediator it is on whether the parties have achieved an agreement. However, even if an agreement is not reached, the mediation could be assessed as successful "if the problem has been realised" (mediator I). Further, mediation "can provide a platform for settling the dispute outside mediation" (mediator M). Mediation may bring parties closer to a settlement even if a settlement is not reached in the mediation itself. It is "very common" that settlements occur after an "unsuccessful" mediation (mediator M). Thus, an unresolved mediation does not necessarily result in a strike.

Mediator C felt mediations were most likely to be successful when there was an approximation of a power balance; and conversely, the most unsuccessful mediations occur where there is no approximation to a balance of power.

Because of the structural inequalities in industry, it is highly debatable as to whether any negotiations take place within an approximation of power. Although such a situation would provide for the most successful and authentic negotiations, in its absence, it might be more realistic to see mediation as most successful when a realistic assessment by the parties of their respective bargaining power exists.

In discussing the evaluation of a successful mediation, many mediators pointed to the misuse by parties of the mediation process and the fact that mediation can only be successful if it is used properly, i.e. the

parties must be willing to compromise. Misuse or abuse of the process was seen where mediation was entered into only because of a recognition agreement (mediators M and E) and as such was accepted as a necessary procedure or a necessary step in the negotiation process. In these circumstances, the parties use mediation "to cover themselves or to close negotiations - but they do not really want to settle (mediators N and F). Further cases of misuse echoed similar sentiments where mediation is seen as "a charade" so that parties "look like they've been through all the available channels" (mediator M); parties agree to mediation simply "to test each other's strengths" or, alternatively, as a "quick fix" (mediator E). Many mediators said that if they felt the parties were abusing the process, they made this explicit to the parties.

Another reason put forward for the inability of mediation to result in a settlement is a situation where the parties are "too far apart" and "nothing can bring them closer." In such a situation, neither the mediator nor the process is seen as having failed (mediator M). None of the mediators perceived an unresolved mediation as a personal failure. Instead, the process itself was seen to have failed.

Mediation was not seen by mediators to be the response to a "failure" in the working relationship. This could be expected from the pluralist position of the majority of the mediators. Thus, in accordance with this theory, mediation was perceived to be in response to the inherent conflict in industry or to a temporary breakdown, collapse or defective functioning in the working relationship and the role of mediation to draw attention to these defects. Consequently, attitudes

and aspirations were subject to change through mediation (mediator B). This supports the majority of mediators' opinions that mediation does not change the fundamental structural relationship between management and trade unions. The emphasis is rather on the role of mediation in institutional reformation through the development of procedural and substantive rules arising from collective bargaining.

5 CHANGES IN MEDIATION

The increasing utilisation of industrial mediation in recent years has, inevitably, led to certain changes in mediation which were addressed by the mediators interviewed.

Mediator K, in Johannesburg, felt that the use of mediation was becoming increasingly sophisticated. Initially there was considerable ignorance about the process, but parties now have realistic expectations of mediation. He felt that the general level of improved negotiations in industry was not necessarily due solely to mediation, but also to the fact that trade union growth has meant that both parties have had the experience of more negotiations.

Mediator N, a labour lawyer, said that mediation was initially directed at management - in terms of educating them about the realities of trade unions. Now, however, mediation has become a shared learning experience. Through mediation, trade unions have learnt more about the art of negotiations which has led to the tabelling of "more realistic demands by trade unions." He also felt that mediation is increasingly involving a wider range of issues viz. general working conditions such as shift work and danger pay. In the light of Chapter

3 this may be seen to be directly related to changes in trade union strength and organisation. Such issues have resulted in more complex mediations. Wages, however, remain the principal and predominant issue in mediation. He also saw different yearly issues which receive major mediation attention. For example, holidays (such as 1 May and 16 June) were particularly significant in mediations in 1987; while housing was a substantial issue in mediations in 1988.

Mediator F felt that the growing experience of mediation and of industrial relations in general has resulted in more sophisticated mediation where "side issues are increasingly falling off the table." He felt there were fewer political demands made in mediations because trade unions are more realistic about what can be achieved through mediation and the types of issues that can be negotiated in an industrial setting. This was supported by mediator M who also felt that "trade unions are more prepared to drop political demands in mediation now." In contrast to the "tougher bargaining situation" perceived by mediator N, mediator F felt that the more experienced position of the parties has meant that it has become easier for the mediator to suggest alternative possibilities to the resolution of the dispute.

The views expressed here reflect a perceived bias of the mediators in their assessment that trade unions are becoming more 'realistic' and 'dropping political demands' such that 'more sophisticated' mediation has evolved. The implication herein is that trade unions should not take up socio-political demands in industrial negotiation and that grievances in the workplace can be restricted to economic ones. This

would deny the inextricable link between socio-political and economic factors and would also identify the underlying causes of industrial conflict solely as economic issues. To the extent that 'dropping political demands' is seen as more 'realistic', the limitations in the collective bargaining process are revealed because the necessity to articulate grievances in negotiable terms means that the underlying causes of industrial conflict may consequently remain latent.

It must also be pointed out that the changes in mediation referred to in this section apply specifically to the situation in the PWV and Cape Town areas. The nature of mediation in the Port Elizabeth-Uitenhage region is addressed in the second section of Chapter 6 and is analysed in Chapter 7.

6 INDUSTRIAL MEDIATION IN THE SOUTH AFRICAN CONTEXT

All the mediators felt that political factors in South African society made mediation in this country unique. However, there was some discrepancy in the views as to whether this warranted a specifically South African theory on mediation. This discrepancy in views was represented on the one hand by mediator E who felt there is no need for a different theory of mediation in South Africa, despite the particular problems unique to mediation in this country, because mediation has been "successfully transplanted" from European and American models. The concept of mediation is an objective one and "it wouldn't be mediation" if the South African situation necessitated a different model. On the other hand, mediator B felt that mediation in South Africa is "a brand in itself" and one "cannot simply just apply" models of mediation from other countries. Instead, the "real

solutions" in mediation in South Africa "lie within the people here", and we "need to develop our own brand of conflict resolution mechanisms to suit particular kinds of problems."

The choice of professional mediators was seen to be a function of racial discrimination in South Africa. It is significant that of the thirty eight part-time IMSSA mediators at the time of this primary research, only four were classified black - two of whom explicitly stated that their lack of mediation experience was a direct discriminatory measure. One black lawyer felt that management were "more amenable to white mediators" and that management "distrusts black mediators" because of their perception that these mediators would have a "natural bias for labour."

The racial composition of the labour force also makes mediation in South Africa unique because white mediators may be more easily identified with white management (mediator F). The fact that collective bargaining itself is unique in South Africa further highlights the unique position of mediation - mediators are dealing with one unfranchised party (Clive Thompson). This factor highlights the first world - third world dichotomy in the country.

The lack of political rights for the black workforce and the fact that trade unions have been one of the few recognised channels for any expression of discontent, has meant that mediators deal with more overtly political demands than in first world countries. These political demands have been linked to other grievances. The political situation further affects mediation because of the context in which demands are placed - e.g. the detention of colleagues, the bombing of

COSATU house etc. "which make trade unions less willing to compromise" (mediator M). Thus, "industrial conflict is exacerbated in South Africa" (mediator K).

The "vast differences between perceptions of management and trade unions" was also seen to affect mediation in South Africa - particularly the fact that mediators are seen to represent these differences and "the popularity of mediators is related to these perceived positions." Where the gap between perceptions is narrower, these factors are less of an issue (mediator A). Mediator F felt, however, that "political undertones" could be lessened "if parties have faith in the process of mediation and if sound relations exist on the shopfloor." He said the process "could cope with burning and political shopfloor issues."

Despite the fact that theory of the process of mediation may be universally applicable, I would argue that the dynamics of mediation and all forms of industrial conflict resolution in South Africa need to be located within a specifically South African context that takes into account the colour-class structure of this society. This structure influences the underlying causes of industrial conflict, the political context of the specific grievances, the dynamics of the collective bargaining process, the nature of trade unionism and thus the nature of industrial conflict resolution in South Africa. As discussed in this section, one of the most overt influences of the South African situation may be seen in the choice of the mediator. The great social and class distinction between the white mediators and the union members may explain why trade unions place a greater

emphasis on the perceived values of the mediator than does management.

The questions that I am asking with respect to why parties are using mediation and what mediation is achieving in industry need to be seen against this specific nature of industrial conflict.

7 EDUCATION IN THE FUTURE

43% of the mediators felt there is a need for further education on mediation - that both parties should be educated about the process of mediation so that the parties trust the process and are made more aware of the role of the particular mediator within this process. There was also emphasis placed on educating the parties as to what they can achieve through mediation - particularly in Port Elizabeth where it was felt that the parties must be aware that mediation "is not just informal arbitration." Although the parties "reach the agreement themselves, the decision is binding" (mediator I). The same mediator said the process of mediation "must be sold" and suggested the medium of TV2 as a useful channel. The implication of this view is that the reluctance to utilise mediation in this region comes primarily from trade unions rather than management. This is further explored in Chapter 6 Section B and analysed in Chapter 7.

It was also felt that there is a need for training in negotiation skills for management and trade unions so that they do not have to become dependent or rely on mediation to settle disputes. Lack of time was given as a reason for the mediators' inability to train and educate parties. However, this factor might be eliminated to some extent in the future as Charles Nupen predicts an increase in the

number of full-time mediators.

8 IMPLICATIONS OF INDUSTRIAL MEDIATION FOR CONFLICT IN SOCIETY

The establishment of IMSSA has had significant effects on conflict resolution in industrial relations and has contributed to a significant increase in the use of industrial mediation. From 1 April 1987 to 31 March 1988, IMSSA conducted 243 mediations - a 90% increase from the 139 mediations in the previous year. This figure increased to 374 mediations for the period of January to September 1989 (Charles Nupen). Is it possible that this precedent set by IMSSA will affect the role of mediation and result ultimately in a profession of mediators who have the credibility and ability to mediate in different forms of conflict situations e.g. community or industrial conflict?

Many of the mediators interviewed felt that this was a very possible development in the future - particularly as education on the process of mediation increases and a separation of the process from the person occurs (mediator A). It was felt that a standardisation of the mediation process is both possible and necessary and that mediators might thus be able to play the same role in any conflict situation. However, in many aspects community mediation differs significantly from industrial mediation and these differences cannot be underestimated.

Clive Thompson felt that the pre-conditions for mediation do not exist in society. Unlike the industrial situation where "trade unions and employers want to arrive at a settlement", parties to community conflict "do not necessarily want to mediate in good faith" or reach a

settlement. Mediation in industry is generally in response to conflict over wages and the parties are thus more amenable to mediation. Further, trade unions and management are "both trying to secure sectional interests - there are not many mysteries", unlike community conflict. The role of mediators is also different in political conflict because the mediator requires "political brockage" as opposed to the professional mediating role in industry.

Another problem for inter-disciplinary mediation, i.e. mediation in different conflict contexts be it industrial, community or political conflict, is the issue of trust. Industrial mediators do not necessarily have community credibility, particularly in South Africa, and, thus, the possibility of mediation in different fields may ultimately be dependent on the particular person.

However, it was generally felt by IMSSA mediators that industrial mediation has the potential for far reaching implications for society. Mediator B felt that this could extend "all the way to national matters" because "whatever is done on a basic level will impact on the outermost levels."

Little tradition exists for negotiation in South Africa and it has generally become discredited. Mediation is creating a tradition for addressing conflict through negotiation in the country (Charles Nupen). This tradition could have profound implications in society if it is established as a credible and reliable process. The recent establishment of a community mediation board, along similar lines to that of IMSSA, represents the potential for significant conflict resolution mechanisms in society.

CHAPTER 6

INTERVIEWS WITH TRADE UNIONISTS AND MANAGERS

INTRODUCTION

Interviewees were selected from prominent trade unionists and representatives of management in Cape Town and the Port Elizabeth-Uitenhage region. (Refer to chapter 4 on methodology for discussion on choice of regions and interviewees and for specific questions asked in interviews). The total sample population consisted of 25 people - 12 trade unionists and 13 management representatives.

This chapter presents a summary and integration of the interviews conducted. While some limited discussion is included, the aim of this chapter is not to analyse the information obtained, but to present the perceptions of managers and trade unionists which form the basis for analysis in chapters 7 and 8.

This chapter is divided into two sections:

Section A: The perceptions of interviewees in Cape Town on mediation.

Section B: The perceptions of interviewees in the Port Elizabeth-Uitenhage region on mediation.

SECTION A: PERCEPTIONS OF TRADE UNIONISTS AND MANAGERS IN CAPE TOWN ON MEDIATION

A.1 THE ROLE OF CONFLICT IN INDUSTRY

Managers and trade unionists saw conflict as inevitable, endemic and unavoidable rather than constructive per se. Conflict is seen to be

institutionalised in industry and is generally accepted as such by both parties who recognise the inherent nature of industrial conflict resulting from the divergent interests of employers and employees. Trade unionists saw conflict as playing a constructive role when workers' interests are thereby advanced and constructive changes are introduced. Conflict is thus not invariably constructive from a union point of view. It can "play a negative role when conflict goes awry" (Hartford).

Management also recognises the potentially constructive aspects of conflict. However, this potential was qualified by many managers to include only that conflict which directly involves the shopfloor situation. Management would thereby be "in a position to put (their) house in order" (Banburger). Such industrial action was defined as "positive conflict" (Markey) in contrast to "negative conflict" which refers to situations in which "no possibility of changing anything exists." Markey saw the latter situation arising when the conflict issues are not ones that can be resolved through negotiation eg. "political issues." Thus, the issues determine whether conflict can be constructive. Negative conflict exists "because of the parties' inability to do anything about the conflict." Such conflict results in a "hardening of attitudes" even if the conflict is "justified negative conflict - for example, very low wages."

Most of the trade unionists interviewed in Cape Town explicitly linked industrial and societal conflict and felt that industrial conflict undoubtedly has its roots in societal conflict.

This view contrasted directly with the opinions of mediators as expressed in Chapter 5 Section 1 and with that of managers (see below). This is significant particularly insofar as conflict can be resolved at the level of industrial relations. If the roots of industrial conflict are to be found in society, conflict may be settled or accommodated in industry, but not ultimately resolved. I would, thus, hypothesise that the unionists who perceive this relationship would also perceive mediation possibly to palliate industrial conflict. This hypothesis is confirmed under Section 4.4 of this chapter and analysed in Chapter 8.

Although the endemic nature of industrial conflict was addressed, most unionists emphasised the particular nature of industrial conflict which arises out of the political situation in South Africa and confirmed my basic premise that the socio-political and economic arenas cannot be divorced. "Industrial conflict has a particular quality in South Africa because of the political situation which influences its casting in particular forms. However, industrial conflict also has autonomous roots in South Africa" (Dave Lewis).

The declining economic climate, which was related to broader societal conflict, was also identified by unionists as a factor contributing towards industrial conflict. The wider social dissatisfaction of workers was seen to heighten workers' preparedness to take a stand on shopfloor issues. However, one unionist (who does not wish to be quoted) felt that one cannot draw a direct link between societal and industrial conflict because an increase in societal conflict may result in fewer incidents of mass industrial action as workers "get tired of stayaways."

Many unionists also emphasised the influence of social dissatisfaction in terms of mobilising workers. Thus, internal union dynamics such as trade union growth and organisation, which may be seen as indirect consequences of social conflict, are more important factors contributing towards industrial action. It is significant that, while mediators attributed the increase in industrial conflict to the growth of trade unions, (see Chapter 5 Section 1) this was not linked to the influence of social dissatisfaction in mobilising workers. Thus, managers and mediators tended to regard social and industrial dissatisfaction as two separate entities. This view contrasted directly with the perceptions of trade unionists and may be criticised in the light of the particular nature of political unionism in South Africa.

The link between societal and industrial conflict was not seen so explicitly by managers interviewed in Cape Town. Where a link was directly seen, it was expressed in terms of social conflict contributing towards better organised trade unions who utilised their strength more effectively. However, political context was seen by managers to provoke more militancy from black than so-called coloured workers. Broader political dissatisfaction was perceived to affect workers' perceptions and result in more confrontational policies, particularly on the part of shop stewards. This was noted as a reason for the increase in the number of mediations in recent years.

In some cases, managers stressed that they had not experienced an increase in industrial conflict although there has undoubtedly been an

increase in conflict in society in recent years. Instead there has been "a redistribution of conflict in industry in my experience" and "better co-ordination by trade unions" (Chennels).

Broader socio-political factors were seen by unitarist managers as contributing towards increased industrial conflict because trade unions pressurise the workers in the name of solidarity. Trade unions thus influence "our people" who have to obey orders that "come direct from COSATU - not from the people themselves" (Banburger). This was seen to be particularly apparent in strike action organised around political holidays.

In summary, mediators, managers and trade unionists in the interview sample all recognise the endemic, inevitable and institutionalised nature of industrial conflict. For managers and mediators, this conflict is constructive if it is concerned with negotiable issues such that the potential for effective channelling of the conflict exists which would ultimately result in more "healthy" industrial relations. Trade unionists perceive the constructive aspects of conflict to be met when worker's interests are thereby advanced. This divergence of views represents the fundamental conflict of interests in the workplace - in particular, the fact that conflict is not necessarily constructive to both parties.

Although mediators identified the unitarist position to be particularly prevalent amongst managers, only 16,6% of the sample population of managers in Cape Town could be identified as unitarist in ideology. Although I would argue that this sample is representative of the dominant trends in industrial relations in this

area, these results may reflect the absence of interviewees drawn from smaller or more parochial business concerns.

A.2 THE RECENT INCREASE IN INDUSTRIAL MEDIATION

The vast majority of interviewees said they had experienced an increase in the number of mediations in recent years. However, Patel, (trade unionist), felt that the absolute number of mediations in which the union had participated is misleading as the number of negotiations has also increased as negotiation has become more sophisticated. Thus, "as a proportion of negotiations, the number of mediations has not increased."

The overriding reason given, by both managers and unionists, for the high acceptance of mediation in Cape Town was the role of IMSSA and, particularly the fact that IMSSA panelists are viewed as credible third party interventionists. However, it was precisely IMSSA's policy that resulted in the then Federation of South African Trade Unions' (FOSATU's) initial opposition to mediation. The unions viewed IMSSA as "trying to promote a cult of conflict resolution." Further, the unions were opposed to the perceived "attitude within this interventionist approach that every dispute was able to be resolved through third party intervention" (Patel). A similar reservation regarding mediation was more recently expressed by the Chemical Workers Industrial Union who also emphasised in their anti-mediation policy that "mediation is not decisive - so what is the point of the process?" (Jansen). However, it is the track record of mediation itself and the number of notable successes that has changed such

policies. The fact that mediation has proved itself to "work" over the years has resulted in both parties being willing to utilise the process.

An initial opposition to third party interventionism was also expressed by some management interviewees. In these cases, the initial antagonism was seen to be primarily the result of ignorance as to the role of the mediator and what the mediator would be expected to do in the process - for example, the fear that mediators would play an arbitrating role and that management would lose control of the negotiation. However, as was expressed by mediators (Chapter 5 Section 2), successful mediations have resulted in confidence in the process in these cases.

Markey attributed the increase in mediation to a learning curve similar to that in any industrially organised country. He saw a movement away from the "confrontational approach" expressed with "trade union growth and labour flexing its muscle" that resulted in a "hard-line managerial approach." He saw the fact that mediation is by joint agreement only representing a movement away from the confrontational approach and evidence that both management and trade unions are more prepared to negotiate. This preparedness has resulted in more mediations. The increase in negotiation was also noted as a contributing factor towards greater use of mediation by Chennels, (management), in the light of their "sophisticated, progressive industrial relations" and the "well-versed shop stewards" at the South African Breweries.

However, more sophisticated negotiation does not necessarily result in

greater use of mediation as is exemplified in the case of Dairy Belle. Woods said they had not experienced an increase in the number of mediations and attributed this to the managerial style at present. This has seen a "reduction in industrial action as a result of negotiation" and internal dispute solving procedures. He felt, however, that the Food and Allied Workers Union, (FAWU), while originally "anti-third party intervention" is now more willing to embark on mediation.

A FAWU representative, while acknowledging a personal shift in his views concerning mediation, felt that management used generally to be "hysterical about third parties" and this included trade unions (Lewis). Now, however, management tends to be "more accepting of third party interventionists" and this has "therefore also influenced unions' acceptance of mediators." Lewis' own views regarding mediation have changed since the early 1980's when he was anti-mediation and all third party intervention because he felt that it did not have a role to play. He attributes this shift to the fact that trade unions are now bigger and are seeking more stability, the increase in the number of people available as mediators and "an acceptance of the notion that people not of the working class can empathise with, and understand, the situation."

The responses of interviewees thus suggest a continued utilisation of mediation in the future - particularly if notable successes continue (see section A.6 of this chapter for further discussion on the future role of mediation). However, Beard, in his consultant role, has a "faint suspicion of trade unions being more cautious" in their use of mediation. He feels that, in the past, "management has jumped at the

opportunity of mediation" because management initially experienced successful mediations and thus tends to "grab at mediation" on the basis of this positive experience thereby shifting responsibility for conflict resolution to the mediator. Baard feels trade unions are now tending to question managements' choice of mediation more often. While this view may be valid, it was not substantiated by the trade unionists in my interview sample.

Although trade unionists and managers, unlike mediators, did not emphasise the role of the increasing power and strength of trade unions in the escalation in the number of mediations, this factor may be seen to be implicit in the emphasis by the former group on the greater willingness of both parties to negotiate. Thus, the mobilisation of workers and the consequent legitimate representation of workers have placed them in a position where they are able to negotiate on behalf of their constituencies. In response to this development, management has been forced to recognise this representivity and to negotiate with trade unions. The increasing number of mediations (see Chapter 3) may thus be seen as a manifestation of more sophisticated industrial relations which reflect an awareness of both parties of the necessity of compromise for successful collective bargaining.

