

## **Searching for social and developmental pacts at the local level<sup>1</sup>**

This section considers the role of social pacts in consensus-building to address the country's developmental challenges, and assesses the conditions under which successful and lasting pacts might be established.

## 68/ KEY INSIGHTS

- ❑ Service delivery and community protests increased in intensity and number, with the worst cases involving xenophobic violence, police brutality and attacks on local government offices and officials.
- ❑ The institutionalisation of industrial conflict is being eroded and the labour market is fragmenting society along new fault-lines.
- ❑ Innovative actors, institutions and policies are emerging and laying the foundations for a different approach to creating pacts.
- ❑ Union organisers have successfully drawn on the public arena with the aim of restoring the dignity of, and justice for, socially devalued and economically marginalised workers.
- ❑ The making of pacts should be seen as an objective to be realised over time by way of partnerships at the workplace and community levels.
- ❑ Civil society institutions, including religious institutions and the media (radio, television and newspapers), attract the greatest levels of trust.
- ❑ A key requirement of a good democracy is that its citizens trust one another, as well as the institutions and leaders that govern them.
- ❑ For trust to develop, effective communication is vital. This is best done through dialogue that has mutual understanding as its outcome.

## The origin of pacts in South Africa

Social and developmental pacts date back to the origins of our transition. The first such pact, the Laboria Minute of 1990, signed by unions, employers and the government, prefigured the political transition that was to follow. In this pact, it was agreed that all future labour laws would be considered by employers and labour, before proceeding to Parliament. More importantly, the Laboria Minute was the first example of a major South African policy issue being addressed by way of a negotiated compromise (Webster & Sikwebu 2010).

In 1994, broad social consensus was reached through the multipartite Reconstruction and Development Programme (RDP), which was part of an organised pact to reconstruct society. In 1995, a top-level social dialogue body – the National Economic Development and Labour Council (NEDLAC) – was launched. This new institution was charged with the task of facilitating consensus on economic and social policy between organised labour, organised employers and other community-based interest groups. The third category was an important innovation as it gave voice to marginalised groups such as the unemployed, disabled, youth and women, thereby avoiding a narrow corporatism based on the ‘golden triangle’ of the government, labour and business (Webster & Adler 1999).

In 1996, the Presidential Labour Market Commission called for an accord for employment and growth. At the NEDLAC Annual summit three years later, Jacob Zuma, then Deputy President, called on social partners to conclude a ‘tough employment accord’. This sentiment was echoed by the then Overall Labour Convener at NEDLAC, Ebrahim Patel (in Webster & Sikwebu 2010: 206):

*We need to forge a common vision on economic policy. Building a shared vision is a difficult process, with gains today and retreats tomorrow. However difficult, we need to achieve consensus, because this is at the heart of our jobs and equity challenge.*

The idea of an all-encompassing pact re-emerged in the New Growth Path of 2010 and the National Development Plan of 2012. Co-chair of the National Development Commission, Cyril Ramaphosa, captured the rationale behind such a pact in an address to the Mapungubwe Institute for Strategic Reflection in October 2013:

*We need to establish trust. This can only be achieved through greater engagement between the social partners on the issues of common concern. We need to accept each other’s bona fides. This may, in some instances, require a leap of faith, in much the same way that the initial talks between the ANC and apartheid government demanded a leap of faith. (Ramaphosa 2013: 9)*

Why has the goal of achieving an effective social pact remained so elusive? Adam Habib (2013) argues that the preconditions for a successful social pact did not exist in the 1990s. They are, he suggests, two-fold: relative equality in the distribution of power between labour and business; and the development of the political will among all stakeholders to contain elite and popular expectations. The ousting of Mbeki in Polokwane in 2007, Habib argues, established the first precondition – a more even distribution of power – thereby enhancing the prospects of a pact. The second, however, he says, is yet to be attained.

While Habib is quite right about the second precondition, he is arguably incorrect about the first. A pact would have to meet at least three conditions. Firstly, the parties would have to be in a situation of stalemate, in which each is unable to achieve its objectives. We are a long way from satisfying this condition, as neither capital, nor labour nor the government shows any signs of willingness to compromise. Secondly, the stalemate must lead to a situation in which the costs of not compromising begin to outweigh the perceived gains of standing firm (such as increasing levels of disorder). Thirdly, there must be organisations that are able to mobilise and restrain their followers in accordance with a strategic and tactical vision. There are many examples that challenge the assertion that this condition has been met.

One such example is the rise that there has been in strike activity since 2006, with a dramatic increase in the levels of violence during protests. Service delivery and community protests increased in intensity and number, with the worst cases involving xenophobic violence, police brutality and attacks on local government offices and officials. Drawn-out industrial action was characterised by an increase in the number of working days lost and an unwillingness to compromise on the part of both employees and employers (Webster 2013). There has also been a considerable increase in the number of popular protests (both violent and peaceful). A turning point for South Africa was the Marikana Massacre in

August 2012, in which striking workers and the police clashed, resulting in 34 deaths – the largest number of civilians killed by security forces since the end of apartheid. From the outset, workers rejected representation by the recognised union and the formal collective-bargaining system. Indeed, for some years there had been an increase in violent, unprocedural strikes (Webster 2015).

Popular protest is not peculiar to South Africa; it is a global phenomenon in which the financialisation of capitalism has substantially altered the grammar of social conflict. From the Arab Spring to the ‘movement of the squares’ in southern Europe, the streets have become the site of massive demonstrations, strikes, occupations, riots, rebellions and revolutions. Popular uprisings have taken place in Tunisia, Egypt, Greece, Spain, Italy, Portugal, Brazil, Turkey and elsewhere. The institutionalisation of industrial conflict is being eroded and the labour market is fragmenting society along new fault-lines. Alongside the decline of traditional unions, new movements are emerging. The accompanying protests are class-specific, bread-and-butter conflicts in which protesters feel powerless in the face of the international financial institutions, and vent their anger in the destruction of property and militant action (Webster 2015).