It is also significant that although mediation provides a "cheaper, quicker" alternative of conflict settlement within the cumbersome labour legislation - as identified and stressed by mediators - this point was not emphasised by management and trade unionist interviewees as contributing to the popularity of mediation.

A.3 CRITERIA FOR CHOICE OF MEDIATOR

The results of the interviews with Cape Town management representatives and trade unionists with respect to their criteria for the choice of a mediator are summarised in the following table and analysed and compared in the summary of this section (see A.3.3).

TABLE 3: CRITERIA FOR CHOICE OF MEDIATOR

	QUALITIES SOUGHT IN A MEDIATOR	PERCENTAGE OF RESPECTIVE SAMPLE GROUP
MANAGEMENT'S RESPONSES	BACKGROUND EXPERIENCE AND SKILL	66.6
	OBJECTIVITY	50.0
	EMPATHY	33.3
	RATIONALITY	33.3
	LEAVE CHOICE TO IMSSA	33.3
	CREDIBILITY WITH TRADE UNION	16.6
TRADE UNION'S RESPONSE	LEAVE CHOICE TO IMSSA	66.6
	BACKGROUND EXPERIENCE AND EXPERTISE	50.0
	CREDIBILITY WITH MANAGEMENT	50.0
	UNDERSTANDING OF SITUATION	33.3
	SYMPATHY	33.3

A.3.1 Management's responses

The most frequently mentioned criterion by managers in their choice of a mediator was someone with the necessary background experience, i.e.

a mediator who is skilled and well-known to have a track record in the particular area of conflict. Background experience was seen to be particularly important in cases where the conflict was of an economic nature, especially wage disagreements. Thus, mediators must be known to have an understanding of economic and market matters.

A minority of managers, 16,6%, said the mediator's public profile would influence their choice of a mediator with union credibility. This was seen to be advantageous to management because the mediator must be able to influence the negotiation, and, therefore the trade union must trust him or her.

In some cases, managers said they would leave the choice of mediator to IMSSA's discretion as they had faith in the credibility of these mediators. The integrity of the mediator, based on the mediator's track record, was of crucial importance - irrespective of the mediator's sex. There appeared to be no overt discrimination in the choice of mediators by management on the grounds of sex, but the vast majority of companies had not called in women mediators.

As far as racial discrimination is concerned, only one of the managers in Cape Town adamantly stated that he would not use a black mediator. One of the other managers, a black man, felt that if any antagonism over a black mediator arose, it would come from the trade union because they would have "a lack of trust of black mediators" because of a "subconscious conditioning" that a white mediator would have more expertise. All the other managers felt that a black mediator would pose no problem. When then asked why they had never used a black

mediator, the answer was an almost standard: "Are there any black mediators in Cape Town?"

A.3.1.1 The neutral role and the public profile of the mediator

None of the managers specifically mentioned "neutrality" as a criterion sought in a mediator. Does this suggest that, by definition, a mediator is known to be neutral and neutrality is, thus, an expected quality?

Apart from one manager, all the others felt that mediators are professionally neutral in the process and do show objective neutrality regardless of their personal sympathies. Thus, mediators' public profiles are not perceived by the majority of managers to influence the mediation process. The public profile of the mediator is not seen to influence managers' choice of mediator because "mediators come across as very objective although their sympathy might be with labour" and "I don't believe 'lefties' would defeat and ruin the mediation" (Markey). The professional objectivity of the mediator means that personal affiliations of the mediator do not perturb management (Woods) and management has confidence in the mediator's neutrality (Banburger). The mediator's neutrality arises from the person's ability to distance him or herself from his or her own personal view points. Thus, it is possible for the mediator to be neutral (Baard).

However, many managers acknowledge that, despite their confidence in the neutrality of the mediator, it is not possible to deny some inherent bias in the mediator's attitude or approach. This was,

however, not seen to be problematic as neutrality was construed as more vitally important in the process of arbitration.

In direct contrast to the views expressed above, one manager was adamant that, although "mediators appear to be neutral or impartial, they are not." He felt that mediators "capitalise on mediation for their own advancement." In his experience, mediators "go for the stronger party" and "give a settlement that will ultimately benefit them personally." Thus, he perceived mediators to "side with" the stronger party because settling in their favour would aid the mediator in gaining professional credibility. He gave the example of a specific mediator who had not reached a settlement in the conflict and attributed this to the fact that a settlement was not in this mediator's own interests - it was more beneficial for this person "to keep in favour with both sides." This view reflects an ignorance and a misunderstanding of the role of the mediation process. The principle of mediation lies in the fact that the mediator does not "give a settlement", rather he or she acts as a facilitator in aiding the conflicting parties to reach their own settlement. Because the mediator's role is not to impose a solution, the mediator does not have the power to withhold a solution for his or her personal gain.

A.3.2. Trade unionists' responses

All of the trade unionists interviewed in Cape Town said that the criteria they would use in choosing a mediator would depend on the objective conflict situation or the aim of the mediation. In terms of the objective conflict situation, the nature of the dispute and the nature of the company would be particularly important in choosing the

mediator. For example, in a wage conflict it would be crucially important to choose someone "acceptable to management"; if the union is dealing with a particularly hostile management, the experience of the mediator would be vital and the mediator would have to be able to "influence management." This was attributed to the feeling that, when dealing with a hostile management, the union "cannot sustain the discrimination." Therefore, the choice of a mediator who has credibility with management would be important (Patel); if the company is particularly conservative, an Afrikaans mediator may be more acceptable to management (Lewis). Thus, an important criterion for unions in choosing a mediator would be someone who could "push or impress on management" (Patel) or "someone who will appeal to the bosses" (Lewis). For this reason, unions would not necessarily choose a labour-oriented or sensitive mediator because the person might antagonise management.

It was also felt that, when the parties initially utilised mediation, the nature of the dispute played a more important role in the choice of mediator. For example, a lawyer would be chosen if the conflict arose from a legal matter. Today, however, there is greater confidence in mediation as a process and the profession of the mediator would not be of such importance.

Expertise is thus sought in a mediator by unionists only in certain circumstances. Other qualities sought in a mediator include someone who will be "sympathetic" to the situation and the problem, someone who "understands" the dynamics of the situation, someone in whom both parties have confidence and is thus able to resolve the issue and

someone who has an understanding of or "feel for labour."

According to some unionists, management, for fear of tarnishing their reputation by being seen as "unreasonable" by mediators, are generally more concerned with who the mediator is and with what he or she feels, than are unionists. Lewis said management tends to have a preference for lawyers as mediators because management is more comfortable with the traditional image of a lawyer as opposed to, for example, a community leader or a radical church leader. While this may be true, this preference was not expressed by management interviewees.

The majority of the trade unionists, (66,6%), said that they would frequently leave the choice of the mediator to the discretion of IMSSA.

There was a general feeling that discrimination with regard to black mediators is practiced by management. One unionist, who does not wish to be named, felt that both management and trade unions would be biased with regard to a black mediator in expecting that he or she would be more sympathetic to labour than to management. As in the case of management interviewees, the fact that there are black mediators in Cape Town was generally unknown. There was no expression of overt discrimination in respect of women mediators.

A.3.2.1 The neutral role of the mediator

The majority of trade unionists felt that absolute neutrality is impossible in South Africa and many expressed a disbelief in the concept of neutrality. However, it was also felt that mediators are

professionally neutral in the mediation process and that the process would break down were the mediator to be seen as partial. Mediators are, thus, expected to be formally neutral. The understanding of this concept of neutrality was taken, by one unionist, to mean that the mediator should pass no opinion that may be construed as judgemental. For example, one mediator who had told the union that their demand was "unreasonable" was consequently perceived as being partial because the mediator's role was "not to make judgements."

Neutrality was generally not seen to be the most important aspect - particularly if the aim of the union is not to settle the conflict through mediation. As was the case with management and mediator interviewees, neutrality was seen to be of far greater importance in the process of arbitration. It was also pointed out that, despite the expectation of professional neutrality, mediators are "not a homogeneous bloc" and different ideological beliefs might influence the solutions sought by the mediator (Hartford). This view was supported by Lewis who said that "mediation is a very contingent process" and that solutions, suggestions and decisions are "made within certain parameters."

A.3.3 Summary and analysis of the parties' selection of a mediator

Kressel (1972) found in his survey of mediators in America that the majority felt that, to be acceptable, mediators had to be neutral. It is thus significant that, in my research, "neutrality" was never mentioned by management or trade unionist interviewees as a specific criterion for choosing a mediator. Further, these interviewees

emphasised that neutrality is not the most important aspect of mediation. These responses endorsed those of the mediators interviewed in my research who felt that credibility, confidentiality, acceptability and trust were more important qualities than neutrality (see Chapter 5 Section 4.1).

However, the responses of management and trade unionists made it clear that, despite the perceived public sympathies of mediators - which were emphasised particularly by trade unionists - this does not detract from the professional neutrality of mediators. Thus, mediators are accepted by both parties as acting neutrally within the mediation process. This ability, despite personal sympathies, may best be clarified by using Moore's distinction between impartiality and neutrality. "Impartiality refers to the attitude of the intervenor and is an unbiased opinion or lack of preference in favour of one or more negotiators. Neutrality, on the other hand, refers to the behaviour or relationship between the intervenor and the disputants" (1986:15). Thus, a mediator may be professionally 'neutral' in the mediation process if he or she develops an impartial attitude which is reflected in his or her mediation techniques. Partiality may, therefore, "be assessed less by known sympathies for parties and more by virtue of an unbiased approach to particular issues" (Anstey 1988:10). The ability of the mediator to provide an acceptable outcome to the dispute may be more important than the question of impartiality.

While this impartiality is expected by parties to be attainable by mediators, it was also emphasised that this is not the most important aspect of mediation. This would contradict Kressel's findings and

support those of Gulliver (1979) and Zartman and Touval (1985) who challenged the prerequisite of neutrality for mediator acceptability. In my sample, this view obtained particular support from trade unionists in terms of the reason for, and aim of, mediation which would affect the importance attached to the mediator's impartiality and neutrality. Although it was acknowledged by trade unionists that the aim of mediation is not always to settle the conflict, the fact that management interviewees did not acknowledge this misuse of mediation, does not necessarily mean that management always enters the process in good faith. Instead, management may be more reticent in suggesting that mediation is abused as a procedural necessity.

It is significant that 66,6% of trade unionists, representing the largest single grouping, in comparison to 33,2% of management interviewees, said that they would leave the choice of a mediator to IMSSA. This would imply that trade unionists accept the objectivity and credibility of these mediators more easily than does management. This is interesting in the light of the assertions by mediators A and E that management understand the concept and professional neutrality of mediation more than unions (see Chapter 5 Section 4.2). Instead, my sample results suggest that the reverse is true - unions appear to have greater trust in the profession of mediation than do management despite the fact that unionists expressed a disbelief in the concept of neutrality.

Despite the mediators' perception that management has faith in the professional neutrality of mediators, the majority of mediators felt that the preference for labour-oriented mediators was greater for

management than the preference of trade unions for management-associated mediators (see Chapter 5 Section 4.2). My findings again contradict this perception in that 50% of the trade unionists would choose a mediator who has credibility with management, as opposed to the 16,6% of management interviewees who looked for a mediator with trade union credibility. This may be seen to support the unionists' perception that management is concerned with not being seen as "unreasonable" by the mediator (see Section A.3.2) in that management might perceive management-associated mediators to be more sympathetic to their case.

This is interesting in the light of the professional composition of mediators on the IMSSA board and the fact that the "major initial thrust of interventions was conducted largely by lawyers known to have not only sympathies for the labour movement, but to have litigated on behalf of the trade unions" (Anstey 1988:10). However, management's acceptance of these mediators reflects a faith in their ability to act in an unbiased and impartial manner in the mediation process. Given the fact that the majority of mediators have, historically, been labour lawyers, it may not be surprising that such a minority of management interviewees in my sample looked for a mediator with trade union credibility. It is also possible, as Anstey asserts, that management believe these individuals may have greater influence in persuading the unions to move on issues (Anstey 1988:10). Anstey's view is endorsed by management (see Section A.3.1.1) and by mediators (see Chapter 5 Section 4.2).

Based on his survey on labour and management perceptions of mediation in the Eastern Cape, Anstey says that "the possibilities that

impartiality is assessed less on the basis of known sympathies and more on a capacity for objectivity indicates that experience and expertise are important sources of influence in the process. Certainly the indication is that these factors are regarded by the parties as more important than qualities of direct interest or 'sympathies' (1988:12). While this was not entirely true in my sample, since 50% of trade unionists sought a mediator with background experience and expertise (an equal number of unionists as that group which selected the mediator on his or her credibility with management), this was true of the management interviewees.

Thus, my sample revealed that 66,6% of management interviewees, compared to 50% of trade unionists, felt that the background experience and skill of the mediator was a primary consideration. This contradicts Mediator H's assertion that the "perceived expertise of mediators is more important to trade unions than management" (see Chapter 5 Section 4.2). This also contradicts Anstey's findings in the afore mentioned survey that "managers placed far less emphasis on expertise on the particular issue in dispute.....than did unionists (Anstey 1988:11). Anstey attributed this to the power imbalance in terms of access to information, levels of education, skills and knowledge and management's control over these processes. "Trade unions may desire the presence or participation of an expert third party to temper their anxieties of being 'conned' in this information imbalance" (Anstey 1988:11).

If Anstey's explanation is valid, the implication is that trade unionists in Cape Town are less aware of, or experience less of, the

power imbalance in terms of skills and knowledge. This would require further major research and investigation. However, another explanation for this discrepancy may lie in the fact that trade unionists in Cape Town gave greater emphasis to the strategic use of mediation than did unionists interviewed in the Port Elizabeth area. This strategic and tactical utilisation of mediation means that unionists seek background experience and expertise only in certain circumstances.

The manifestation of the power imbalance may be seen to be reflected in the great differentiation between the proportions of management interviewees who seek mediators with trade union credibility and trade unionists who select mediators on their credibility with management. Thus, the nature of the dispute and of the company were significant factors influencing the choice of the mediator for trade unionists (Section A 3.2). The mediator's credibility with management is therefore important to unions as an attempt to reduce the discrimination which unionists perceive white managers to practise towards the African workforce in South Africa. These views of trade unionists may be seen to reflect the disadvantaged and weaker bargaining position of unions. Consequently unions feel the necessity to select mediators whom management trust so that the power distance is not further increased.

While equal proportions of trade unionists and management interviewees (33,3%) looked for a mediator with "empathy" (management) or "understanding" (trade unionists), it is interesting that rationality and objectivity were qualities sought by management, but not expressed by unionists. This possibly ties in with the relatively high

proportion of unionists who would leave the choice of the mediator to the discretion of IMSSA. This could imply that the qualities of rationality and objectivity are expected and found by unionists in these mediators.

Thus, the parties assessed the mediator's acceptability in terms of their background experience, skill and expertise, objectivity, rationality, empathy and sympathy, understanding of the situation and their credibility with the antagonistic party.

Although mediators (see Chapter 5 Section 6) and trade unionists (see Chapter 6 Section A.3.2), felt that discrimination is practised in regard to selecting black mediators, this discrimination was either not expressed or not admitted to by management (see Chapter 6 Section A.3.1). Although this may reflect a reluctance to admit discrimination which could tarnish the company's image, it is highly significant that the majority of management and trade unionist interviewees in Cape Town were ignorant of the fact that there are black mediators in this area. In the light of the emphasis placed by both management and unionists on the background experience and skill of the mediator, the situation with regard to black mediators is a catch-22 one - both parties seek mediators with experience, but this experience is obviously impossible if no opportunity to develop skills is given to the mediator. A similar situation has occurred with women mediators in that although these mediators feel discriminated against by virtue of their sex - one woman mediator refused to be interviewed because she attributed her lack of experience to sexual discrimination - none of the interviewees felt that a mediator's credibility was

determined by his or her sex. While the lack of experience of black and women mediators may be a function of discrimination, this discrimination will be sustained for as long as these mediators are not given the opportunity to develop their skills.

A.4 DUAL MEDIATION

The question of neutrality raises the issue of dual mediation i.e. the process conducted by two mediators. Do the conflicting parties choose dual, as opposed to single, mediation in cases where the neutrality of a mediator is a contentious issue?

Almost half the interviewees, comprising both management and trade unionists, specifically identified dual mediation with the fact that the perceived sympathies of mediators prevent the parties from reaching consensus on a single mediator. However, it was also felt that, ideally, mediators should be known to be professionally neutral such that any of the IMSSA panelists would be acceptable to both parties. The fact that this is not the case was seen to contribute to the occurrence of dual mediation. This is not the only reason for dual mediation. Many interviewees felt mediation had a greater chance of being successful in particularly complex and difficult conflict situations if the process was conducted by two mediators.

Thus, while the incidence of dual mediation may decrease in the future as parties develop faith in the professional neutrality of mediators, such mediations are not likely to disappear altogether as their value will lie in conflicts where the issues are particularly complex.

A.5 THE VALUE, ROLE AND SIGNIFICANCE OF MEDIATION

The responses of interviewees in this section are analysed and further discussed in Chapter 8.

A.5.1 The role of mediation in facilitating the collective bargaining process

As previously discussed under the choice of the mediator, the role of mediation is not always seen to be the settlement of conflict. In cases of dispute where mediation is used only because a requirement for this process is stipulated in the recognition agreement, there is no real commitment by the parties to the mediation process (Hartford; Patel). However, there was also an acknowledgement that if mediation is used in this manner it is a waste of time because one or both parties are not entering the process by mutual consent. A similar situation arises where mediation is used as part of a strategic procedure if the union is planning on striking but wants to show that they have utilised every reasonable and procedural process. Although mediation is only by mutual consent, many trade unionists said that they would not refuse mediation if management suggested it because it "would look bad" if the case was subsequently taken to the Industrial Court.

However, in most cases, there appears to be a mutual commitment to entering mediation in good faith. When parties genuinely desire to explore the possibilities of a solution, mediation is used to determine the bottom line of the negotiation. In such a situation, the mediator is expected to be open and honest and to sit as a "pure

facilitator" who will "effect a solution in the interests of the company" without imposing his/her own values on the problem or introducing a solution (Woods).

Mediation thus assists the parties in seeking common ground and assessing a compromise situation. The mediator therefore assists in "packaging proposals." This is achieved through the mediator seeking to achieve justice, equity and fairness such that he or she will "give effect to the real wishes" of the parties and "nail down a settlement with which both parties can comfortably live" (Patel). The mediator must, therefore, know where to make the settlement and how to package it successfully (Baard). The "re-packaging of an offer" is a significant role of mediation because mediation does not, therefore, "necessarily mean that management is giving more away" (Woods -management representative). Patel also highlighted the role of a mediator in packaging a proposal when the situation is "too sensitive for normal bargaining." The mediator can thus "look into the proposal" and formulate realisable demands.

The majority of trade unionists stressed the tactical and strategic benefit of the compromise afforded by mediation so that industrial action may be avoided. Unions thus enter mediation for tactical reasons which are based on the strength of the union, the ability of the union to mobilise members and the level of union skills. (Jansen, trade unionist). The union's first option would be to exert pressure on management. However, if the union is weak with respect to the three aforementioned factors, the union would use mediation as opposed to industrial action and would attempt to "persuade management" via

this process (Jansen).

The fact that a strike is the last resort was frequently stressed by unionists. In a great many cases it is in the workers' interests not to strike, particularly if the union's strength is insufficient for such action, and mediation is an important tactic to advance the workers' position. Mediation is thus a significant process in a situation where conflict is inherent and the self-interests of the parties are at stake.

The mediator enters this situation as an outsider who is therefore able to be more objective than those involved in the conflict. Conflict frequently elicits emotional responses from those directly involved in the situation who may consequently lose sight of the real issues. The mediator, who should have no subjective interest in the situation, can thus be unemotive and facilitate the process of negotiation through contributing a greater understanding of each party to the other. Mediation is particularly valuable in aiding the parties to facilitate a settlement in cases where certain issues have been overlooked (Markey).

Mediation is most successful in cases where there is a potential "meeting point" but where a lack of trust between the parties prevents negotiation. It is least successful when there is no serious attempt to settle the conflict or where the "gap between the parties is too wide" (Chennels). The best "advertisement for mediation" possibly occurs where mediation is entered into as nothing more than a ritual, but the process "sometimes, unexpectedly, results in solutions" (Lewis).

Mediation is often used as a face-saving measure by one or the other party. This was expressed particularly by trade unionists in relation to management, i.e. that management uses the process to re-negotiate a final offer. However, trade unionists may equally use the process for the same reasons if their constituencies are reluctant to change or compromise their demands.

A.5.2 The negative aspects of utilising mediation

The fact that mediation is sometimes seen as a process which is utilised when the "company needs a face-saving measure to a final offer" (Patel) may be disadvantageous in that there is thus a conditioning that the final offer does not necessarily mean exactly that. Mediation becomes a different tool of negotiation with the conditioned understanding that management might be prepared to move in mediation. However, Woods and Chennels, (management), said that they are trying to get to the stage where "final offer" means just that, to prevent this raising of false expectations.

A frequently expressed opinion by both management and trade unionist interviewees was that they would preferably not use mediation and that it was generally not their policies to resolve conflict through the aid of third parties. There was an acknowledgement that sound collective bargaining should, ideally, preclude third party intervention. Thus, all internal avenues should be explored before using mediation as the exception, rather than the rule. Mediation "is not our first option" because "parties must find ways and means of accommodating the conflict themselves" (Markey). Further, "no amount of third party intervention can ever be a solution to building a

relationship. Parties must learn to live with one another. Sometimes, the use of a third party may be a way of not confronting the real problem in the relationship" (Hartford).

Other disadvantages of using mediation were that the mediator is not always familiar with the dynamics of the situation and much time is taken up explaining this to him or her; the process is sometimes used by one party to frustrate the other and is resorted to in bad faith; and mediation can be a delaying tactic and delay the negotiation process.

The potential that mediation has for removing issues from the factory floor and the hands of the union membership was raised as a problem by a few trade unionists. However, this was seen to be more a potential danger of which unionists should be aware than an objection to mediation. While shopfloor involvement has serious implications for union organisation and the curtailment of that involvement is able to cripple the organisation, the danger of this occurring in mediation was seen by unionists to be no more than in any other collective bargaining procedure - for example, arbitration, the Industrial Court, etc. However, the importance of report backs to keep union membership informed was stressed as a necessity throughout the negotiation process and thus during mediation as an extension of this process. However, it was also felt that, in general, mediators do have an understanding of the need for report backs which are integral to the democratic nature of trade unionism in South Africa.

A further problem experienced by many unionists was that workers

initially often have unrealistic expectations of the mediation process and of what mediation can achieve. If these incorrect perceptions are not clarified, they can affect mediation and lead to a loss of faith in the process.

A.5.3 The effect of mediation on the working relationship between labour and management

The general feeling from management interviewees was that mediation itself does not necessarily have either positive or negative effects on the working relationship. The most positive effect was the facilitation of the re-establishment of this relationship.

This view on the consequences of mediation for the working relationship was endorsed by trade unionists who felt that mediation per se has no specific fundamental effect on the relationship. Mediation was seen to be dispute specific in its effectiveness. Other factors such as: the strength of the trade union, the mobilisation of workers, company policy, internal company dynamics etc. were seen to be of greater significance in ultimately determining the working relationship.

Lewis felt that the positive effects on the working relationship would be that mediation "clarifies important issues" and "forestalls nasty battles." Mediation could have a negative effect if mediation within the same company consistently resulted in a more acceptable offer to the trade union, higher wages etc. as the workers would feel that management "have no respect for us" and were thus not seriously attempting to settle the conflict outside of mediation. Lewis used

the example of a specific case of wage negotiation for the fourth consecutive year with the same mediator and resulting every time in a higher wage offer to illustrate this point. This particular case also exemplifies the previously discussed issue of mediation raising false expectations in workers - in this case, the expectation that mediation will lead to a higher wage offer - and the issue of management explicitly presenting "the final offer" and then retracting this final statement in mediation.

A.5.4 Is mediation pacifying or palliating industrial conflict?

Given this limited effect of the process of mediation on the working relationship as perceived by managers and trade unionists, is mediation thus perceived as a palliative in terms of providing only a temporary settlement to the conflict, or does it have any potential for addressing the underlying causes of the conflict ?

The general feeling of management interviewees is that mediation is a palliative insofar as its role is a dispute specific one and as a result of the inherent nature of conflict in industry. However, mediation certainly does not promote conflict by its "fire-fighting" or pacifying nature (Channels). Acknowledgement was given by management to the role mediation fulfills in allowing trade unions to consolidate their power and thereby gain a stronger foothold in subsequent negotiations.

The fact that mediation provides a very useful part of trade union strategy was emphasised by unionists. Although half of the sample of

trade union interviewees felt that mediation can sometimes be no more than a palliative, this was not seen to distract from the constructive role that mediation can play in terms of overall union strategy. This role was best addressed by Lewis who said it is important to remember that "there is a difference between what trade unions want on a micro and a macro level", provided the macro objectives can be retained.

Thus, it was stressed by the majority of trade unionists that the trade unions' ultimate objective is to advance the interests of workers. In many cases, as previously discussed, (Section A.3.2.1), it is not in the workers' interests to take strike action. Trade unions do not have the capacity to have strikes over every conflict issue. Only a small minority of conflict is taken to strike action. But, in order for any successful strikes to be conducted by trade unions, it is necessary to consolidate power and to negotiate most disputes (Patel). A strike can be very dangerous to a union as further conflict can be generated and mass dismissals could result. Further, it could be divisive in terms of union membership, something which management often promotes (Patel), and the union has to contend with the lengthy and cumbersome strike procedure which can undermine workers' motivation.

Thus, it is often in the unions' best interests to settle a dispute. Although this might "diffuse the conflict", it can be to the satisfaction of both parties (Hartford). Further, "ideology has to be adapted to reality" (Patel). Consequently, trade unions have to adopt incremental strategies which do not detract from their radical or ultimate goals, in order to cope with reality.

A.6 THE FUTURE OF INDUSTRIAL MEDIATION IN SOUTH AFRICA

A.6.1 The effect of the 1988 Labour Relations Amendment Act

The opinions of the interviewees on the effect of this Act on the process of mediation were widely divergent. Some interviewees felt that this Act would contribute to an increase in the number of mediations. Management interviewees were of the opinion that trade unions would request mediation more frequently as a result of the greater risk to them now posed by stayaways etc. Mediation would become more popular as confrontation becomes increasingly risky under the new Act. This was endorsed by some of the trade unionists who felt that State-independent structures would be increasingly utilised to avoid the disadvantages of the Act. More strategising and planning was seen to be a necessity for trade unions who are now forced to comply with the legal structure. Thus, "unions may be forced to refer disputes to third parties" (Hartford - trade unionist).

The above view was directly contradicted by other interviewees who felt that the new labour law would promote arbitration and trade unions would favour this process rather than mediation. The promotion of arbitration was attributed to the effect of the Labour Relations Amendment Act on the definition of an unfair labour practice. The new provision applies more to the disputes of rights for which, unlike disputes of interests, arbitration is more effective. It is, thus, difficult to see how "in itself, the new law will increase the number of mediations" (Patel). These opinions were also based on the expectation that parties will be more concerned to reach settlement

under the law.

One third of the management interviewees said that although they, unlike the unions, were not totally opposed to the new Act, they would negotiate outside of the Act, i.e. the present recognition agreement would be retained and abided by. Thus, the Act would not fundamentally affect the working relationship. Alternative dispute settling processes would continue to be resorted to and, if mediation increases, it would not be as a direct result of the recent amendment.

A.6.2 Changes in mediation

There was frequent acknowledgement by the interviewees of a change in attitude towards mediation. It was felt that, initially, there was general ignorance about the process which resulted in unrealistic expectations of mediation. This endorsed the opinion of Mediator K (see Chapter 5 Section 5). Mediation has, through experience, therefore become accepted as a viable and constructive conflict resolution procedure by both trade unions and management in Cape Town. There was, however, some concern expressed that the popularity of mediation could result in parties abrogating responsibility for conflict resolution to an external third party. However, the interviewees felt their experience of mediation would not necessarily lead to a general dependency on this process in the future. Instead, the viability of mediation would be gauged according to the specificities of each individual conflict situation. It was felt that, ideally, a mediator should be someone internal, i.e. a member of the trade union or management. It is debatable, however, whether such a person would be regarded as impartial by both parties such that each

party felt the mediator would be acting in their best interests.

A move can also be seen away from earlier recognition agreements that promoted mandatory mediation to agreements which provide a clause for the consideration of mediation. This represents a recognition of the vital precondition of mediation being a genuine attempt to want to settle the conflict and an acceptance of the fact that mediation presupposes compromise.

It was also felt that, as the parties in industrial relations develop more sophisticated bargaining techniques the role of mediation would not thereby be usurped. As negotiation skills improve and increase, many interviewees felt that mediation would play a more useful role as the distance between the parties would not be too great. This would be one of the reasons why more effective internal dispute solving procedures arising from the increase in the number of negotiations being experienced in South Africa, would not necessarily result in a decrease in the utilisation of mediation as implied by Woods (see Section A of this chapter) and predicted by Mediator L (see Chapter 5 Section 2). Thus, improved negotiation skills would not decrease the need for mediation. This supports the growth exponential of mediation predicted by the majority of mediators (see Chapter 5 Section 2). All the interviewees said they could foresee the continued use of mediation in the future - although many felt this was an unfortunate need.

Patel pointed out that most unions have not seriously addressed themselves to the issue of mediation. Issues such as recognition have

been a more central occupation of trade unions and, consequently, mediation has been a "low priority" issue which has "grown organically." In the future, trade unions "may recast mediators" as more attention is given to this issue.

Many interviewees felt that the future of mediation in industrial relations in South Africa is very dependent on the role of IMSSA and the parties' perceptions of IMSSA.

It is interesting that, while management and trade unionist interviewees focused on the change in attitude towards mediation, they, unlike mediators (see Chapter 5 Section 5), did not emphasise the more sophisticated utilisation of mediation. While these latter views were criticised for their perceived bias, a possible explanation for this difference is that collective bargaining techniques as a whole have become more sophisticated and, thus, management and unions do not focus specifically on this aspect as a change in mediation per se.

SECTION B : PERCEPTIONS OF TRADE UNIONISTS AND MANAGERS IN THE PORT ELIZABETH-UITENHAGE REGION ON MEDIATION

The opinions of management and trade unionist interviewees presented and integrated in this section are analysed in Chapter 7.

The results of this sample population are summarised in the following table:

TABLE 4 : SUMMARY OF INTERVIEWEES RESPONSES IN THE PORT ELIZABETH-UITENHAGE REGION

	HAVE EXPERIENCED EXPERIENCED MEDIATOR	OPPOSED TO MEDIATION	NEVER ENGAGED IN MEDIATION - NOT OPPOSED
MANAGEMENT	18.18%	9.09%	27.27%
TRADE UNIONS	9.09%	9.09%	27.27%
TOTAL	27.27%	18.18%	54.54%

B.1 MANAGEMENT AND TRADE UNIONISTS WHO HAD EXPERIENCED MEDIATION AND WERE NOT OPPOSED TO IT IN THE FUTURE

This group comprised 27% of the total sample population in the Port Elizabeth-Uitenhage region and all interviewees in this group had very little experience of mediation.

B.1.1 Management's responses

The management interviewees (comprising 18,18% of the total regional sample population), in this group were split between those who had experienced a unanimous decision on the part of both management and the trade union to use mediation and those who experienced initial antagonism towards mediation from the representative trade union.

The case of Firestone exemplifies the former position. In this case, both parties were open to mediation after a deadlock in negotiation had been reached at the Industrial Council level. Nel, on behalf of

management, said they have "no problem with mediation, or with third party intervention in general." Their experience of mediation had been positive and they would, therefore, continue to use this process if necessary in the future. Their past experience of mediation was in a situation where the parties were "very close together" and mediation was seen as preferable to arbitration "which would have taken too long." However, Nel felt that if the parties were too far apart, arbitration "might be better".

A view that was frequently expressed by interviewees in this group was that mediation is a "soft option" and that mediation is not utilised if one of the parties believes they have a very strong case. If one of the parties believed they had a particularly sound case they would be more likely to seek an arbitrator, rather than a mediator.

An advantage of mediation was seen to be the fact that it allows the parties "more time and more talking" which is crucial because "the vast majority of disputes arise because the parties do not know what is at the back of the conflict" (Macwilliams). New insights can thereby be gained.

The neutrality of the mediator was not viewed as of primary importance by management. Instead, a credible and objective person was sought in whom the union would have faith. The IMSSA panelists were perceived as fulfilling these criteria. It is interesting that this group of management interviewees thus displayed a greater faith in the profession of mediation than did management interviewees in Cape Town (see Section A.3.1 of this chapter).

Improved negotiation skills and a more sophisticated working relationship were not perceived as factors resulting in a future decline in mediation. It was felt that new conditions of work, difficult problems and hurdles never previously encountered - for example, disinvestment, etc. would ensure a place for mediation in the future of industrial relations.

In cases where the union was initially opposed to management's suggestion of mediation, but ultimately agreed to it, management felt that the union was being unreasonable and took a very defiant stance throughout the process. As far as management was concerned, the union's main objection was the cost involved in mediation and the fact that they were not prepared to compromise on their position. Management felt that the union's stance resulted in ill-feeling and antagonism which led to the failure of the process.

B.1.2 Trade unionists' responses

The trade unionists who had utilised the mediation process, (a group which comprised 9,09% of the sample population in this region), stressed that their experience of it had been minimal at the regional level when compared to the number of mediations nationally. The reasons for utilising the process were given as part of a delay strategy on the part of the union if the company was particularly vulnerable to a strike in a few months and to provide a less experienced management with an understanding of concepts and practices.

Mediation was seen as a particularly appealing alternative to the structures of Conciliation Boards and Industrial Councils which tended to have a pro-management history (Ncapai). There was little confidence in these structures as dispute resolution mechanisms and it was thus felt that private third party intervention would have more credibility and that there would be a much more positive attitude towards mediation if it replaced Conciliation Boards. In this regard the IMSSA panelists were seen to have proved their personal credibility and trade unionists were happy to use the mediation services offered by this body. This endorsed the opinions of unionists in Cape Town (see Section A.3.2 of this chapter). The unionists also felt that because management respected these panelists, management might be influenced by the mediator's suggestions.

In choosing a mediator, the unions would select someone who has a good knowledge and understanding of industrial relations, particularly labour law. The person would have to be respected and would have set a precedent of successfully assessing the type of dispute. Although it was felt that the specific issue involved would determine the choice of mediator, a view that was frequently expressed by trade unionists was that no one outside of the legal profession could understand the dynamics of the conflict situation sufficiently adequately.

The issue of removing control from the shopfloor was not seen to be problematic. Although it was felt that this might have been the situation for trade unions in the past, the vital importance of regular report backs was a lesson that had been learnt and a procedure which now rendered the argument of loss of control invalid -

particularly if the maximum number of shop stewards were always involved. Loss of worker control was believed to be far more of a potential danger in the process of arbitration.

An important factor that was stressed by the majority of trade unionists in all the categories was the cost of mediation which influenced their decision on whether to partake in the process. It was frequently declared to be "too expensive" for the union and it was felt that the process should be subsidised for unions. This often expressed view reflects a general lack of knowledge concerning the services of IMSSA. Mediation rendered by this body is, in fact, subsidised in accordance with "principles that make the service accessible to parties" (Nupen in Human Resource Management 1989:16). In the light of the relatively low utilisation of mediation in the Port Elizabeth-Uitenhage region, this ignorance on the part of the majority of trade unionists, should be addressed through education on the services offered by IMSSA.

The unionists in this category felt that mediation does tend to pacify the conflict and that the fundamental aim of mediation is not to solve the primary conflict. The role of mediation was seen to be one of solving specific conflict situations. However, unionists also acknowledged that mediation is sometimes used as a way to frustrate management and delay conflict resolution.

Mediation was viewed by many unionists as being more viable in large concerns - as opposed to small, individual concerns where direct negotiation was perceived to be more successful because management in

small concerns were believed by unionists to be, in general, against any form of third party intervention. This was particularly applicable in clothing industries. This was attributed by unionists to the inexperience of management and the fact that management had had no exposure to such intervention. The management of small, individual concerns was also perceived to be very sensitive to the publicity that mediation might invoke. This perception of unionists reveals a lack of managerial appreciation and understanding of the process of mediation and what it can achieve. (This, and other misperceptions expressed by interviewees with respect to the role of mediation, is addressed and analysed in Chapter 7.)

B.2 MANAGEMENT AND TRADE UNIONISTS WHO WERE OPPOSED TO MEDIATION

Interviewees in this category comprised 18% of the total population in the Port Elizabeth-Uitenhage region and constituted equal numbers of trade unionist and management interviewees.

A predominant objection by both trade unionists and management to mediation was that after negotiation between the parties had reached a deadlock, a decisive ruling, as opposed to mediation, is required. These interviewees asked "what is the point of mediation once the end point has been reached?" These views again reveal a lack of knowledge of mediation. This is evaluated and analysed in Chapter 7.

A resort to mediation was frequently seen as a reflection of inadequate negotiation skills and the parties felt they should be able to solve their conflict "alone". Thus, Trollip for example - as a representative of management - felt that mediation would generally be

futile after the parties had exhausted the internal dispute resolution procedures. An external third party would only be called in to settle a dispute after many weeks of negotiation between the two negotiating committees. By this stage "neither side can move" because "all the movement has already been done" and if there is mutual agreement to third party intervention, the parties would both desire a final, decisive solution. Thus, mediation was not perceived as a particularly viable option once all internal avenues have been explored. The fact that either party could reject the proposed mediated settlement means that, after extensive internal negotiations, arbitration is viewed as a more favourable alternative because the parties need a decisive ruling.

The request for mediation was again seen as an indication that the party requesting mediation did not have particular confidence in their case (see Section B.1.1). If the party felt their case was sound, it was perceived that they would be unwilling to compromise on their position and would be confident enough to commit their case to a legal ruling. One situation where mediation was seen to have the potential for playing a constructive role was in the case of a deadlock having been reached very quickly, i.e. where the parties had not been negotiating for many weeks prior to the deadlock. However, for mediation to play a successful role in this situation, the parties should not be too far apart in their final offer (Trollip).

Interviewees in this group felt that as negotiation skills become more sophisticated, there should be less external resolution of industrial conflict because of the development of more successful internal

dispute resolution procedures. Thus, all forms of third party intervention would be used less frequently. The idea that mediation is a reflection of inadequate negotiation skills and internal dispute resolution procedures and, that if a dispute can be settled with the aid of a mediator there is no reason why the parties could not have settled the dispute themselves, was frequently expressed by interviewees in this group.

B.2.1 Trade unions' fundamental objection to mediation

The opposition of trade unionists in this group to mediation included the above objections, but was rooted in a fundamental objection to the mediation process. The basis of this argument lay in the manner in which mediation was perceived to have been introduced and the ultimate aim of this process.

It was felt that mediation had been introduced as an academic process and is conducted by academics and intellectuals. This was believed to be particularly true of the structure of IMSSA. Further, the aim of mediation is seen as not to solve the fundamental conflict in industrial relations, but to reduce the conflict. A fundamental objection of unionists in this category to mediation is the underlying assumption perceived in this process that industrial action should be prevented because conflict can be solved. The unions' first understanding of mediation was thus as a "tactic by companies to reduce worker militancy" (Mkalipi). The process of mediation was not perceived by unions to be geared to solving anything. Instead it is believed to be used by management as a cooling period and, as such, to be not essentially different from Conciliation Boards and Industrial

Councils.

It was for these reasons that FOSATU (as it was then) took a policy decision not to use mediation (see also Section A 2 of this chapter) - particularly as "mediation has never been a popular concept in South Africa" (Mkalipi). The fact, however, that developments in industrial relations have seen a change in organisational strength and strategy and in the balance of power means that trade unions are sometimes forced to engage in mediation. Consequently, the Chemical Workers Industrial Union (CWIU), for example, has recently taken a national policy decision to accept IMSSA. This is not a reflection of an agreement with the process, neither does it undermine their objections to the process - rather it is an acknowledgement that, while they are not convinced that mediation offers the best solution, mediation is "sometimes necessary" (Mkalipi) because unions are forced to use all available mechanisms. The CWIU in Port Elizabeth will not, however, utilise mediation in this region because their disagreement with and objections to the concept and process of mediation have not been altered by the recent national decision. It was felt that the national decision was taken so as to "remove the guilt" from those Chemical Workers Industrial Unions who had resorted to mediation as a necessity (Mkalipi). This view reflects a lack of appreciation of the value of mediation and of what it can achieve in the negotiation process. This is addressed in Chapter 7.

B.3 MANAGEMENT AND TRADE UNIONISTS WHO, WHILE NOT OPPOSED IN PRINCIPLE TO MEDIATION, HAD NEVER ENGAGED THE PROCESS

The interviewees in this category comprised 54,5% of the total sample.

population in the Port Elizabeth-Uitenhage region which represents the largest single grouping in this area. This group was comprised of equal numbers of management and trade unionist interviewees.

B.3.1 The type of conflict has not warranted mediation

Within this category of interviewees no opposed to mediation, 12,5% of the interviewees attributed their lack of mediation experience to the fact that the particular "type of conflict" had not warranted such intervention. This view came only from management representatives and was not expressed by any of the trade unionists interviewed. The industrial conflict experienced by the above management interviewees had not reached a deadlock which would have necessitated the introduction of a mediator. This was ascribed either to the successful resolution of the dispute at an Industrial Council level or to the fact that the conflict had been resolved internally.

These interviewees felt that if the need arose, after protracted negotiation between the parties had failed to resolve the conflict, they would not be averse to mediation. There was a general underlying feeling that, if the parties are sophisticated enough, there would be no need for external intervention. However, it was also acknowledged that more sophisticated bargaining did not necessarily equate "more genuine bargaining" (Warneke). Thus, mediation does not necessarily become less valid with the development of more sophisticated negotiation skills.

This group felt that if the choice of a mediator had to be made they

would have confidence in the IMSSA panelists and would choose one of these mediators. This confidence was based on the credibility of these mediators and the belief that IMSSA would provide "the best chance of acquiring a neutral person" (Brislin). The neutrality of the mediator was perceived as of primary importance. It is significant that this group of management interviewees who had never utilised mediation, comprised the only interviewees in the entire sample population who rated neutrality of the mediator as of utmost importance.

The role of mediation was understood to be simply a further effort to reach consensus. As such, it was seen as a "soft option" alternative for conflict resolution, because the parties would not lose anything. However, mediation would only be embarked upon if there was a serious commitment by both parties to resolving the dispute and mediation was not being used simply as a procedural step.

B.3.2 Specific internal industrial relations structure has eliminated the need for a mediator

Within this category of interviewees not opposed to mediation, 36,5% (all management respondents) felt their sophisticated labour system had eliminated the need for an external mediator. This situation was exemplified by that of Volkswagen, Uitenhage.

The parties at Volkswagen had never formally involved an external mediator (November 1988). This was attributed to the "sophisticated labour system" at Volkswagen and a well established and strong shop steward structure and trade union organisation (Smith). The history

of conflict in the motor industry, together with the influence of the multi-national company, has resulted in a democratic industrial relations structure which provides for the participation of trade union representatives on all levels of decision-making committees. (See Chapter 7 for an analysis of factors which have contributed towards the particular industrial relations dynamic in this region.) Further, the large unionised labour force is strengthened by the presence of full-time labour officials who are employed by Volkswagen. As a result of the trade union-management relationship, particularly the trust which has developed within this relationship, if it is felt that a mediator is required in the future, a shop steward or labour relations manager will be elected to play the role of an internal mediator. Should such a situation arise, it will be interesting to see whether an internal mediator is perceived as equally credible by both parties. The services of an external mediator have never been invoked at Volkswagen because, if the dispute has not been resolved after all internal avenues have been explored, it is felt that further negotiation of any kind would be futile.