How are the key actors responding to these challenges? The first reaction is to defend and attempt to strengthen the labour market institutions that underpin the economy. This involves the following: accepting industrial conflict and strong unions as necessary components of democracy; making better use of existing bargaining councils and creating new ones in terms of the Labour Relations Act; more effective use of NEDLAC; better use of existing conciliation, mediation and arbitration structures; and a department of labour that is more proactive in educating and building the capacity of all social partners. The ultimate prize, from the viewpoint of the architects of the South African labour regime, would be a social pact that:

*cannot be limited to the top-tier actors; it must reach down to the workplace leadership as well. It should not be so much a compact in relation to wages, but on workplace culture, productivity and reform. (Cheadle, Le Roux & Thompson 2011: 1)*

A second response, dominant in business and some sections of the government, is embodied in the view

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that South Africa needs ‘a Thatcher’ to ‘tame’ the unions. Indeed, Margaret Thatcher’s death in 2013 prompted pleas from journalists for a Thatcher-like crackdown on unions. John Kane-Berman (2013: 9) wrote: ‘We need our own Thatcher to handle our toxic trade unions’. Similarly, columnist Justice Malala (2013: 8) wrote: ‘We could use an Iron Zulu’. This has been followed by a barrage of mainstream media attacks on the country’s key labour market institutions, including NEDLAC and the Bargaining Councils, and their extension of agreements to non-parties, the Congress of South African Trade Unions (COSATU) and unions, in general. Indeed, in what has been described as a ‘watershed moment for South African politics’, the government went ahead with its proposed amendments to labour legislation in Parliament, despite strong opposition from COSATU. It dismissed COSATU’s demand that the amendments be submitted to NEDLAC, asserting that ‘Parliament is the only supreme body here and it approves or rejects or amends bills’ (Ensor 2013: 1). Underlying this exchange is a deeper debate on the future of social dialogue, and of NEDLAC, in particular, in a context where labour has been seen to be playing a ‘spoiler role’ (Joffe 2013: 10).

A third, more reflective, response is grounded in deep scepticism regarding the possibility of institutionalising industrial conflict in a world with such widespread inequality. This response suggests that industrial relations will have to go beyond collective bargaining to address the inequality that has emerged in the age of globalisation. At the centre of this perspective is the growing social distance between union leaders and their members, a fact acknowledged by the Department of Labour in its 2012–2013 Annual Labour Market Bulletin:

*During illegal strikes in the mining sector last year, many workers voiced dissatisfaction with their trade union leaders, accusing them of being too close to management and too willing to compromise on workers’ demands. (Sidimba 2013: 10)*

### A new industrial relations paradigm

What these three responses lack is any recognition that innovative actors, institutions and policies are emerging and laying the foundations for a different approach to creating pacts. In the wake of Marikana, COSATU held a Collective Bargaining, Organising and Campaigns Conference to reconnect with its members and overcome the

representational gap in respect of casual workers. At the same time, a new organisation was launched to give voice to street traders, the South African Informal Traders Alliance (SAITA), in response to the growing number of self-employed persons trading on the streets of South Africa’s cities (Webster 2015). It must be noted, however, that organising informal workers is not an easy task. Research amongst vulnerable immigrant clothing workers in the inner city of Johannesburg has found that these workers often operate in family-based micro-enterprises that blur the boundary between employer and employee (Joynt & Webster 2011). Instead of joining unions, they prefer faith-based organisations, such as the increasing number of Pentecostal churches, which often perform economic as well as spiritual functions. They assist their members in job searches, find accommodation for newcomers to the city, and even act as ‘bankers’ in the transfer of money to their home villages.

New sources of power are emerging – what Jennifer Chun, a leading labour scholar, has called ‘symbolic leverage’ or moral power – where union organisers have successfully drawn on the public arena with the aim of restoring the dignity of, and justice for, socially devalued and economically marginalised workers (Chun 2012). We saw this in the uprising amongst farm workers in the rural Western Cape in 2012, in the successful challenge to labour brokers in the South African Post Office strike, and in the 2014 five-month strike on the platinum belt.

Furthermore, innovative social policies have emerged across the global South, in what some have called a ‘quiet revolution’ (Hanlon, Barrientos & Hulme 2010). This concept highlights the innovative ways in which developing countries are attempting to provide social security to large numbers of precarious households. In 2012, the International Labour Organisation adopted the Social Protection Floors Recommendation No. 202 to provide policy guidance to its member states in terms of the rapid extension of social security coverage in the form of adequate basic income security guarantees and essential healthcare (see Hoffer 2013).

### Concluding remarks

Organised labour has become detached from the struggles of vulnerable workers. Indeed, the established unions have had limited success in organising vulnerable workers other than those in standard employment relationships. The making of pacts should be seen as an

objective to be realised over time by way of partnerships at the workplace and community levels. The first step should be to build consensus among labour, employers, communities and government departments around the idea of social or developmental pacts at the local level. The challenge will be management of the trade-offs between the social partners. This requires patient negotiation with the innovative actors and organisations emerging at workplaces and in communities throughout the country.

## ENDNOTES

- 1 An earlier version of this section appeared in *Independent World of Work*, July 2015 under the title 'Searching for the Elusive Social Pact' by Edward Webster.

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