The trust relationship within Volkswagen's labour relations and the fact that both parties have "over the years become pragmatic in compromise" (Smith) were thus identified as reasons for the fact that formal mediation has not been seen as a need although neither party is opposed in principle to mediation.

B.3.3 Antagonistic employers

The remainder of this group of interviewees not opposed in principle

to mediation consisted of trade unionists who had experienced antagonism regarding mediation from employers. The employers' opposition to third party intervention was attributed by the unionists to conservative managerial styles. These managements were seen to be autocratic in their dealings with employees. Their stand on third party intervention was perceived by unionists to be as a result of a fear of losing power and the threat thus believed to be invoked by introducing an external mediator.

B.4 THE EFFECT OF THE LABOUR RELATIONS AMENDMENT ACT

The overwhelming attitude of both trade unionists and management was that the new Act will have little significant effect on the working relationship. It was felt that the ground rules have not been fundamentally affected. Where a good working relationship exists, interviewees felt that they would rely, not on the law, but on existing recognition agreements. Further, the parties might consider contracting out of the Act. Thus, no significant change is foreseen by the majority of interviewees in internal dispute procedures.

Nine percent of the interviewees felt that the changes in the law would result in an increase in arbitration and a decrease in mediation because of the effect of the Amendment on disputes of rights.

CHAPTER 7

MEDIATION IN THE PORT ELIZABETH-UITENHAGE REGION

1 INTRODUCTION

As discussed in Chapter 5 Section 2, and demonstrated in Table 2, Chapter 3, the increase in industrial mediation has not been on a uniform scale throughout South Africa. The situation in Cape Town has been similar - although of a less marked nature - to the increase in mediation experienced in the PWV area. The regional differences in the nature of the collective bargaining process are reflected in the fact that mediation has not enjoyed similar popularity in the Port Elizabeth-Uitenhage region. An analysis of the perceptions of mediators, management representatives and trade unionists in this region on the role of mediation is thus important if we are to correctly ascertain the reasons for the low incidents of third party intervention in the form of mediation in this particular area.

It is significant that the largest group of trade unionists and management representatives in this region (55% of the total sample population in the region) were not opposed to mediation in principle, but had never engaged the process. This was in contrast to the minority (18%) who were fundamentally opposed to the process. Those interviewees who had experienced mediation comprised 27% of this sample population. Significantly, interviewees in this latter group emphasised that their experience of mediation has been very limited.

These results confirm those of Anstey (1988) who found in his survey of labour and management in the Eastern Cape that 17 of the 64 people in his sample, or a total of 26,56%, had experienced mediation.

Anstey's research focuses on the perceptions of this population who had experienced mediation as regards mediator acceptability. He does not analyse why this population represents such a minority of the total sample population. My research in this section thus attempts to answer why mediation is utilised infrequently in this region and to analyse the perceptions of interviewees in this light.

Before analysing these results, it is necessary to briefly focus on the characteristics of the Port Elizabeth-Uitenhage region that differentiate it from other regions in South Africa in terms of the nature of industrial relations.

1 FACTORS WHICH HAVE SHAPED THE NATURE OF INDUSTRIAL RELATIONS IN THE PORT ELIZABETH-UITENHAGE REGION

The particular nature of industrial relations in this region needs to be understood and analysed against specific forces which have shaped these relations. This section serves to provide a background to the particular industrial relations dynamic in this region through highlighting the most significant factors which have shaped the character of collective bargaining. As such it makes no attempt to provide an exhaustive analysis of the nature of industrial relations unique to the Port Elizabeth-Uitenhage region.

1.1 The Character of the Labour Force

A detailed analysis of the working class would need to be located within the particular nature of urbanisation and proletarianisation in

the Eastern Cape which has influenced the experience of the working class and, consequently, their participation in trade unions. While such a detailed analysis of the social geography of this region is beyond the scope of this dissertation, it is important to emphasise certain aspects of this particular dynamic.

Of particular importance is the stable nature of the workforce community. The needs of the multi-national dominated secondary industry have contributed towards this characteristic in that the commercial and industrial sectors have demanded a permanent and skilled labour force and have steadily outgrown the demand for unorganised migrant labour. Therefore, for example, in 1980 the Port Elizabeth branch of the United Automobile Workers (UAW), unlike the Durban and Pretoria branches, had no migrant workers as members of the Union (Roux, M. 1980(a):31). Further, in contrast to the Transvaal situation, particularly that of the auto industry which recruits its workforce from a wide area, the labour force in the Port Elizabeth area is "more stable, continuous and homogeneous, and is contained within a relatively small area" (Southall 1985:334,335).

The low number of migrant workers, together with the equal ratio between men and women, has contributed towards a particularly high annual growth of the black population in the Port Elizabeth area (Jardine cited in Labour Monitoring Group 1985:96).

The stable workforce community, particularly in comparison to other urban areas in South Africa, has laid the potential for working class solidarity and for the significant influence of community

organisations on this workforce. Port Elizabeth workers have consequently brought a "deep sense of commitment to the local community and collective action" to their struggles (Southall 1985: 334).

Port Elizabeth and Uitenhage differ from other urban areas in two further factors which have significantly influenced the nature of the workforce and of opposition politics in the region. Firstly, the black population of both areas contains substantial numbers of both African and 'coloured' people. And, secondly, "both cities grew as industrial centres well after World War 2, and especially after the expansion of the motor industry following the introduction of local content legislation in the early 1960's" (Labour Monitoring Group 1985:88).

However, there is a crucial difference in the nature of the workforce community in Port Elizabeth and Uitenhage. The black workforce grew in both cities against the social structuring of separate residential Group Areas under the apartheid policy. Throughout the 1950's the social basis existed for united action by 'coloureds' and Africans since their shared experience provided grounds for joint action. While the Group Areas Act destroyed existing mixed race communities in Port Elizabeth by the late 1970's, this policy has been less rationalised in Uitenhage where mixed residential housing continues to exist and the 'coloured' and African communities have not been geographically isolated. Thus, while the geographic separation enforced by the Group Areas Act has been a powerful impediment to concerted working class political activity among 'coloureds' and Africans in Port Elizabeth, the fact that this process of separation

has been far less complete and the division between work and residence areas less severe in Uitenhage, has allowed for a greater possibility and potential for united working class action (Labour Monitoring Group 1985:88-93).

The contrast between these two workforce communities appeared most prominently in the Port Elizabeth - Uitenhage strike wave of 1979-1980 and was reflected particularly in the different outcomes of the strikes at Ford and Volkswagen and in the relationship between the trade unions and community organisations (see Section 1.4).

In June 1980, 'coloured' and African workers at Volkswagen went on strike and precipitated a general strike in the city. Whereas the 1979 Ford strike at the Struandale plant in Port Elizabeth precipitated a split between the trade union and the community organisation, a rupture which continues to exist, the situation in Uitenhage was significantly different (Labour Monitoring Group 1985: 95). In Uitenhage, the united working class had enabled strong trade union - community links to be formed and the union shop-stewards were the leaders of the Uitenhage Black Civic Organisation.

The fact that geographical and organisational divisions in Uitenhage are not as demarcated as in Port Elizabeth was further reflected in the united workforce action revealed in the March 1985 stayaway. Although 'coloured' participation in the stayaway may have appeared low in Uitenhage, it was high in comparison to the Port Elizabeth area. Further, the relatively large proportion of 'coloured' workers in the Port Elizabeth and Uitenhage stayaways was one of the principle

contrasts with the situation in the Transvaal stayaway in November 1984. The recent growth of militant union organisation amongst 'coloured' workers in the Eastern Cape - in alliance with African workers - is a particularly significant development in the light of the legacy of The Trade Union Council of South Africa TUCSA - style unionism which has meant that Cape trade unions and 'coloured' workers generally do not have a militant history (Labour Monitoring Group 1985:115).

1.2 The Level of Politicisation

The level of politicisation in the Eastern Cape was emphasised by all trade unionist interviewees in this region. This was attributed to the history of political struggle in this region. Workers were seen to have been educated by the congress organisations which developed in this area and laid the basis for the high level of politicisation. This politicisation was perceived by trade unionist interviewees to be further developed through the united workforce in this region which strengthens industrial action. As discussed in the previous section, the workforce is not united on a uniform scale in this region. This factor is valid in Uitenhage, but has not always been true in Port Elizabeth. To understand the level of politicisation among the workforce in this region, it is necessary to emphasise certain factors which have contributed towards this consciousness.

The Port Elizabeth area has a long, rich and intense tradition of political resistance (Favis 1980: 38; Southall 1985: 335) and a history of being an African National Congress (ANC) stronghold (Evans 1980:48). It is this tradition of political resistance "which would

undoubtedly have sensitised workers to the changing balance of forces within the workplace as much as in the society beyond" (Southhall 1985:335).

Without entering into a detailed analysis of this tradition, it is important to highlight the fact that the ANC in the 1960's, and the Black Consciousness organisations of the 1970's, drew a great deal of their support in the Eastern Cape (Evans 1980:46).

The politicisation of the African community has expressed and manifested itself in particularly bitter struggles in the Eastern Cape which have been met with severe repression. These struggles were seen, for example, in the opposition towards the system of Bantu Education which emerged during the early 1970's. These struggles, while experienced on a national level, were particularly intense in the Eastern Cape - reflecting the level of politicisation and the commitment to community action in this region. This had consequences for worker action since these workers "had been exposed to a highly critical environment which fostered a total rejection of all racist structures throughout South African society. It is to be expected that on entering the industrial situation, not only would these workers be very sensitive to all manifestations of racist ideology on the shopfloor..... but they would also be aware of themselves as a group in opposition to management which represents the status quo within the system" (Favis 1980:38).

This is an area which also witnessed some of the most violent repression in the country of the post-June 16 1976 unrest, which,

unlike the rest of the country, continued in Port Elizabeth well into 1978 - a fact which the general media gave little coverage (Evans 1980:46).

The nature of the workforce, its early development and the subsequent strength of the auto unions in this region must be located within this context of heightened political awareness and severe repression. The influence of these socio-political factors manifested themselves in the 1979 Ford strike where strikers responded as workers to an essentially political issue - the apparent victimisation of their leader because of his community involvement. "This shows a marked departure from the majority of previous South African strikes where the focus had been almost exclusively on labour issues, although this is not to deny that genuine economic grievances did exist at Ford" (Evans 1980:48).

The intensity and temper of conflicts in the Port Elizabeth - Uitenhage region have been exacerbated by the severe conditions of poverty, deprivation and state violence in the townships, together with a crisis in production. The national recession, combined with the effects of international pressure, sanctions and mergers on the auto industry have contributed to a regional economic crisis in the Port Elizabeth region. There is general consensus that the black militancy in the Eastern Cape townships is fuelled by the very high level of unemployment in the region (Labour Monitoring Group 1985:97).

1.3 The Influence of the Motor Industry

Another major influence on trade union development and industrial relations that was unanimously identified by all interviewees in the Port Elizabeth - Uitenhage region was that of the motor industry. This was attributed to the regional influence of the industrial relations of this industry in terms of their history of labour relations and the fact that the majority of industries in this region are related to the motor industry. Further, many interviewees said that the fact that a majority of the labour force has worked in the motor industry at some stage means that this expertise, knowledge and understanding of industrial relations has been carried into other industries.

This emphasis by interviewees necessitates a closer analysis of the auto influence on regional industrial relations.

The auto industry - which dates back to 1924 when Ford, followed in 1926 by General Motors, set up subsidiaries in Port Elizabeth - has characterised the Port Elizabeth - Uitenhage region. Of particular significance, in terms of the influence of this industry, has been its multi-national nature.

The fact that the motorcar industry occupies a high profile in Western economics and that global car production is of a highly integrated nature (in spite of the local content programme in South Africa) has meant that the South African motor industry has been, and is, the butt of considerable international pressure (Southall 1985:330). It was, thus, for example, as a result of pressure from its headquarters in

Canada that Ford became one of the first companies to recognise an unregistered black trade union (South African Labour Bulletin Vol.6 No. 2 and 3 1980:1). Further, the adoption by auto monopolies of codes of conduct - for example, the Sullivan Code - has been a response to international criticism of the presence of these monopolies in South Africa. While these codes and principles can be criticised for their somewhat dubious and cosmetic nature - a fact reflected in the 1979 Ford strike - international pressure, together with the influence of industrial relations in the parent company, has meant that auto companies have been identified as "leaders in the field of reform" and "to some extent, representative of a new trend in labour relations in South Africa" (Roux, M. 1980(b):84,86). It may also be argued that this has had an impact on the nature of industrial relations in the Port Elizabeth-Uitenhage region.

The multi-national nature of the auto industries have further influenced the development of African trade unions in that they, in particular the National Automobile and Allied Workers Union (NAAWU), have been afforded the opportunity of forging international union contacts. Significantly, international labour action has been a far more effective instrument in securing black trade union gains within the motor industry than the codes of conduct (Southall 1985, see pages 330-334). Further, international labour contacts have probably been more effective within the automotive sphere than in any other South African industry. This is attributed to the fact that this sector is a well-described one which is organised predominantly by a single union and to the existence of world auto councils established by car workers from many parts of the world (Southall 1985: 332).

The international links, together with the commitment of workers in the Port Elizabeth-Uitenhage region to trade unions, have contributed to strong, well-supported auto unions with developed shop steward structures. In addition, the very nature of auto production can be seen to lend itself to unionisation. This production has involved the creation of a large, fairly homogeneous workforce engaged in highly routinised and relatively unskilled work. While the assembly line production strips workers of any control over the work process and, consequently, expands managerial control, this process is contradictory in that it also creates an environment exceptionally favourable to collective worker resistance. Workers are more likely to express resistance through collective struggle against management than through individual conflict with their direct supervisors. This, together with the fact that the technical interdependence of the production process greatly expands the capacity of determined groups of workers to disrupt production, means that mass production plants, in particular those organised around assembly lines, tend to be prone to unionisation and relatively easily paralysed by strikes (Edwards cited in Roux, J. 1984:11) Further, although auto workers are vulnerable to replacement, the size of the workforce decreases their vulnerability to mass replacement which contributes towards auto industries being prone to strike action.

It is, therefore, not unexpected that the motor industry in South Africa, particularly in the Port Elizabeth-Uitenhage region, has been characterised by a high level of black worker militancy (see Southall's survey 1985). The motor industry "has seen concerted, widespread, effective and often coordinated, multi-plant strike

activity which, involving such celebrated confrontations as the Ford strike in 1979 and the Volkswagen strike in 1980, has provided for the elaboration of advanced demands (in the South African context) such as that for a living (as opposed to a survival) wage" (Southall 1985: 308). Further, the motor industry has been in the forefront of industrial unionism with NAAWU deeply penetrating the industrial sectors.

Another significant aspect of the auto industry has been the tradition of Industrial Council bargaining. In 1969 the Industrial Council for the Automobile Industry was officially established. Although African workers had no legal representation on Industrial Councils, Ford management encouraged the National Union of Motor Assembly and Rubber Workers of South Africa, a 'coloured' trade union, to present the case of African employees. In 1974, for the first time in the auto industry, African workers were invited into the Industrial Council meeting. Initially these representatives were solely observers. However, by 1978, the Black United Automobile, Rubber and Allied Workers Union of South Africa, although neither registered nor officially recognised, had direct representation and active participation on the Industrial Council (Ferreira 1980:80).

NAAWU argued for Industrial Council representation and later for registration because they saw the possibility of thereby extending democratic and worker-based unionism. This was in direct contrast to the fact that the vast majority of non-racial unions were virtually unanimous at that time that Industrial Councils were "institutions especially designed to weaken the (trade union) movement that should

companies, there is a greater variation between the various component firms, they are generally smaller in size, they are far more numerous, are geographically dispersed and or nationally or locally owned (Adler 1985:3,4).

Thus, the conditions in the multi-national auto companies that have created the potential for strong trade union organisation, with well-developed shop steward structures, have not contributed to a uniformly strong union movement in the auto sector. While the factors discussed in this section have contributed to African carworkers emerging as leaders in the stage of working class resistance that emerged primarily with the Ford strike in 1979, this has not been a pattern of regional trade unionism in the Port Elizabeth-Uitenhage area.

1.4 The Relationship between Community Organisations and the Trade Union Movement

The aim of this section is to focus on the trade union - community organisation relationship and it therefore does not attempt to analyse the respective strengths, weaknesses and organisational strategies of these organisations. The level of politicisation and the commitment to community struggles in the Port Elizabeth-Uitenhage region, (discussed in Sections 1.1 and 1.2), is further reflected in the high level of community support for industrial action and in the success of community boycotts in recent years. Thus, the development and character of trade unions in this region needs to be analysed against the simultaneous development of community organisations in response to socio-political struggles. This inter-relationship supports the premise in this dissertation that political and economic conflict is

integrally and inextricably linked.

The 1979 Ford strike was arguably the strike which most forcibly highlighted the relationship between community organisations and the trade union movement. On 31 October 1979, 700 workers at the Ford Struandale Cortina assembly plant walked out in protest over the forced resignation of the president of the Port Elizabeth Black Civic Organisation, (Pebco), Thozamile Botha. This event triggered the industrial conflict at Ford which spread to General Tyres and Adamas Paper Mill and was only finally resolved three and a half months later (Maree 1980:13).

The Ford strike highlighted the strong ideological and political differences between the United Automobile and Allied Workers Union (UAW) and Pebco. Pebco was founded in October 1979 as an umbrella organisation for the many residents' associations then organising in the black townships in Port Elizabeth. These associations were united by the realisation that the basic civic problems which they had set out to tackle - problems such as water, rents, electricity, housing conditions and the provision of recreational and sporting facilities - could not be divorced from broader political issues. The Pebco leadership adopted a strong, radical and confrontationalist line and drew support from a wide range of people, including older former ANC members and many who had been active in the black consciousness movement (Evans 1980:46,47). Pebco's policy was one of non-negotiation with the government and local authorities, and non-collaboration with organisations participating in government institutions (Labour Monitoring Group 1985:93).

The tension between the UAW and Peabody that manifested itself during the Ford strike highlighted, possibly more sharply than any previous labour dispute of the decade, the two conflicting approaches to the question of factory-based struggles and worker representation. "Their divergent positions have elsewhere been crudely polarised as, on the one side, an 'industrial relations' conception of worker organisation (materialised in the exclusively factory-based trade union) as opposed to, a more militant, political approach which has hinged on the mobilisation of workers on the basis of extra-industrial demands" (Favis 1980:38).

The UAW drew a distinction between political and shopfloor issues and regarded the Ford strike as politically inspired and thus not a union issue. This view can be criticised for its misguided belief in a strict division between shopfloor and broader community and political affairs and the idea that trade unions should concentrate on workplace issues only. The union organisers thus displayed a limited conception of trade unionism (Maree 1980:23). The underlying assumption that trade union and political issues are two strictly separable entities is unrealistic since, for workers, particularly African workers, whose living and working conditions are in many instances controlled by the same regulations and state institutions, "the connection between exploitation in the workplace and deprivation in the community is immediate at the level of experience" (South African Labour Bulletin Vol.6 No. 2 and 3 1980:1). Thus work and community, or economic and political, issues are closely and inextricably intertwined.

The UAW consequently underestimated the effect of the political struggles in the Eastern Cape on the workforce and on the leadership arising from those struggles. The union also exhibited a lack of understanding of the consequent militant nature of this workforce. These inabilities meant that, ultimately, the union played a secondary role throughout most of the dispute and surrendered any leadership role as Pebco challenged the union's representativeness and authority. The UAW was incapable of gaining the support and confidence of the workforce and strong tensions resulted between the two organisations. The union's lack of authority in the eyes of the workers resulted in the formation of the Ford Workers' Committee (FWC) - a Pebco-affiliated committee - which represented the workers in negotiation with management. This committee of 7 supplanted the union officials' authority and role in Ford. Significantly, all its members belonged to Pebco, as did the majority of dismissed Ford workers whom they represented (Maree 1980:23).

Although Pebco had neither called for the walk-out at Ford, nor planned to involve itself in the dispute, the workers responded to an essentially political issue. Pebco's integral involvement can be seen to be based in the fact that the organisation addressed itself to the politicisation of workers in Port Elizabeth and, consequently, addressed the needs of the strikers as political workers. The inextricable link between township and shopfloor grievances was further strengthened by the volatile conditions in the townships, the proximity of the Ford plant to the township, the younger, more politicised workers and Botha's leadership (Labour Monitoring Group 1985:94). Pebco was thus able to generate enormous support within the

community.

In contrast to the UAW, the FWC correctly gauged the high level of spontaneous worker militancy generated by Pebco as a mass based political organisation. The high degree of support and influence of the FWC must therefore be seen to be linked to the popularity of Pebco. The FWC was thus able "to advance its position as the accepted representative body in the plant" (Favis 1908:40). The FWC was "significantly influenced by a black consciousness position (and) espoused an uncompromising, principled and indeed, inflexible position towards negotiation, concessions and industrial structures in which unions perforce have to operate" (Southall 1985:335).

The inability to separate workplace and broader socio-political issues was again seen in the 1985 stayaways in Port Elizabeth and Uitenhage. "The crisis in the townships and in the schools and the failure of the state to adequately deal with these grievances impinged directly on the workplace through the stayaway call" (Labour Monitoring Group 1985:114).

Pebco issued the call for a stayaway as a response to the political and economic crisis in the region - with the following issues initially identified : mass retrenchments, the Amcar-Ford merger, and increased petrol prices. The petrol price became the final focus of the stayaway between the 18 - 22 March when more than 120 000 black workers stayed away from work in the Port Elizabeth-Uitenhage area for at least a day (Labour Monitoring Group 1985:87).

The stayaway, opposed by the Federation of South African Trade Unions

(FOSATU), again reflected the split between the unions and community organisations. For Pebco and the Motor Assemblers and Component Workers Union of South Africa (MACWUSA) - the nucleus of this union having been provided by the FWC - the stayaway was "a resounding success" which justified the emphasis on township-based action. However, FOSATU spokespeople held a vastly different perspective on the events and felt that workers were left more divided than before (Labour Monitoring Group 1985:116).

Thus, opposition politics in the Port Elizabeth region has been dominated by the historic division between the old FOSATU unions and Pebco and MACWUSA. Unlike the Transvaal, which has enjoyed "a long-standing working relationship between organisations" (Mkalipi 1985: 84), the Port Elizabeth region has been characterised by a legacy of mistrust and division between trade unions and some community organisations which has shaped the peculiar nature of industrial relations in this region. As a result of the different dynamics which have shaped the workforce in Uitenhage, this division between trade unions and community organisations has not characterised labour relations in this region (see, for example, the difference during the Volkswagen strike in Section 1.1).

2 INTERVIEWEES' PERCEPTIONS OF THE INDUSTRIAL RELATIONS DYNAMIC IN THIS REGION

The perceptions of interviewees in my sample suggest that the lack of mediation experience in this region is not a reflection of a more confrontational approach that has emerged as a result of militant

trade unions and conservative management. Interviewees suggest that, while not underestimating the particular nature of industrial relations in this region, this is too simplistic an explanation and that the situation is more complex.

It was suggested by Anstey (see Chapter 5, Section 2) that the preference for confrontational policies in the Port Elizabeth-Uitenhage region has contributed to the relatively low utilisation of mediation. While the specific nature of the workforce - in particular the commitment to community struggles in the workplace and in society - may be seen to have shaped the potential for this tradition of organisational pressure, this does not adequately explain the situation as regards mediation. Neither did my interview sample satisfactorily support Anstey's assertions of fundamental ideologies resulting in this confrontational tradition.

None of the management representatives in the interview sample felt that trade union activity was of a more militant nature in this region than elsewhere in the country. While this finding could be criticised on the basis of the representativeness of the sample in terms of the number of people interviewed, it is still a significant factor in the light of the lack of mediation experience of this sample. The general feeling amongst these interviewees was that this region had been characterised by more militant union activity in the early 1980's - reflected particularly in the fact that the first major strikes in the manufacturing industry took place in the motor industry. However, these interviewees felt that this region no longer experienced more militant or confrontational unionism than elsewhere

in the country - other centres were seen to have "caught up" with this region in terms of industrial relations' dynamics.

The situation in the Port Elizabeth-Uitenhage region is further complicated by the great divergence of managerial styles. The management style and level of negotiation skills in the motor industry was perceived by trade unionists and management to be "sophisticated" and "progressive", but this contrasted strongly with the attitude of management in the clothing industry - and even more so in municipal services - which unionists perceived to be more "hard-line" and "conservative" than elsewhere in the country. Thus, while some interviewees identified more sophisticated negotiation in this region, this was a contentious issue. Generalisation concerning the relationship between the level of negotiation skills and the utilisation of mediation (as Anstey suggested) is, consequently, very difficult.

Thus while the labour system at Volkswagen, for example, may be identified as sophisticated - reflecting the influence of the multinational company and the characteristics of the motor industry - this does not represent the regional pattern of industrial relations. However, it is significant that other industries are influenced by the industrial relations example at Volkswagen and "smaller companies ask for informal advice on dispute resolution" (Smith). This may be seen to have a significant impact on the attitude towards mediation. Smaller companies, with a lesser history of labour relations and possibly where less trust exists between employers and employees, are taking the lead from Volkswagen, despite the fact that the former's infrastructure of dispute resolution is likely to be far less

developed. As a result of Volkswagen's internal dispute resolution mechanisms, which have developed simultaneously with the strong emphasis on trade union participation, the company has felt no need for a mediator's assistance (Smith, interview:1988). However, the danger of smaller companies without similar internal structures following this example, is that it may be precisely in these companies that mediation would be most beneficial.

3 INCORRECT ASSUMPTIONS UNDERLYING INTERVIEWEES' PERCEPTIONS OF MEDIATION

The sample population in the Port Elizabeth-Uitenhage region revealed a number of misperceptions of the value and role of mediation and, consequently, a lack of appreciation of what can be achieved through this process. These views are based on faulty assumptions which are presented and analysed in this section.

3.1 Mediation is only necessary where the internal dispute resolution process is inadequate

Although it may be true that the particular industrial relations structure at Volkswagen meant that internal dispute resolution mechanisms are such that there had (December 1988), been no need for mediation, this argument can be criticised for its basic assumption, that mediation is only necessary in situations where the internal dispute resolution procedure is inadequate. This was a fairly predominant assumption in this region and may also be seen to be implicit in the attitude that, if the parties are sophisticated enough, there would be no need for mediation.

This faulty argument represents a basic misunderstanding of the mediation process. It overlooks the role of mediation in assisting in deadlock resulting from issues, fears, strategies, etc. which are not necessarily uncovered within internal dispute resolution mechanisms. Thus, the role of mediation in reformulating proposals in mutually acceptable terms, opening up negotiations, defining the limits and scope of negotiations, seeking common ground and assessing a compromise position is overlooked and undermined.

Further, although more sophisticated collective bargaining might decrease the parties' utilisation of mediation, this will not necessarily result in the total dissolution of the mediation process. This was endorsed by mediators (see Chapter 5 Section 2) and by management and trade unionist interviewees in Cape Town (see Chapter 6 Section A 6.2) who contradicted this view expounded in Port Elizabeth, and felt that more sophisticated bargaining techniques would result in the more sophisticated utilisation of mediation.

3.2 Mediation has no role to play after weeks of negotiation

Management's opposition to mediation in this region was again based on the premise of mediation which may be seen as flawed, i.e. that mediation has no role to play after the parties have spent weeks negotiating the issue internally. The role of mediation as utilised by management and trade unions in Cape Town, where the internal dispute resolution processes are not necessarily less developed or adequate, is thus overlooked.

The views that mediation is only necessary where the internal dispute resolution procedure is inadequate and that it has no role to play once the parties have negotiated the issue internally are integrally related. The implication is that the highly sophisticated internal dispute procedures are capable of dealing with all conflict that cannot be resolved only through judicial means.

These views can be criticised on two levels. Firstly, the divergence in managerial styles and management - trade union relationships in this region, mean that it is not characterised by more sophisticated labour relations, despite the regional influence of auto companies which have, at times, been identified as leaders in 'reformist' industrial relations (see Section 1.3). Further, as discussed, sophisticated labour relations do not usurp the role of mediation.

Secondly, mediation is not a response simply to procedural inadequacies. The fact that industrial mediation is utilised extensively elsewhere in South Africa as well as in countries "which have reached an advanced stage of evolution in industrial relations such as the United States, the United Kingdom and several European countries" (IMSSA 1983:4), would suggest that the reason for the relatively low occurrence of mediation in the Port Elizabeth-Uitenhage region is not to be found in world superior negotiation skills.

In emphasising the lack of need for mediation once all internal dispute procedures have been utilised, the interviewees underestimate the role of the mediator as an impartial intervener in acting as a communication link between the antagonistic parties; in suggesting

alternative solutions which are not uncovered by the subjective protagonists; in discussing, in confidence, the strengths and weaknesses of the party's bargaining positions; in synchronising the mutual concessions; in assisting the negotiators in their relationships with constituencies; in reducing the emotional tensions between the parties; in explaining the issues in dispute and the attitudes of the parties; and the value of the mediator's role in separating the parties and dealing with each party separately (Hiltrop 1985;86).

It is this role of mediation, that allows for the identification by an impartial third party of blocks and barriers to collective bargaining and the consequent suggestion of alternative solutions which would facilitate the bargaining process, that means that mediation has the potential for settling conflict, despite the level of sophistication of in-house bargaining mechanisms and regardless of how long the conflict has been negotiated internally.

3.3 Mediation is a "soft option"

The opinion that mediation is a "soft option" was frequently expressed by interviewees in this region. It is significant, however, that this opinion came only from management interviewees. This was emphasised particularly by management who had experienced mediation and were not opposed to it in the future and by management who were opposed to mediation (see Chapter 6, Sections B 1.1 and B 2 and B 3.1). The fact that this view was represented in both these categories means that the perceived "soft option" nature of mediation is a misguided perception

held not only by those who had never experienced mediation.

These management interviewees said the request for mediation reflects a lack of confidence in their case and if the party felt they had a particularly sound case, they would be more likely to seek arbitration. This view can be criticised since, while a willingness to compromise is a precondition for successful mediation, this does not equate a situation of weakness. Indeed the success of the entire collective bargaining process, and of mediation as an extension of this process, depends on the abilities of the parties to negotiate a compromise solution despite the respective beliefs in the strength of their argument.

In terms of the relatively low utilisation of mediation in the Port Elizabeth-Uitenhage region, it is significant that this frequently expressed opinion of mediation as a "soft option" was not identified by interviewees in the Cape Town survey. It is also significant that this view of management representatives contradicts the findings of Krislow and Mead in America that neither labour nor management believed that the acceptance of mediation indicates either strength or weakness (1972:88,89).

This view expressed by management interviewees would suggest an underestimation of the necessity of compromise for successful industrial relations. Taking into account the level of politicisation of African workers and the commitment to community struggles (see Sections 1.1, 1.2 and 1.4), it is possible that the consequent political structure of confrontation in the Port Elizabeth-Uitenhage region manifested, for example, in the policies of the FWC as a

reflection of those of Pebco, has dominated over the culture required for industrial negotiation and conflict settlement. While this is a tentative suggestion requiring further research for factual substantiation, this would support Anstey's assertion of a preference for more confrontational policies (see Chapter 5, Section 2) and would explain this disinclination expressed by management to accept compromise.

Thus, while the situation in the motor industry, and Volkswagen in particular, may be seen to have moved through the phases of dominance (up to 1980), conflict (up to 1985 and 1986) and into the present phase of institutionalisation and compromise (Smith), this is not a general trend in this region. The process of mediation presupposes an attitude of compromise. Consequently, the pre-conditions for this process are absent in a situation where confrontation is the dominant attitude. Further, if the parties consider their respective cases to be so 'sound' that compromise would be impossible, the role of mediation is seriously undermined.

3.4 Mediation is an "academic" process which threatens union ideology

Opposition of trade unionists in this region to mediation was not based on the relationship between this process and the level of negotiation skills, but on a fundamental objection to the process. As discussed in Chapter 6 (Section B.2.1), this was rooted in the opinion that mediation had been introduced as an 'academic' process conducted by intellectuals. This view reflects an ignorance of the function and constitution of IMSSA as discussed in Chapter 3 (Section

5). Of particular importance is that the initial Steering Committee and the present Board of Trustees of IMSSA comprises representatives of labour and management together with academics (IMSSA 1983:6,8). The aim of this body is to facilitate collective bargaining such that the parties retain control, not to 'intellectualise' the process.

A more fundamental objection of unionists to mediation concerned the aim of the process being one which attempts to reduce conflict and worker militancy without solving the fundamental conflict. These unionists viewed mediation as no more than a palliative and, consequently, valueless. Although trade unionists in Cape Town, and those unionists who had experienced mediation in the Port Elizabeth-Uitenhage region, agreed that mediation does tend to palliate the situation, this did not undermine for them the role of mediation. The latter group of interviewees acknowledged that the fundamental aim of mediation is not to resolve the primary structural conflict, but emphasised that mediation remains valuable in tactical and strategic terms (analysed in Chapter 8 Section 4.1). This role of mediation and that of empowering the union was thus rejected by this group of trade unionists in the Port Elizabeth-Uitenhage region for ideological reasons. This group supports the view that industrial conflict is a manifestation of broader social conflict and the resolution of industrial conflict thus lies in structural change in society. The role of mediation is therefore perceived as one which institutionalises conflict, as opposed to conflict resolution mechanisms, in industry and pre-supposes that industrial conflict resolution is dependent upon the more effective integration of labour into the existing political power structures. A compromise of ideology in

relation to the utilisation of mediation is therefore seen as unacceptable by these unionists.

This view can be criticised because by their very participation in the collective bargaining procedure, these unions may be seen as compromising this ideology. Mediation poses no more of a compromise than the whole area of industrial negotiation and collective bargaining (see Chapter 8 Section 7).

3.5 Legal professionals represent the most successful mediators

It is significant that those unionists who had engaged in mediation did not give "neutrality" as a criterion in their choice of mediator. As was the case with the group of management representatives who had experienced mediation, credibility and objectivity were viewed as far more significant criteria. However, the trade unionists did express a preference for a legal professional to act as a mediator because it was seen as doubtful whether anyone outside of this profession would have satisfactory knowledge of the labour law and, consequently, of the dynamics of the conflict situation. This preference is significant in the light of the identification by trade unionist interviewees of the lack of credible lawyers and might explain, in part, the low utilisation of the mediation process in this region (see Section 4).

Although mediators do need a solid understanding of the dynamics of industrial relations, the fact that mediators do not impose solutions nor act in an adjudicative role whereby legally binding decisions are made by the intervener (as in arbitration), serves to criticise the

validity of the argument for the necessity of a lawyer to act as a successful mediator. The mediator should have expertise in identifying the causes of the conflict and facilitating negotiation such that the parties can reach a settlement themselves. This expertise is not developed simply as a function of one's labour law knowledge. Thus, this argument may be seen to reflect a certain misunderstanding of the role and function of the mediator.

3.6 Mediation will usurp the parties' power and create adverse publicity

The reluctance of some management to introduce any form of third party intervention, was believed by many trade unionists, who had consequently never experienced mediation, to arise from the perceived threat thus posed to management's power and control. Trade unionists identified such managerial style as autocratic and conservative (see Chapter 6, Section B.3.3).

Unitarist managers would hold to this perception of third party intervention as any intervention would be viewed as an appropriation of their legitimate power (see Chapter 2, Section 1). However, the managements identified by unionists in this section do recognise the legality of trade unions and are thus, while possibly conservative, not strictly unitarist. Instead, the fear of losing control if mediation is introduced, is more likely the result of ignorance and misunderstanding concerning this process. The essence of mediation lies in the fact that, at no stage, are solutions imposed upon the parties by the mediator. The mediator simply facilitates negotiation

such that the power of decision-making remains in the hands of the parties. Thus, unlike arbitration for example, the parties maintain the unfettered right to make their own decisions and, consequently, retain full control of the negotiation.

Further lack of appreciation and understanding of the mediation process and of what can thereby be achieved was perceived by unionists to be prevalent in managers of small firms (see Chapter 6, Section B.1.2). It is possible that this perceived sensitivity of managers to the "adverse publicity" believed to be invoked by mediation, stems from the frequently expressed assumption of management that mediation is a reflection of inadequate dispute settlement mechanisms. The implication is thus that the introduction of a third party represents an internal procedural weakness and is a reflection of immaturity in negotiation skills. As previously discussed (Section 3.1), the role of mediation is not one that simply addresses procedural inadequacies. This is a significant point which parties in the Port Elizabeth-Uitenhage area need to grasp and understand.

4 THE PROBLEM OF "IDENTIFICATION" OF MEDIATORS

The "problem of identification" was suggested by one mediator (Chapter 5, Section 2) to be another reason for the situation in the Port Elizabeth-Uitenhage region, i.e. the identification of mediators with either trade unions or management by the parties involved. It was suggested that management, in particular, found it difficult to accept the neutrality of the mediators. However, within my sample population, no management representatives indicated that the issue of neutrality had reduced the appeal of the mediation process for them.

Neither was this issue addressed as a fundamental objection by the unionists who were opposed to the process.

It is significant, however, that many trade unionists identified the lack of support structures for unions in Port Elizabeth as contributing towards the attitude to mediation. This was seen in terms of the lack of labour-oriented law firms in this region and of labour lawyers who were viewed as credible by the unions. Thus, mediation was perceived as not gaining the same credibility as in other centres where the process is more easily accessible as a result of lawyers representing labour. Trade unions in other centres, particularly Cape Town and Johannesburg, were believed to benefit from these services as well as from the influence of the "progressive" universities on the managerial approach.

5 THE TRADITION OF INDUSTRIAL COUNCIL BARGAINING

As discussed earlier, (see Section 1.3), one way in which the motor industry has influenced the nature of industrial relations in the Port Elizabeth-Uitenhage region has been through the precedent set for Industrial Council bargaining. It is therefore possible that this tradition of bargaining has institutionalised statutory conflict resolution mechanisms to an extent that the need for independent mediation has been decreased in this region. It is thus necessary to explore this idea in the light of the interviewees' responses in this region.

The only real support for this hypothesis came from those management

representatives who, while not opposed to mediation, had never engaged in the process. This lack of mediation experience was attributed to the successful resolution of conflict either internally or at the Industrial Council level (see Chapter 6, Section B.3.1). It is significant that 75% of the respondents in this group were management representatives in auto companies. This would thus tentatively support the view that the relatively long tradition of Industrial Council bargaining in this sector has resulted in the successful and accepted institutionalisation of statutory conflict resolution mechanisms such that there is less need for extra-statutory mediation than in sectors where this institutionalisation is less well developed.

However, while support for this hypothesis could be found in this group of management representatives, this was directly contradicted by trade unionists who had experienced mediation (see Chapter 6, Section B.1.2). These interviewees expressed little confidence in Industrial Councils as dispute settlement mechanisms and felt that these structures, together with Conciliation Boards, had a "pro-management history". It is significant however, that these interviewees were representatives of trade unions which were unrelated to either the auto or the auto-components' industry.

It is possible therefore, that the tradition of Industrial Council bargaining has had a greater impact on shaping the extent of mediation utilisation in the auto industry than in other industrial sectors. This is, however, a very tentative suggestion requiring further empirical research and analysis that time and financial restraints disallow in this dissertation.

The contradictory opinions on the relationship between the level of negotiation skills and the role of mediation is further seen in the interviewees' opinions on the future role of mediation. While those interviewees who had experienced mediation and those who were not against the process in principle felt that more sophisticated negotiation skills would not necessarily make mediation less necessary, (thus endorsing the opinions of interviewees in Cape Town - see Chapter 6, Section A.6.2), this view was contradicted by those management interviewees who were opposed to mediation. This latter group felt that the need for mediation would be eliminated, as would the need for any form of third party intervention, with the development and sophistication of negotiation skills. This opinion may again be seen to be based on the faulty assumption that mediation is a response only to a procedural inadequacy (see Section 3.1).

It is significant that the increase in mediation on a national level was partly attributed by mediators (Chapter 5, Section 2) to the fact that the process is gaining acceptance. However, the track record of mediation in the Port Elizabeth-Uitenhage region has not had the same impact on influencing perceptions which has increased its acceptance in other regions.

The influence of the motor industry, particularly in terms of the

internal conflict resolution procedures and the working relationship, has had a significant impact on industrial relations in general and on mediation in specific. In this light, it is significant that the industries in which mediation has been utilised, have been primarily those which are not directly related to the auto industry - for example, food and retail industries. It is also interesting that trade unions in the Port Elizabeth-Uitenhage region who were opposed to mediation tended to be smaller or younger unions or involved with more conservative employers.

The most predominant response from interviewees was that no need exists for mediation. A number of faulty assumptions and misperceptions of mediation were identified in this research as contributing to the attitude towards mediation in this region. These results suggest that the position of mediation in the Port Elizabeth-Uitenhage region is not adequately accounted for by an explanation in terms of either more militant or confrontational policies.

CHAPTER 8

THE ROLE, VALUE AND SIGNIFICANCE OF INDUSTRIAL MEDIATION

INTRODUCTION

This chapter presents an integrated summary and analysis of the major findings in this dissertation. In order to thus analyse the role, significance and value of mediation it is necessary to first locate the changing nature of industrial conflict (dealt with in Chapter 3) within a theoretical context of industrial relations (examined in Chapter 2). Because industrial relations in South Africa cannot be satisfactorily analysed in isolation from the broader socio-political context, it is therefore necessary to then look beyond this analysis to the social causes of conflict (analysed in Chapter 1) and to integrate this with the interviewees responses.

My aim is thus to analyse the significance, value and role of industrial mediation within the relationship between conflict resolution and the underlying causes of industrial conflict. And to hereby answer the crucial question - what role is mediation playing in the resolution of industrial conflict? This answer would have to include an analysis of what mediation is achieving and why trade unions and management utilise this process.

1. THE ROLE OF MEDIATION FROM A PLURALIST PERSPECTIVE

The emergence of African trade unions, the legitimate recognition granted to these organisations and the escalation of industrial action have shattered the previous dominance of the managerial ideology of

unitarism, i.e. of undivided loyalties and common trust (as discussed in Chapter 2). Unilateral decision-making by management proved to be a major source of conflict for African workers demanding legitimate trade union representation throughout the 1970's decade and up until 1985. The fact that conflict is seen as inevitable in industrial relations thus confers credibility on the assumptions regarding the presence of conflict of pluralist and Marxist theory - both of which were upheld by interviewees.

In support of the pluralist theory, the plurality of interest groups is recognised in industrial relations and is reflected in the legal recognition granted to African trade unions as a result of the Wiehahn recommendations which could be seen as a direct response to the strikes in 1973. Most mediators and managers interviewed were pluralists in their responses that conflict is natural, endemic and inevitable in industrial relations and has constructive functions within certain boundaries. Conflict is thus seen as a natural function of industrial relations and is institutionalised as such.

The resolution of strikes and industrial conflict from a pluralist perspective would lie in addressing deficiencies in the industrial relations institutions. The value of mediation would therefore lie in its potential to reform and improve these institutions. The role of mediation as a form of conflict resolution would be that of addressing conflict insofar as institutional reconstruction is concerned. The idea that mediation would thereby aid in containing industrial conflict was a strongly held attitude of mediators and managers in the sample survey.

Within this framework, managers and mediators felt conflict would be constructive if channelled and regulated constructively such that the conflict provides an impetus for change and results in adjustments in the working relationship and more sophisticated negotiations. The role of mediation was thus seen as one of opening up negotiations, reformulating proposals in mutually acceptable terms, defining the limits and scope of negotiations, assisting parties to seek common ground, formulating realistic demands and assessing a compromise position. The mediator thus introduced as an objective outsider acts as a facilitator in a process which is an extension of collective bargaining. Mediation is, therefore, seen to respond to the underlying discontent which is crystallised in conflict and to promote engagement - thus creating the potential for negotiation and compromise. Implicit in this role of mediation is the fundamental pluralist assumption that conflict resolution lies within the labour framework i.e. that conflict can be resolved through the development of more sophisticated bargaining techniques.

Further, the fundamental concept of compromise in the pluralist ideology is paramount in the frequently expressed opinion that, for mediation to be successful, the parties have to be willing to compromise. It is the absence of the commitment to compromise that interviewees identified as ruining the mediation process. This was identified particularly in terms of using mediation simply as a procedural step to show that every reasonable and procedural process has been utilised before the union embarks on a strike. The success of mediation depends on the parties' commitment to entering the process in good faith. The concept of compromise is thus integral

and basic to the process of mediation.

However, it is precisely this assumption that every industrial conflict situation can yield itself to a compromise that FOSATU in the early 1980's, and trade unionists who were opposed to mediation in the Port Elizabeth-Uitenhage region found unacceptable. IMSSA was seen to promote this "cult of conflict resolution." Mediation is viewed by these unionists as supporting the basic pluralist assumption underlying the concept of compromise, i.e. that it is in the interests of all groups to reduce conflict.

From a pluralist perspective, the effect of mediation on the working relationship between employers and employees was not seen to be a fundamentally powerful one. The role of mediation was viewed by interviewees to be one which facilitates the re-establishment of the working relationship. This relationship could be enhanced if mediation changed the parties' perceptions, facilitated agreements, promoted greater mutual understanding, prevented clogged communication channels and promoted harmonious relationships. A pluralist view, upheld by the majority of management and mediator interviewees, would thus see the role of mediation as aiding bargaining such that more sophisticated bargaining techniques would result in more successful conflict resolution mechanisms and more effective industrial relations.

The responses of trade unionists in Chapter 6 suggested that the strength of the trade union, the mobilisation of workers, company policy, internal company dynamics etc. were seen to be of greater

significance in ultimately determining the working relationship.
(This is further addressed in Section 6.)

2 CRITIQUE OF THE PLURALIST APPROACH

As discussed in Chapter 2, the pluralist approach may be criticised for its fundamental belief in a stable, accepted social system and the consequent assumption that conflict resolution can be achieved through institutional reform. It may be argued that the social causes of conflict in South Africa undermine this basic pluralist assumption and, consequently, the assumptions of mutual survival, the approximate balance of power between the parties and the moral commitment to a negotiated settlement.

The fact that trade unions are the only legitimate vehicle of expression for Africans in South Africa means that the articulation of political grievances is frequently expressed through this one available channel. This inextricable relationship between economics and politics necessitates the contextualisation of industrial conflict within the social context of political discontent (Chapter 1).

The unequal distribution of power and authority may be seen as a cornerstone of social conflict in South Africa. Of particular significance, in the light of the social basis of industrial conflict, are Kornhauser's concepts of exclusive and arbitrary authority (discussed in Chapter 1 Section 2). The continued denial of political rights to Africans by the Nationalist government and the exclusion of this majority from political participation at a common level can obviously be seen as a fundamental source of conflict in South Africa.

Further, the state's use of coercion and superior force to maintain this arbitrary authority, obviously exacerbates the conflict situation. Weber's concepts of class, status and party inequality and Dahrendorf's concept of "class conflict" underlie the primacy of political factors in terms of differential social positions and unequal distribution of power and authority, respectively, in the origins of social conflict. The distribution of political power along racial lines in South Africa and the consequent inequality in terms of class, status and party thus creates the potential for social conflict as analysed by these two theorists (see Chapter 1 Section 2).

This structural inequality has given rise to counter-ideologies - in opposition to the dominant ideologies of race, capitalism, Afrikaner nationalism, etc. The counter-ideologies of non-racial democracy undermine the basic pluralist assumption of the interest in the mutual survival of the system. These counter-ideologies reflect the debatable issue of the primacy of political or economic factors as a fundamental source of social conflict in South Africa. The problems of race and class have therefore resulted, in many sectors, in a simultaneous commitment to the abolition of both apartheid and capitalism as essentially the same phenomenon but expressed in either economic or political terms.

The change in strikes from wage conflict in the 1970's to the increasing trend of wage-related conflict, (see Chapter 3), the community support for industrial conflict and the increasing trade union solidarity in the 1980's may be seen to underline the dissatisfaction with the broader social system and the prevailing

economic system.

Thus, the question of whether it is political or economic factors that constitute the prime source of South African conflict is complicated by the inter-relationship between capitalism and apartheid. The intricacies of this debate are beyond the scope of this research (see Appendix G for further discussion on this relationship). However, it is important to acknowledge the root causes of industrial conflict in the contradictions within the labour process and in the socio-political context because whichever theory one supports, it serves to criticise the basis of pluralist theory and this undermines the resolution of conflict in a pluralist framework.

The connection between economic exploitation and political oppression makes the separation of economic and political forces into two independent entities impossible. Consequently the economic and political struggles of workers are inseparable. This is clearly exemplified in Boulanger's (1974) analysis of the causes of the 1973 Durban strike wave. While it may not be possible to generalise all aspects of this analysis to be underlying causes of all strikes in South Africa, it can be argued that his analysis of these strikes, as a reflection of a social problem rooted in the socio-economic and political structure of South African society, is equally valid today and is applicable not only to the Durban strikes.

Boulanger argues that the social problem as manifested by the strikers could not be explained merely in terms of a wage problem. Boulanger supports Hyman in his assertion that socio-economic and political discrimination creates grievances which cannot be raised within the

formal negotiating procedure. Consequently, these grievances remain unresolved and latent. (See also Section 7 of this Chapter for a discussion on the limitations of the collective bargaining process.) Instead, workers "focus their grievances on the wage issue. Wage demands are culturally and traditionally defined as legitimate. Non-wage issues are often far less precisely formulable and may involve questions of principle on which compromise is difficult if not impossible" (Boulanger 1974:357).

We need therefore, to look beyond the obvious manifest issue of wages to analyse the underlying causes of conflict. Explanation should thus be sought in the wide context of South African society - in particular the colour-class structure of this society. Thus, "African workers went on strike because they received colour-class wages, were limited to colour-class job mobility, and were limited to colour-class workers' representation." Further, "Africans were paid low wages because the colour-class structuring process in the employment sphere operated against them. The colour-class structuring process pushed these workers into an 'African proletariat'" (Boulanger 1974:358).

The absence of authentic social and political democracy in South Africa, the absence of broad consensus of the principles of production, and the fact that, for the majority of South Africans, the society itself is not viewed as a reasonable and fair system undermines the legitimacy of the pluralist ideology. The underlying social and economic conflict would challenge the pluralist promotion of more effective integration of labour into the existing social and economic structures and, consequently, the role of mediation in

achieving this solution to industrial conflict.

Further, the cumbersome requirements to embark on a legal strike in South Africa, the Labour Relations Amendment Act's restrictions on legal strikes, and the absence of the legal right to sustain a strike through picketing, seriously undermines authentic collective bargaining which is fundamental to pluralism. In accordance with this pluralist principle of authentic and voluntary collective bargaining is the pluralist propoundment that the state does not interfere in the employer-employee relationship. The incidents of police intervention in a strike situation, the detention of trade union members, and Acts such as the Internal Security Act and the Intimidation Act effect trade union organisation, meetings and picketings and infringe on the basic right to freedom of association and expression. This coalition of state and employers and the myth in South Africa of a free market system based on ability, talent and hard work serve as further critiques of the traditional pluralist ideology.

3 SOCIO-PSYCHOLOGICAL ROOTS OF INDUSTRIAL CONFLICT

The failure of African wages to keep up with the rate of inflation, as a source of conflict, can be supported in part by Davies' rising expectations but reduced need satisfaction theory (Chapter 1 Section 2). Although the reduced need satisfaction cannot be satisfactorily explained in terms of prolonged objective economic and social development in South Africa, the political contextualisation allows for an adaptation of Davies' theory. The increasing political consciousness - reflected, as discussed, in the increasing manifestation in industrial action of the link between workers'

political and economic struggles - can be seen to foster greater political expectations. The failure of society to meet these needs of legitimate political representation and participation has resulted in an increasing gap between expected need satisfaction and actual need satisfaction. The ensuing conflict is exacerbated by the fact that the government is blamed for continuing to suppress these needs.

Further, the denial of legitimate political rights means that the experience of relative deprivation consequently becomes more pronounced for black South Africans. As discussed in Chapter 1 (Section 2) relative deprivation plays a greater role in the emergence of conflict when discrepancy is perceived in terms of political rights. The economic occupational mobility of Africans into skilled and 'white collar' jobs further exacerbates the relative deprivation in political terms and supports Davies' theory. Rising economic expectations have fostered political expectations which are not being met. Social and economic conflict thus arises out of the experience of relative deprivation and rising expectations but reduced need satisfaction.

The reduced need satisfaction theory is further supported by Site's need theory (Chapter 1 Section 2). Of particular importance in this theory is the fact that issues such as recognition, identity, participation and a sense of control play a crucial role in the development of conflict. These issues are fundamental needs that have to be met before conflict can be resolved. The denial of the satisfaction and fulfillment of these needs in political terms has implications for the causes of industrial conflict if the roots of

this conflict are to be found in the broader social framework. According to this theory, conflict cannot be reduced or resolved through socialisation, institutionalisation or coercion if these fundamental and non-negotiable needs are not satisfied and fulfilled.

While the socio-psychological theories of industrial conflict do facilitate an analysis of this conflict, their framework abstracts from a discussion of the structural and political factors which result in a frustration of needs.

4 APPLICABILITY AND INADEQUACY OF RADICAL PLURALIST THEORY

Because of its recognition of fundamental social inequalities, radical pluralism (as discussed in Chapter 2) would offer a more realistic interpretation of industrial conflict in South Africa. Of specific importance in this theory is the acknowledgement of a lack of fair power approximation in industry. The underlying social conflict and the manifestation of this structural inequality and discrimination in both political and economic terms means that asymmetrical power relationships exist in industry and this power balance is not restored simply by the collective organisation of employees into trade unions (as claimed by pluralists). Thus, negotiation in industry is not within a framework of a balance of power. This has implications for 'joint agreements'.

Although radical pluralism may be criticised for failing to adequately explore the existence of industrial conflict as a reflection of the prevailing social order and for its implicit support of the status quo of the existing social and economic framework, I would support this

theory insofar as the lack of power balance in industry is addressed. Taken this imbalance of power, mediation can be seen as having significant potential for creating an approximation of industrial power such that the possibility of meaningful and successful negotiation is created.

4.1 The role of mediation in empowering the weaker party

The views of mediators on the potential for mediation to empower the weaker party were directly contradictory - ranging from the opinion that mediation definitely results in a greater power balance to that of the inability of mediators to empower trade unions. Initial empowerment of trade unions was seen as a result of the provision of legally trained spokespeople via the process of mediation. Thus, trade unions could be provided with skills, expertise and techniques in articulating their demands - the lack of which might have placed them in a disadvantaged position in the negotiation process.

The mediators who felt that the mediation process could not empower trade unions based their argument on the fact that the principle of mediation is that the power and final decision-making remains within the hands of the parties involved. The mediator is therefore incapable of imposing solutions or his or her views such that unions are empowered as a direct result of the solution, i.e. that the solution is in the workers' favour. However, the concept of empowerment needs to be understood in a context that is far broader than the immediate mediation process. It is the consequences of mediation and the indirect, but integrally related, impact and results of this process that may be seen to empower the weaker party. It may

be argued that successful mediations can result in confidence to develop stronger trade union organisation and to articulate more sophisticated demands. The effect of mediation in terms of empowerment must thus be seen to go beyond the settlement of the immediate conflict and must be seen against the strategic significance of the meeting of trade unions' short term demands.

The strategic and tactical benefit of the compromise afforded by mediation was stressed by the majority of trade unionists interviewed in Cape Town. Mediation, as opposed to industrial action, is used by trade unions for tactical reasons if unions are weak in terms of power, the ability of the unions to mobilise members and the level of union skills. In the majority of cases, a strike is not in the workers' interests and is consequently the last resort. Mediation is therefore a tactical weapon utilised by unions to advance the workers' position. To the extent therefore that mediation serves to consolidate union strength, support, mobilisation and organisation, and to facilitate more objective decisions on short-term demands, the mediation process may be seen to play a significant role in the empowerment of the weaker party.

Although the inequities in the wider socio-political institutions are acknowledged in radical pluralism, this theory may be criticised for failing to adequately address the impact of this broader framework and the consequences of it for conflict resolution. The role of mediation would thus be purely one of providing more effective conflict management within the existing social order. Consequently, empowerment of the weaker party is limited within this theoretical

approach to an approximation of power simply within the industrial framework. The roots of this power imbalance in society, while acknowledged, are not allocated a primary focus in ultimately achieving authentic power approximation in industry.

5 MARXIST ANALYSIS

In terms of locating industrial relations within a framework of social conflict, it may be argued that Marxism provides one of the most integrated analyses. Within this theory, industrial conflict cannot be understood or resolved without analysing the roots of social conflict in class exploitation. This concept of exploitation would support the radical pluralists' critique of the balance of power, but would see this imbalance to arise from the structural inequality seen to exist between management and workers because capital is aligned with the economic, political and ideological power of the ruling class. Thus, the resolution of industrial conflict would lie in the fundamental restructuring of class-based social inequalities. As discussed in Chapter 2, industrial conflict from a Marxist perspective would be seen to promote working class power through the experience of workers' solidarity. It is this experience that is fundamental to the development of class consciousness for Marxists and signifies the beginning of the working class struggle. Further, class consciousness is fundamental as a power to erode the imbalance of industrial power.

In analysing the increase in industrial action and conflict (see Chapter 3) against this framework which provides for the contextualisation of industrial conflict within social conflict, it

must be stressed again that the overt manifestation of industrial conflict - i.e. the trigger issue of a strike - is not necessarily a true reflection of the underlying conflict. The trigger issue may be the economic manifestation of political or class-based conflict and the underlying conflict may continue to exist in suppressed form. Thus, a distinction must be made between the latent and manifest causes of industrial conflict.

The post 1973 period, and particularly the 1980's, have seen a significant growth in trade union strength and an increase in worker organisation. This is reflected in the increase in the number, size and length of strikes (Chapter 3 and Appendices A, B and C). The incidents of major stayaways and the significant development from 1979 onwards of solidarity strikes may be seen to reflect worker cohesion and solidarity and an awareness of the necessity for collective action. Further, the community support that has characterised industrial action in recent years may be seen to reflect an increase in political consciousness. This consciousness highlights the inability to treat economic and political conflict as totally separate entities because of the underlying causes of political discontent which manifest themselves in economic conflict. This is further reflected in the increasing political activity of trade unions and the increasing concern with socio-political issues. The symbiotic relationship between capitalism and apartheid, as discussed earlier in the chapter, means that in a Marxist framework the development of political consciousness is a manifestation in political terms of the economic class consciousness. Class conflict, the cornerstone of Marxist theory, thus manifests itself in economic and political

conflict.

The link between the workers' struggle and the popular struggle is again highlighted by the fact that work stoppages as a result of the state of emergency and detentions without trial have been a significant development since 1986.

The major causes of strikes in the 1980's can be seen to be wages, retrenchment grievances, dismissals, working conditions and safety (see Chapter 3). The issue of wages has constituted the greater balance of this conflict. Although the issue of wages is, on the surface, an economic one, it would be simplistic to accept it as no more than an economic issue in the light of the broader social context of conflict. Structural dissatisfaction, as discussed in Section 2, may be seen to underlie many wage grievances. This is supported by COSATU's "living wage" campaign in which workers' wages are perceived to reflect economic exploitation and to manifest the structural inequalities and discrimination in South African society (Webster 1986:13,14). This again reinforces the view that the separation of economic and political issues in the categorisation of strikes is not always a realistic one.

The fact that the years from 1986 have seen an increasing focus of trade unions on broader political issues means that strike categorisation is no longer so clear-cut. Although the majority of strikes since 1987 have not been overtly political, the effect of increasing politicisation - reflected in more militant unions, solidarity strikes, etc. - can be seen as a fundamental determinant of strike activity as a response to structural violence in society.

It is also significant that for trade unions and workers, work-related grievances have become increasingly invested in the 1980's with a character which reflects the perceived synonymous systems of capitalism and apartheid which lie at the base of workplace grievances. This is in opposition to the view of management that strikes reflect dissatisfactions requiring joint negotiated settlements - rather than an assault on capitalism (Levy 1986:18 - see Chapter 3 Section 4.2).

Although I would reject the economic determinism and reductionism of some Marxist approaches, Marxist theory provides a useful analytic tool in the analysis of industrial conflict if we are to go beyond radical pluralism. Marxism is particularly beneficial in analysing the role of conflict within industry taken the fundamental dissatisfaction with the broader social and economic system. Industrial conflict resolution is thus dependent upon structural reformation in society. My primary criticism of Marxism would be the lack of evidence in South Africa of a clearly defined class-based struggle as opposed to a race struggle which has encompassed the economic system because apartheid and capitalism have become to be perceived, in many sectors, as twin pillars of oppression. This criticism does not, however, invalidate Marxism as an analytic tool whereby the underlying causes of industrial conflict need to be analysed against a framework that goes beyond the overt manifestation of the conflict.

It is significant in the light of the fact that the predominant trigger of strike action in recent years has been the issue of wages (Chapter 2 and Appendix E) that many interviewees emphasised that mediation is most successful in disputes of interests as opposed to disputes of rights, i.e. mediation is more viable in disputes over wages and working conditions than in disputes over dismissal, retrenchment, etc. because the success of mediation is dependent on the possibility of compromise.

As discussed in Chapter 3, the issue of wages as a predominant strike trigger seems likely to continue for as long as the extremely low African wages persist and discrimination between white and black wages remains (Bendix and Graham 1987:25). Further, wage strikes seem likely to continue as collective bargaining continues to extend with trade union growth (Levy 1986:6). However, as previously argued, the issue of wages does not necessarily reflect a simple economic dispute in South Africa. Within the theoretical framework of the analysis of the structural and societal causes of industrial conflict, and the inextricable link between economics and politics, the question thus arises - what role does mediation ultimately play in the resolution of industrial conflict?

To answer this question, we would have to look in part at the interviewees' responses as a sample population reflecting perceptions on the role of mediation as a conflict resolution mechanism.

The majority of management representatives in Cape Town and mediators

in the sample population felt that mediation has a significant role in the resolution of industrial conflict. As would be expected from the previous analysis of these responses in a pluralist framework, the general opinion was that mediation offers a basis whereby conflict could be more effectively contained, as opposed to resolved, through the development of more sophisticated bargaining techniques and skills.

The role of mediation was seen by these interviewees to be a dispute-specific one. To the extent that mediation provides a settlement to the immediate conflict, it was thus seen that mediation has successfully resolved the conflict. However, the fact that structural conflict manifests itself at different levels means that the resolution of conflict on one level does not necessarily presuppose conflict resolution at all levels.

My primary hypothesis is that mediation addresses itself to the manifest conflict rather than the latent conflict. It is thus necessary to briefly examine the underlying causes of industrial conflict.

"To diagnose these causes necessitates an interpretation of the basic structure realities of our society. Such an analysis is inevitably controversial; but it is essential if any explanation is to be given of the continuing prevalence of the strike and related activities in modern society" (Hyman 1981:85).

The rejection of the unitarist and pluralist frameworks in Chapter 2 means that a Marxist interpretation of industrial society would

provide the most preferable analysis of the underlying causes of conflict. Within a Marxist framework, the contradictions in industry are seen to comprise the latent conflict which does not necessarily manifest itself in its original form. As discussed, in Chapter 2 Section 3, these contradictions arise from the fundamental class divisions in society which result from the capitalist mode of production. In particular, the system of ownership of the productive system is seen to result in massive inequality which has significant consequences in terms of industrial conflict.

A persistent source of conflict in industry is thus the question of how the proceeds of this productive system are divided between the employers and the employees. The distribution of income in a capitalist economy therefore gives rise to the fundamental contradiction that: "what is income for the employee is a cost for the employer, which the latter will naturally seek to minimise" (Hyman 1981:88,89). The exercise of managerial control and the subordination of the employee to this structure in the employment relationship may be seen as a further persistent basis for industrial conflict.

In Marxist terms, the underlying causes of conflict are to be found in the structure of industrial society. The latent causes of conflict are not addressed through collective bargaining as the rights of capital are not challenged and management retains control of the industrial process. (The limitations of collective bargaining are discussed in Section 7.) Trade unions have the potential to debate only the terms of this structure - they do not seriously challenge their position within this structure. Therefore, the latent conflict

continues to erupt and is expressed in manifest form which does not necessarily reflect the underlying causes of conflict. It is important to note that, while Fox develops a similar argument in his radical pluralist theory, his point of departure is his implicit support of the existing social and economic status quo.

My criticisms of Marxism relate primarily to the problematic of apartheid-capitalism in South Africa. While I would not agree with a simplistic theory of synonymy in this relationship, i.e. that the socio-political problem of racism can only be resolved through structural economic modification, the inter-relationship between capitalism and apartheid in South Africa makes it imperative that the underlying causes of industrial conflict are analysed within a framework which is rooted in this particular political economy. The fact that apartheid is both an economic and a political instrument, means that the underlying causes of industrial conflict cannot be found solely in economic terms. This was clearly demonstrated in Boulanger's analysis of the 1973 strikes (see Section 2). For this reason, it is difficult to support the Marxist thesis that the roots of all industrial conflict are to be found in the class struggle. (See Appendix G for a discussion on the relationship between apartheid and capitalism.)

Given the contradictions within the labour process, in addition to the underlying causes of industrial conflict in the political economy of South Africa, what role is mediation playing in the resolution of industrial conflict?

Although mediation does not address the underlying causes of conflict,

it does, however, play a significant role in settling the manifest conflict. To the extent that the collective bargaining process allows for the expression of the latent conflict arising from within the labour process, mediation has the potential for resolving this conflict.

As discussed in Section 4.1, mediation plays an important role in the empowerment of the weaker party. Mediation also has the potential for playing a constructive role in terms of educating the parties. IMSSA addresses this educative role "by encouraging parties to focus on interests rather than positions, to develop a sensitivity for each other's concerns, to motivate proposals in a thorough and constructive way and to respond constructively to such proposals no matter how untenable they may appear." Thus, mediation is utilised "to improve the interaction between the parties and to develop a better understanding between two seemingly irreconcilable world views" (Nupen in Human Resource Management 1989:20).

Although this educative role of mediation was never explicitly addressed by management and trade unionist interviewees, its significance may be seen in the implicit recognition thereof in terms of interviewees' identification of the role of mediation in changing parties' perceptions, promoting mutual understanding and facilitating harmonious relationships. However, it was also acknowledged by some mediators (see Chapter 5 Section 3.1) that the lack of time of part-time mediators means that the full educative role of mediation is not recognised. Despite this limitation, the role of mediation in facilitating negotiation, with an emphasis on compromise, is

particularly significant in instilling in parties an approach to negotiation characterised by bargaining in good faith.

Integrally linked to this educative role of mediation, is the crucial role that mediation plays in facilitating trust relationships between the conflicting parties. This trust relationship is essential for the effective functioning of industrial relations. Where there is distrust, parties are prevented from "entering the negotiating process because no negotiating range is perceived to exist. As distrust increases, statements and counter statements tend to lead to coercive threats. This condition endangers the respect the parties might have developed for each other, and makes it difficult to enter into compromise" (Douwes Dekker 1985:85). Therefore mediation focuses on improving communications between disputants "in the expectation that this will help bring about the level of trust between the parties that will be needed if they are to reach agreement" (Salem 1985:7). The levels of mistrust in collective bargaining in South Africa are exacerbated by the major ideological differences between the parties. The mediator thus has a crucial role to play in overcoming the resultant psychological inhibitions through the reduction of tension between the parties and the facilitation of greater mutual understanding. In this connection, mediators emphasised their role in making management aware of the needs and desires of workers and, thereby, creating the potential for constructive and fruitful negotiation by avoiding ignorance which services mistrust and frequently results in a deadlock situation.

Related to this role is the further crucial role that mediators have played in aiding the legitimacy of trade unions. As discussed in

Chapter 3 (Section 5), the development of IMSSA was a response to the major changes in industrial relations in the post Wiehahn period, in particular, the increasing unionisation of African workers and their participation within the institutionalised framework. The role of mediation has facilitated the acceptance of the legitimacy of trade unions in that the utilisation of mediation presupposes the recognition by each party of the other's right as a legitimate representative of the respective constituencies and thus as a legitimate bargaining party.

Thus, mediation plays a significant role in improving bargaining techniques through its role of educating parties, addressing mistrust in the relationship and promoting the legitimacy of both parties. In this way, although mediation responds only to the manifest conflict, it can alter the conditions in the working relationship which caused the parties to be locked into the conflict. Further, if mediation results in the emergence of mutual trust and respect, it has the potential for promoting this cooperative, as opposed to antagonistic or adversarial, relationship pattern.

It may therefore, be argued that, in opposition to the views expressed by interviewees (see Section 1), mediation does have a significant effect on the working relationship. This effect needs, however, to be viewed as one which extends beyond the immediate mediation process. If mediation fulfills its potential of improving bargaining techniques, it has the potential for affecting the dynamics of the working relationship and facilitating more sophisticated and effective collective bargaining.

6.1 The problem-solving role of mediation

In the problem-solving terms as discussed in Chapter 1 (Section 4), mediation serves to facilitate integrative bargaining through focussing on interaction and consultation between the parties. The fact that compromise is integral to mediation means that the process ideally attempts to achieve outcomes of a win-win nature and attempts to meet the interests of both parties in the conflict.

The mediator thus facilitates interaction and exploration of the relationship rather than serving the parties in a coercive and decision-making role. The mediator challenges the explicit or implicit underlying assumption of available action and identifies alternative solutions and objectives.

Their role as problem-solving agents was endorsed by many mediators and expressed primarily in their focus on their role as one of identifying underlying causes of the conflict, rather than responding simply to the manifestation of the problem, and of exploring solutions such that more effective methods of reaching a settlement are established. This role of mediation as identified by mediators, in identifying and resolving the underlying issues in the conflict is highly debatable in the light of the previously discussed causes of this conflict. While the mediator may be in a position to identify the hidden agenda of the parties, the resolving of the fundamental structural causes of the conflict is generally beyond the mediator's capabilities - or even beyond the parties' expectations of the mediator.

The problem-solving role of mediators was supported by management and trade unionists interviewees in Cape Town. This was addressed in the role of the mediator expressed in terms of an objective outsider who facilitates negotiation through his or her identification of issues which have been overlooked and promoting greater mutual understanding. The mediator thus acknowledges the real wishes of the parties and packages proposals in mutually acceptable terms. This was seen by the parties involved to be of particular applicability in conflict situations which are too sensitive for normal bargaining.

The idea aim of mediation as a problem-solving process may be seen to be a process that does not serve to simply settle the conflict through the restoration of the status quo, but to promote structural changes within the conflict relationship. To the extent that the 'winner-takes-all' approach is removed from the approach to negotiations, mediation may be seen to have the potential for changing the working relationship. However, as reported in Chapter 5, the possibility of obtaining a win-win solution is by no means supported by all the mediators interviewed. The opinion of this group were divided between those who supported the notion of a win-win solution as a possibility for mediation and those who felt the whole notion was a fallacy. It was stressed by mediators that the mediation process can only effect a change in the working relationship to the extent that the parties allow this to happen.

Although the problem-solving techniques of mediation may play a role in the empowerment of the weaker party - and thereby reduce the

violent conflict that could erupt if the power distance is maintained or increased resulting in further polarisation - the power distance can only be ultimately significantly reduced if structural reform occurs. This is particularly relevant in South Africa in relation to granting legitimate rights to African workers within the political context. Thus, structural reform is required because economic rights, for example rights of association and the right to strike, will never provide substantially significant power to reduce the power imbalance if political rights are denied. Once again, social forces beyond the immediate economic domain can be seen to shape the conditions of the settlement of conflict. Although structural reform will not surcease industrial conflict, such reform would lay the basis for potentially more genuine negotiation if the power balance was thereby decreased.

7 MEDIATION AS A PALLIATIVE?

In the light of the previously discussed criticisms of pluralism - particularly the failure to locate industrial conflict in a broader social context - and the shortcomings of radical pluralism in adequately addressing this broader context, the question arises: Is mediation simply palliating the conflict in the sense that it is not resolving the underlying conflict, but only the manifestation of this latent conflict? Is mediation serving to accommodate rather than resolve conflict? "It has been argued that peace work that concentrates upon ending behavioural violence and neglects structural violence is merely manipulatory and acts to serve the interest of the dominant party in the social system." Consequently, "if engaging in mediation leads to the settlement of a particular conflict, but leaves the structural situation unchanged, then not mediating may be the

moral choice if our end is the reduction of the level of damage" (Webb 1985:20).

In analysing the role of mediation against the broader social and economic framework in which the roots of industrial conflict may be found, it is significant that most trade unionists explicitly linked industrial and societal conflict. The political situation was perceived to give rise to the particular nature of industrial conflict in South Africa. Wider socio-political dissatisfaction was also believed to influence workers' preparedness to take a stand on industrial issues and to contribute towards industrial action. Further, the influence of socio-political dissatisfaction in mobilising workers can be seen to be linked to trade union growth and organisation.

It is significant in the light of this explicitly perceived link between industrial and societal conflict that, although 50% of the trade unionists interviewed in Cape Town felt that mediation can sometimes be no more than a palliative, that this was not seen to distract from the constructive role afforded them to mediation in terms of trade union strategy.

In terms of trade union strategy it was emphasised that there is a difference between what unions want on a micro and a macro level. The ultimate objective of unions is to advance workers' interests. As previously discussed, it is not always in the workers' interests to take strike action. Thus diffusing the conflict can be to the satisfaction of both parties.

In addition, mediation is regarded as a significant part of trade union strategy if the process enables unions to consolidate power such that the potential is created for the union to embark on a successful strike if a necessity is seen for such action. In this respect the potential for mediation to empower trade unions is endorsed. The utilisation of mediation as part of union strategy can be viewed as aiding these organisations to achieve incremental goals while not detracting from their ultimate goals. It may be argued that mediation poses no more of a compromise to union ideology than the whole process of negotiation and collective bargaining.

Since mediation is an extension of the collective bargaining process, it is necessary to succinctly examine the limitations of this broader process.

At the base of the argument concerning the limitations of collective bargaining is the fact that workers do not seriously challenge managerial control through negotiation. Despite the constraints on managerial autonomy as a result of the impact of trade unionism and the fact that legal requirements of procedural and substantive fairness may curb employers' prerogatives and challenge unilateral managerial decision-making, collective bargaining does not fundamentally alter the power structure in industry. The 'joint regulation' of collective bargaining does not displace managerial autonomy (Hyman 1981:96).

Collective bargaining has significant implications for the formulation of grievances. "The basic necessity that every strike must be settled

means ... that workers are obliged to specify their grievances in a form which permits resolution in negotiation with employers. Where workers' deprivations derive from their very status as employees, the requirements of the strike situation prevent this grievance from receiving articulation" (Hyman 1981:124). Thus, industrial grievances need to be formulated in terms which can be addressed and compromised upon in collective bargaining.

The significance of this formulation is that latent conflict can frequently not be expressed within the formal negotiating procedures. Grievances such as the exercise of managerial authority or unfocused dissatisfactions with the structure of control are thus often displaced onto wage issues because wage demands are viewed as a legitimate formulation of conflict. This is particularly significant in the light of Chapter 3 which reveals that the major source of strike activity in South Africa in recent years has been wages.

It is significant that the primary objection to mediation raised by trade unionists in the Port Elizabeth-Uitenhage region was the aim of the process. Mediation was seen by these interviewees to be a strategy whereby management could reduce worker militancy. The process of mediation was believed to be a palliative in that the fundamental causes of conflict are not being resolved. Further, objection was voiced concerning the underlying assumption that industrial action should be prevented because conflict can be solved.

These trade unionists' views support the hypothesis that industrial conflict cannot be successfully resolved if the structural causes of

this conflict remain unchanged. Implicit in these unionists' views is the idea that industrial action is a necessary force if conflict is to be resolved.

The fact that other trade unionists in the Port Elizabeth-Uitenhage region and Cape Town acknowledge that mediation does tend to palliate the conflict, but do not oppose the process for this reason, points to the constructive role that mediation can play in union strategy (as previously discussed). Although the potential for mediation to act as a palliative in industrial conflict is acknowledged, it was also stressed that the fundamental role of mediation is not to solve the primary conflict.

This view was endorsed by the majority of mediator and management representative interviewees. Thus, 57,1% of the mediators interviewed felt that mediation is not pacifying the conflict because addressing the structural causes of conflict is seen to be beyond the bounds of the mediator's role. This role is seen to be one of removing the areas of conflict, not the fundamental sources of conflict. Although it may be argued that this role, by definition, is thus one of a palliative, it is important to stress that the mediator only enters the conflict situation on the invitation of the parties involved. The mediator is introduced as a facilitator to pursue a solution to the conflict, and power and control of the process remain in the hands of the parties. The mediators who support this view of mediation felt that it is unrealistic to expect mediation to address the broader conflict. To the extent that collective bargaining as a whole can be seen to pacify this conflict, mediation would thus also play this role. This view was supported by

management in Cape Town who felt that mediation might be seen to be a palliative insofar as it is dispute specific, but conflict in industry is not consequently promoted.

Of the mediators interviewed, 21,4% felt that mediation does have the potential for addressing the fundamental causes of conflict in that mediation addresses and identifies the real problem, rather than a manifestation of the problem. However, it may be argued that this is true only insofar as the causes of the immediate industrial conflict are concerned. In this sense, mediation may not simply dissolve the immediate conflict. However, the mediator's role in redressing the fundamental structural conflict is very limited.

It is significant, in the light of the structural causes of conflict, that the majority of mediators and management interviewees did not perceive a direct link between industrial and societal conflict. Where a relationship was perceived, it was seen in the light of the impact of societal conflict resulting in better co-ordinated and more organised trade unions - rather than the manifestation of broader societal conflict on an industrial level. This contrasted strongly with the views of the majority of trade unionists in the interview sample who, as previously discussed, perceived a direct link between industrial and societal conflict. It is significant that the small group of mediators (14,3%) who felt that mediation is possible pacifying the conflict had all expressed the view that the roots of industrial conflict are to be found in societal conflict. However, it was also stressed by these mediators that the purpose of mediation is not to solve ideological conflict.

From the pluralist perspective of the majority of mediators and managers interviewed, mediation is seen to play a significant role in the resolution of industrial conflict. However, this perspective may be criticised on the basis of the premise that views society as democratic and fair.

The roots of industrial conflict in political and economic structural inequalities serve to undermine the pluralist approach and, consequently, the approach to conflict resolution. In this light, it is significant that trade unions who perceive the relationship between industrial and social conflict, utilise mediation and consider it a viable form of conflict resolution.

There is a general acknowledgement that the role of mediation is not that of removing the fundamental sources of conflict. However, for the trade unions in Cape Town, this role goes beyond that of simply palliating the situation and needs to be understood in terms of the tactical and strategic benefits afforded unions by mediation. Mediation also plays a significant role in the empowerment of trade unions, particularly as a result of the effects of mediation.

The analysis in this chapter constitutes the basis for the final conclusions which are presented in the following section.

CONCLUSIONS

The objective of this dissertation has been to analyse the role and value of industrial mediation as perceived by mediators, management and trade unionists in the Cape Town and Port Elizabeth-Uitenhage regions. Specific analysis of this role has taken place within the framework of the relationship between the causes of industrial conflict and the resolution of this conflict.

A continual theme running throughout this dissertation is the inextricable relationship between the economic and political arenas. The underlying causes of industrial conflict thus arise from both contradictions within the labour process as well as from the political economy of South Africa. Therefore, a satisfactory theory of industrial relations needs to take the socio-political framework into account. For this reason, it was necessary to first analyse the theories of social conflict. This was followed by an analysis of theories of industrial conflict as the social conflict theories, with the exception of Marxism, failed to address the contradictions within the labour process. This theoretical framework was utilised as a basis for analysing the role of mediation if pluralism (wherein IMSSA is rooted) is rejected as a starting point for an analysis of industrial relations.

The underlying causes of industrial conflict, together with the nature of collective bargaining which dictates the terms of the formulation of grievances and thus places limitations on the expression of latent conflict, means that a distinction has had to be drawn between latent

and manifest conflict. Bearing this distinction in mind, interviewees' responses, within the theoretical framework of this dissertation, have revealed that mediation addresses itself to the manifest, rather than the latent, conflict.

Mediation plays a constructive role in facilitating the settlement of specific disputes. However, the role of mediation may be more adequately defined as one of conflict accommodation, rather than conflict resolution, as the structural causes of the conflict are not removed by mediation. This conflict resolution is a role which is beyond the bounds of mediation and beyond the parties' expectations of the process.

Within the theoretical framework of this dissertation, it was necessary to explore interviewees' perceptions of the link between socio-political and industrial conflict and of the role of conflict in industry, because these perceptions shape attitudes towards conflict resolution. My hypothesis was confirmed that those subjects who perceive industrial conflict to be a manifestation of broader socio-political conflict consider mediation to be a potential palliative of industrial conflict. This was particularly true of trade unionists in the Port Elizabeth-Uitenhage region and this constituted a fundamental reason for their objection to mediation. Significantly, although the majority of trade unionists in both sample centres, unlike mediators and management, explicitly linked industrial and socio-political conflict and consequently viewed mediation as a potential palliative, this was not perceived to detract from the constructive aspects of mediation.

The fact that mediation addresses the manifest conflict constitutes a challenge to the assumption in the problem-solving approach, wherein mediation is rooted, that mediation identifies the underlying sources of conflict. To the extent that the collective bargaining process allows for the expression of the latent conflict, mediation has the potential for addressing this conflict. However, the role of mediation is best defined as one which reveals the hidden agenda of the antagonistic parties and settles the immediate conflict, rather than removing the causes of this conflict.

It has been argued in this research that the effects of mediation extend beyond the immediate conflict situation. Of particular significance in this respect is the role of mediation in empowering trade unions, in overcoming mistrust in the working relationship, in legitimising the bargaining parties and in educating the parties. Mediation thereby plays a crucial role in the collective bargaining process through the development of negotiation skills.

Although interviewees did not perceive mediation to have a fundamental effect on the working relationship between management and trade unions, I have argued that mediation does play a significant role in this respect. This is seen particularly in terms of mediation's role in enhancing the essential relationship-building dimension of this interaction-specifically through facilitating an approach to bargaining in good faith. Mediation is capable of thereby significantly effecting the dynamics of the working relationship. Further, the interactive and explorative nature of mediation means that this process has the greatest potential of all interventionist

techniques in altering the conditions of an adversarial relationship pattern.

The relatively low utilisation of mediation in the Port Elizabeth-Uitenhage region does not reflect more sophisticated negotiation skills. This supports my hypothesis that the utilisation of mediation is not a reflection of inadequate negotiation skills. Instead, the increasing number of mediations may be seen to be a manifestation of more sophisticated industrial relations which reflect an awareness of both parties of the necessity of compromise action for successful collective bargaining. The nature of industrial relations in the Port Elizabeth-Uitenhage region needs to be understood and analysed against specific factors which have contributed to the particular character of collective bargaining in this region. Although it is possible that the political character of confrontation has undermined the attitude of compromise necessary for mediation, the results of my research suggest that the attitude towards mediation is a result, not of a more confrontational approach or more militant or ideological trade unions in this region, but of a number of incorrect assumptions and misperceptions concerning the mediation process. There is thus a need for the education of parties in this region on the role and process of mediation.

IMSSA has played a crucial role in facilitating the acceptance of the process of extra-statutory mediation and of the professional neutrality of these mediators. This was revealed in the number of interviewees who leave the choice of the mediator to IMSSA's discretion. It was significant in the light of research by Kressel (1972) that my results contradicted his findings in that parties in my

sample population did not feel neutrality of the mediator was the most significant quality. My research thus supported the findings of Gulliver (1979), Zartman and Touval (1985) and Anstey (1988). Instead, parties seek mediators with background experience, skill, expertise, objectivity, rationality, sympathy, understanding and credibility.

Mediation is not a response to procedural inadequacies in the working relationship. Although mediation can aid in overcoming such inadequacies, its role as one of facilitating the collective bargaining process and improving negotiation skills is significant regardless of the level of sophistication of the bargaining parties. Consequently, the development of more sophisticated negotiation skills and labour relations will not undermine the role of mediation. It thus seems likely that the trend of increasing numbers of mediations of the past years will continue in the future. It is possible that we will see increasingly complex mediations as bargaining skills develop. It is significant that the greater understanding of the mediation process has meant that there is less abuse by parties of mediation. This is seen, particularly, in the movement away from mandatory mediation clauses in recognition agreements as identified by interviewees in Cape Town. This represents an acknowledgement of a willingness to compromise as an essential prerequisite of mediation. It is also significant that parties do not perceive a dependency on the mediation process to be developing.

The acceptance of industrial mediation has created a tradition for addressing conflict through negotiation and compromise. It is in this respect that mediation has a critical role to play in socio-political

conflict in South Africa. Of particular importance is the role that mediation plays in promoting understanding, overcoming mistrust, legitimising the parties and affording the opportunity of gaining knowledge of the antagonistic party's point of view. Although the same pre-conditions, for example the need to arrive at a settlement and mutual dependence, do not exist in community affairs, mediation has the potential for playing a constructive and significant role in community affairs in South Africa. The constructive role of mediation has already proved itself in industrial relations.

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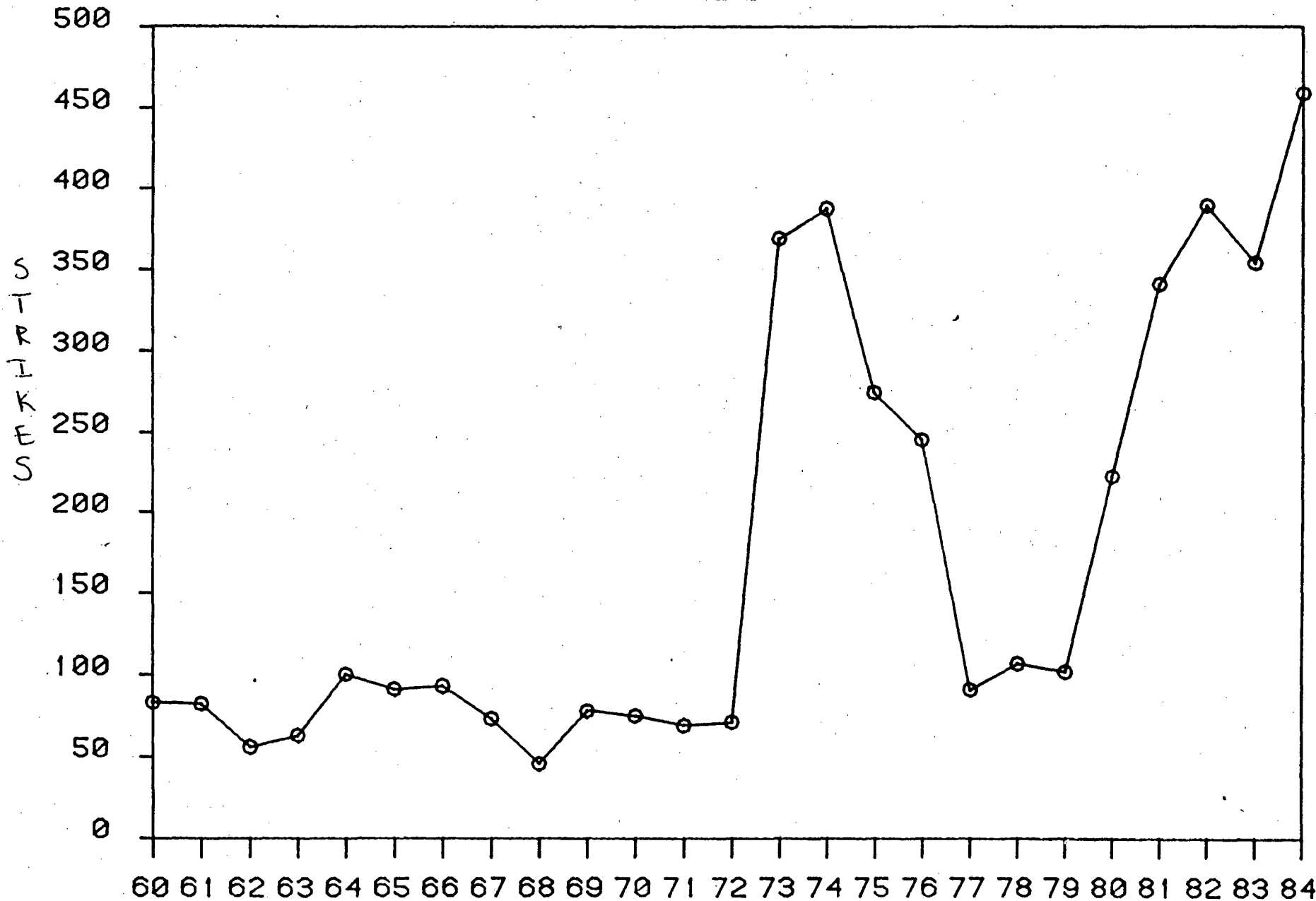
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STRIKES PER YEAR

A: STRIKES PER YEAR, 1960 - 1984

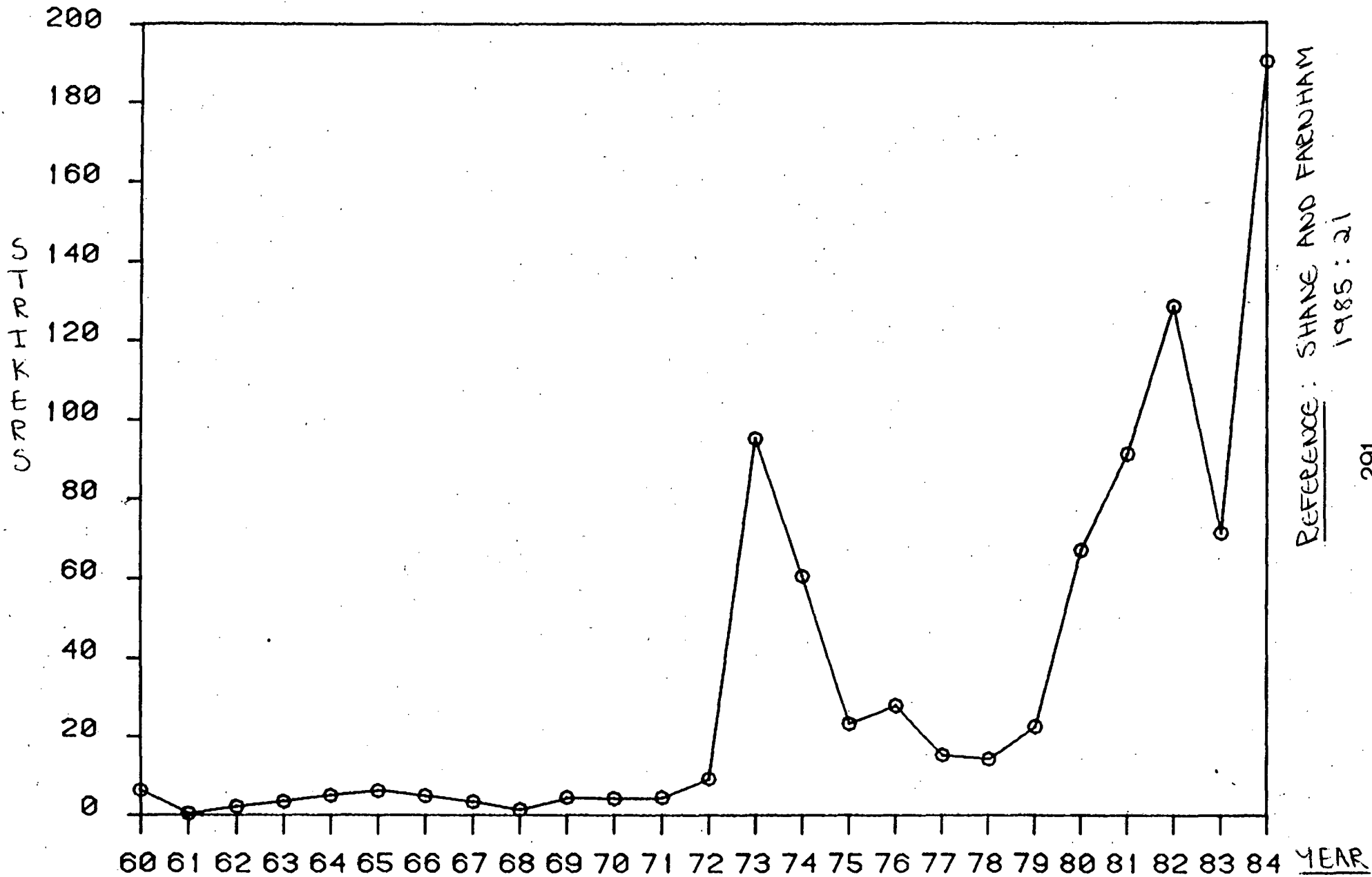


REFERENCE: SHANE AND FRENCHAM
1985: 19
200

THOUSANDS

TOTAL NUMBER OF STRIKERS

B: TOTAL NUMBER OF STRIKERS, 1960-1984



REFERENCE: SHANE AND FARENHAM
1985:21

C: TABLE OF NUMBER OF STRIKES, WORKERS INVOLVED AND WORKDAYS LOST

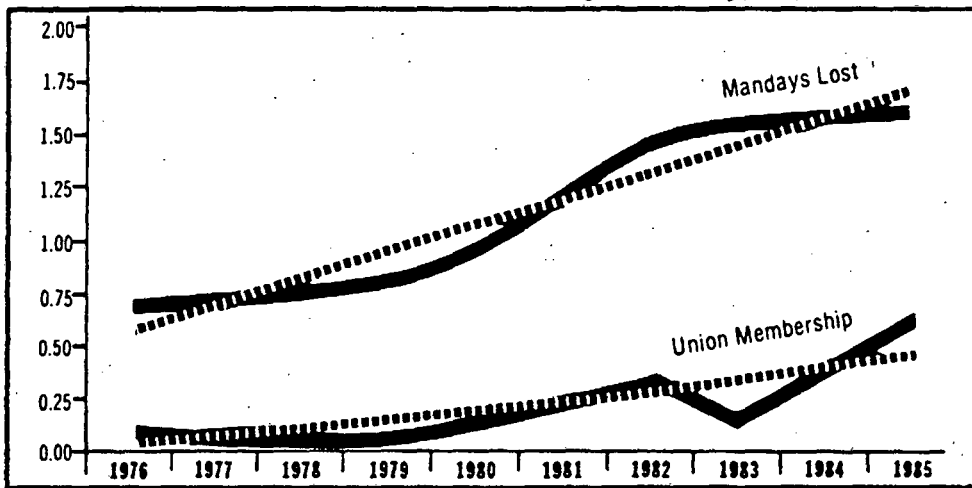
FROM 1978

YEAR	NUMBER OF STRIKES	TOTAL WORKERS INVOLVED	TOTAL DAYS LOST
1978	106	14 160	10 558
1979	101	22 803	67 099
1980	207	61 785	174 614
1981	342	92 842	226 554
1982	394	141 571	365 337
1983	336	64 469	124 596
1984	469	181 942	379 712
1985	389	239 816	678 273
1986	793	424 340	1 308 958
1987	1 148	591 421	5 825 231

REFERENCE : SURVEY OF RACE
RELATIONS IN SOUTH AFRICA
1987/1988 : 667

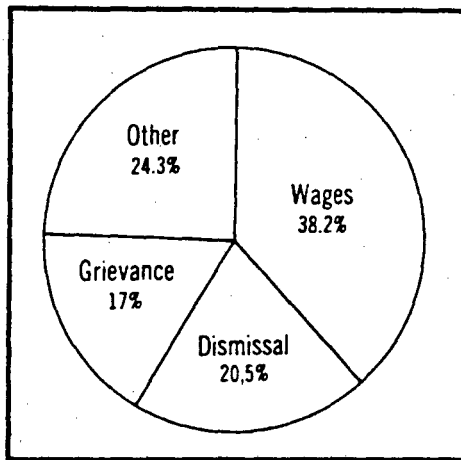
D: GROWTH OF UNION MEMBERSHIP AND INCREASE IN STRIKE ACTION,
1979-1985

**GROWTH OF UNION MEMBERSHIP AND
INCREASE IN STRIKE ACTION 1979 — 1985**
(Dotted line smoothed algebraically)

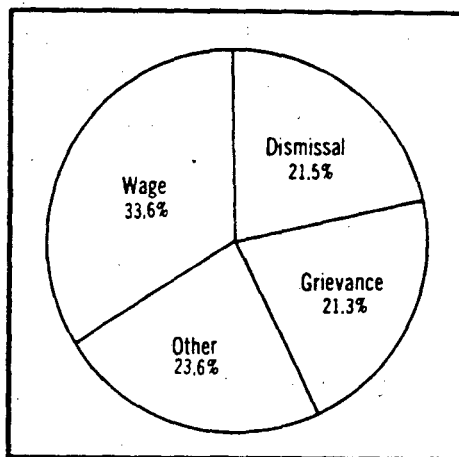


REFERENCE : LEVY 1986 : 4

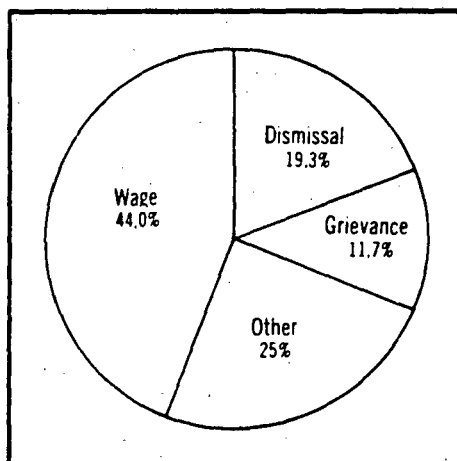
STRIKE TRIGGERS 1979 — March 1986



STRIKE TRIGGERS 1979 — 1983



STRIKE TRIGGERS 1984 — 1st Quarter 1986



REFERENCE : LEVY
1987 : 5,6

F: CASE LOAD OF THE INDUSTRIAL COURT

YEAR	NUMBER OF INDUSTRIAL COURT CASES
1979	4
1980	15
1982	41
1983	168
1984	400
1985	801
1986	2311
1987	3533

REFERENCES : SURVEY OF RACE RELATIONS IN
SOUTH AFRICA 1985: 193, 194
and 1987/1988: 646
LEVY 1987: 20

G: THE RELATIONSHIP BETWEEN APARTHEID AND CAPITALISM IN SOUTH AFRICA

The relationship between economics and politics, and the fact that the political economy of South Africa has served to secure both economic and political dominance of the white minority, means that the latent causes of industrial conflict are consequently found not only in the employee's economic oppression, but also in their political oppression. Thus, the underlying causes of industrial conflict need to be sought within both the contradictions in industry and in the particular structure of South African society.

While a detailed analysis of the South African political economy is beyond the scope of this dissertation, it is, nevertheless, necessary to provide background to my basic hypothesis that the integral relationship between politics and economics means that the underlying causes of industrial conflict are not necessarily to be found in the economic arena alone. Consequently, the following material serves as a starting point for a political economic analysis in an historical context. It makes no pretence at being a fully integrated analysis and is thus included in the appendix, rather than the main text. The purpose of this material is simply to provide substantiation and background to my hypothesis.

I would reject the liberal argument that racial policies have inhibited economic growth and that, consequently the logical imperatives of capital will transcend the irrationality of race discrimination. Instead, I would argue that the racial and labour policies in South Africa have been mutually reinforcing and would thus support the influential analyses that Wolpe (1972) and Legassick

(1974) introduced to the South African political economy in reaction to previous analyses which treated politics and economics as separate entities. The political functions of social control cannot be divorced from the economic function of this control.

Historically, the economic aspect of apartheid manifested itself in the system of migrant labour which may be seen as an attempt to maintain the non-capitalist mode of production such that wages could be defined by the individual's subsistence, rent, and conditions of living. This particular labour structure also prevented the possibility of a unified working class which would threaten the economic base. However, the political expedience may also be seen as early as 1903 when top ranking executives and engineers expressed the fear to a visiting colonial secretary, Chamberlain, that a unified working class would result in a forfeiting of "natural white supremacy" (Davies 1977:152).

The fundamental nature of capitalist production led to a working class formation and the historical necessity of cheap labour. Wolpe sees apartheid as the new form of social organisation which developed in response to the disintegrating conditions of the pre-capitalist mode of labour reproduction which threatened the economic basis of the cheap labour system. He thus sees the racial policy of apartheid as a political response to the decline in subsistence production in the reserves. Influx control and bantustan policies were therefore "implemented to secure cheap labour power by maintaining temporary migration after its material basis had disappeared" (Hindson (b) 1987:7).

Although Wolpe's analysis of apartheid can be criticised for its total neglect of a rigorous conceptualisation of surplus value (Morris 1977:69) and for failing to perceive the fundamental contradictions within the capitalist economy which mean that a form of state functional to capital in one period may be an obstacle to its further development in another period (Hindson (b) 1987:6), these criticisms do not undermine the basic argument postulated by Wolpe - particularly the inter-relationship between economics and politics.

The development of secondary industry and the fact that this industry required a more skilled, more stable labour force gave rise to the apparent paradox between the economic need for permanent African urbanisation and the political and economic threat that this workforce could thus pose through the acquisition of bargaining power such that it might challenge the socio-political structures which sustained its comparative cheapness. However "the political consequences of urbanisation and economic integration are neutralised for the ruling group by increasing political and social segregation" (Gottschalk 1970:124).

The spread of organised class struggle has been prevented at the political level by the imposition of rigid controls upon African workers from the 1920's (Davies 1977:163) and by the state bifurcation of the working class through the 1924 Industrial Conciliation Act. Apartheid has therefore played an economic role in organising and rationalising African labour, in preventing a unified working class and in providing a source of cheap labour such that the economic conditions for capitalist expansion have been secured. However, this economic role of apartheid cannot be separated from the political role

of maintaining this labour structure in an attempt to prevent the politically and economically exploited from challenging both their political and economic dominance. Organised class struggle is thus a threat at both the political and the economic level.

This role of apartheid is clear in the history of labour legislation in South Africa - specifically the colour bar, the wage differentials between white and black earnings and the consequent development of a white working class "labour aristocracy" (Davies 1977:134). The Industrial Councils and Wage Boards may have played an important role "in more rigidly defining differentials in wage levels and job allocation, if only by being so structured, they enabled more of the basic trade union demands of white workers to be met while firmly resisting those of blacks" (Davies 1977:173).

The segregation of industrial relations procedures was enforced by the 1924 Industrial Conciliation Act and the role of consequent industrial conciliation legislation may be seen as "a means by which the bourgeois state attempts to disorganise wage earners as a political threat to capital "through the impeding of the development" of a vigorous and effective labour movement which could struggle for an end to the exploitation of African workers" (Davies 1986:69).

The economic division of labour is reinforced on a social level by apartheid laws which prevent black - in particular African socio-economic advancement, for example group areas laws, educational opportunities which benefit whites at the expense of blacks etc. Thus, political legislation influences the occupational structure in

industry and the different group positions within this structure such that class divisions coincide with economic and political rights. These racial divisions in the working class must be seen as an attempt to suppress a challenge to both political and economic domination.

The fact that South African history has been characterised by great racist repression, which has been both a political and an economic instrument of control, manifests itself in the political nature of African trade unions.

The link between economic exploitation and political oppression is seen in the nature of trade unionism in South Africa - particularly since the end of the 1970's. The policy of many general unions at this time was to focus on problems affecting Africans as township residents, e.g. inefficient and corrupt local governments, rising rents, transport costs and Bantu education, and as factory workers. Thus, in the belief of these unions that trade unions could not restrict themselves to factory issues, these unions were more overtly political than the independent trade unions of the 1970's. This latter grouping of unions emphasised trade union strength and organisation and their focus was consequently on building this shopfloor strength through achieving the right to organise, to be recognised and to bargain. It must be stressed that this emphasis did not reflect apolitical unionism - rather it was seen as a necessary step in the light of the state repression which destroyed the South African Congress of Trade Unions (SACTU). "The founders of SACTU were convinced that a mere struggle for the economic rights of labour, without participation in the general struggle for political emancipation, would condemn the trade union movement to ultimate

purposelessness" (Luthuli quoted in Lambert 1980:99).

The position of many general unions "was connected with a view about the class and racial nature of the society. It was held that racial oppression in South Africa was indispensable to the maintenance of the system of economic exploitation and that the physical antagonism in the society was between the oppressed black masses and the privileged white elite. Hence priority should be given to the struggle for national liberation. The release from class exploitation would follow (Hindson 1987(a):215).

This inseparable nature of the economic and political struggle of workers was clearly articulated by the attitude of the Food and Canning Workers Union (1982): "Our viewpoint is that a union should not split the struggle of workers in the factory from struggles outside the work-place, on community and political issues. We do not believe that the problems of the workers in the factories are separate from the problems in the areas where they live. Nor can we ever say that it is no concern of workers that they have no say in the government of the country" (Hindson 1987(aa):211,212).

However, despite their shared opposition to racial oppression, the policies of the general unions and of those unions as exemplified by the FCWU differed in their views on the extent of political involvement of trade unions. The debate over the extent to which trade unions and community organisations should work together centred primarily around problems which the membership composition of the latter organisations.

The neglect of general unions of their shopfloor organisation in preference for community action made these unions vulnerable to state repression from mid-1982 and to the effects of the recession which resulted in the rapid decline of regional - general unionism (Hindson 1987(a):216). The new phase of political unionism thereafter may be seen to be characterised by mass stayaways where trade unions and community organisations come together as independent organisations recognising the distinction between the needs of workers and the needs of the wider community.

H: THE PROFESSIONAL STATUS OF THE MEDIATORS IN THE SAMPLE POPULATION

Mediator A	- labour lawyer
Mediator B	- labour lawyer
Mediator C	- labour lawyer
Mediator D	- academic
Mediator E	- labour lawyer
Mediator F	- management lawyer
Mediator G	- academic
Mediator H	- academic
Mediator I	- management lawyer
Mediator J	- labour lawyer
Mediator K	- academic
Mediator L	- full-time mediator
Mediator M	- labour lawyer
Mediator N	- labour lawyer
Mediator O	- labour lawyer
Mediator P	- labour lawyer

(See Chapter 4 on 'Research Methodology' for the explanation of the mediator's anonymous status.)

I: THE SAMPLE POPULATION

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Mr S Anderson	-	Management, Port Elizabeth
Mr M Anstey	-	Mediator; Port Elizabeth
Mr J Baard	-	Management; Cape Town
Mr F Bam	-	Mediator; Port Elizabeth
Mr Banburger	-	Management; Cape Town
Mr L Bozalek	-	Mediator; Cape Town
Mr D Brislin	-	Management; Port Elizabeth
Mr J Chennels	-	Management; Cape Town
Mr M Hartford	-	Trade union organiser; Cape Town
Mr N Haysom	-	Mediator; Johannesburg
Mr Hendry	-	Mediator; Cape Town
Mr M Jansen	-	Trade union organiser; Cape Town
Mr W Kerfoot	-	Mediator; Cape Town
Ms R Lazarus	-	Trade union organiser; Cape Town
Professor P le Roux	-	Mediator; Pretoria
Mr D Lewis	-	Trade union organiser; Cape Town
Mr T Mkalipi	-	Trade union organiser; Port Elizabeth
Mr Maasdorp	-	Trade union organiser; Port Elizabeth
Mr R Macwilliams	-	Management; Port Elizabeth
Mr Makhura	-	Management; Cape Town
Mr Mandlengozi	-	Trade union organiser; Port Elizabeth
Mr Markey	-	Management; Cape Town
Mr W Mgoqi	-	Mediator; Cape Town
Mr Ncapai	-	Trade union organiser; Port Elizabeth
Mr P Nel	-	Management; Port Elizabeth
Mr Niewoudt	-	Mediator; Cape Town
Mr C Nupen	-	Mediator; Johannesburg
Mr M Orkin	-	Mediator; Johannesburg
Mr E Patel	-	Trade union organiser; Cape Town
Mr R Perrott	-	Management; Port Elizabeth
Mr C Plasket	-	Mediator; Johannesburg
Mr P Pretorius	-	Mediator; Johannesburg
Mr W Prince	-	Trade union organiser; Port Elizabeth
Ms J Quince	-	Trade union organiser; Cape Town
Mr B Smith	-	Management; Uitenhage
Professor B Swart	-	Mediator; Cape Town
Mr C Thompson	-	Mediator; Cape Town
Mr T Trollip	-	Management; Port Elizabeth
Mr Warneke	-	Management; Port Elizabeth
Mr S Wilken	-	Mediator; Port Elizabeth
Mr D Woods	-	Management; Cape Town