



UNIVERSITY OF STELLENBOSCH

*Graduate School of Business*

## **Industrial Relations**

### **Individual Assignment**

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# Declaration

Hereby I, Alexander Markowski, declare that this work is my own original work and that all sources have been accurately reported and acknowledged, and that this document has not previously in its entirety or in part been submitted at any university in order to obtain an academic qualification.

Bellville, 2002-07-06

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# 1 Introduction

## 1.1 Setting the scene

In South Africa since the democratic elections in 1994, two primary development initiatives have been undertaken at a national level:

The Reconstruction and Development Programme (RDP) which was used to contest the 1994 election describes itself as a ‘policy framework’. This was set up to facilitate the introduction of policy and legislation for the new African National Congress (ANC) led alliance.

The government acknowledged the need to develop, change, improve and synchronise policies, frameworks and institutions, while simultaneously accelerating and broadening service delivery. Several initiatives have subsequently highlighted critical elements of this transformation: accountable and participatory governance, well-founded policies and targeted interventions, sustainable economic growth and opportunities, and broadened, equitable access to basic services. Macro-economic policy, urban, rural and human resources development strategies, and service delivery approaches in housing water, sanitation, electrification, education and health have all received attention.

Subsequently, in 1996, the GEAR (Growth, Employment And Redistribution) macro-economic strategy was implemented. This was an attempt to translate broad developmental objectives into concrete economic policy. GEAR is a medium-term strategy to achieve specific targets of economic development, investment and growth. The GEAR strategy set targets for the year 2000 that included a 6 per cent growth rate in gross domestic product (GDP), employment expansion of 400 000 jobs per annum, and a reduction of the fiscal deficit to three per cent of GDP. A key element of this strategy is to achieve redistribution through budget reforms, from the wealthier sectors of the population to the disadvantaged.

## 1.2 Objectives

South Africa's Policy was facing drastic changes when ending Apartheid. Since the first democratic elections took place, two main strategies, named RDP and GEAR have been developed. This document will discuss the legal environment and the IR System surrounding these strategies, by applying basic principles of IR.

## 1.3 Roadmap

After discussing each of the involved legislations and policies on a theoretical basis, the policy instruments will be discussed in the context of GEAR, the governments macroeconomic strategy.

Furtheron in this document, RDP and GEAR will be compared with eyemark on the terms "unemployment" and "privatisation".

COSATU's role as a alliance partner within the parameters of the Union Policy Matrix and the Equilibrium Convergence approach will be discussed at the end.

## 2 Theoretical Framework

### 2.1 Basic Conditions of Employment Act (No 75 of 1997)

The purpose of the Basic Conditions of Employment Act (BCEA) is mainly to give effect to and regulate fair labour practices in terms of the Constitution. It also serves the purpose of satisfying South Africa's obligations as a member state of the International Labour Organisation (ILO). The act makes provision for exceptions, i.e. exclusion of certain employers and employees from the act or parts thereof, but is generally applicable to the "worker" in the wider sense of the word. To make the act known and accessible to every "worker", a summary of the act must be displayed in places of work where the act is applicable.

Looking at the law itself, it is said that the BCEA is valid for all workers as well as every employer. Members of the National Defense Force, Intelligence Agency and SA Secret Service and unpaid voluntary workers are excluded from this act.

As a groundwork for all employments, it regulates the following issues:

- Working Time.
- Leave.
- Job Information and Payment.
- Termination of Employment.
- Child Labour and Forced Labour.
- Certain Differentiations.
- Sectorial Determinations.

- Provision for the Employment Conditions Commission.
- Monitoring, Enforcement and Legal Proceedings.
- as well as other Issues.

The BCEA is an enhancement of the Private Contract of Employment (PCoE), i.e. it overrides this piece of legislation. It sets several minima and maxima (e.g. working hours, overtime allowed, record keeping and leave periods), to which the employer must comply. It is important to note that the BCEA applies only insofar that it makes the Private Contract of Employment more favourable to the employee nor does it replace any legislation that provides more favourable conditions to the employee.

## **2.2 Labour Relations Act (66 of 1995)**

The Labour Relations Act (LRA) is the “umbrella law” in the South African legal infrastructure for the IR system and governs labour relations. The major purpose of the LRA, in its most simplified form, is to promote orderly collective bargaining. This is done by

- giving effect to section 27 of the Constitution;
- regulating the organisational rights of trade unions;
- promoting and facilitating collective bargaining at the workplace and at sectoral level;
- regulating the right to strike and the recourse to lockout in conformity with the Constitution;
- promoting employee participation in decision-making through the establishment of workplace forums;
- providing simple procedures for the resolution of labour disputes through statutory conciliation, mediation and arbitration (for which purpose the Commission for Conciliation, Mediation and Arbitration is established), and through independent alternative dispute resolution services accredited for that purpose;



- the establishment of the Labour Court and Labour Appeal Court as superior courts, with exclusive jurisdiction to decide matters arising from the LRA;
- providing for a simplified procedure for the registration of trade unions and employers' organisations, and for their regulation to ensure democratic practices and proper financial control; and
- giving effect to the public international law obligations of South Africa, especially regarding the ILO, relating to labour relations.

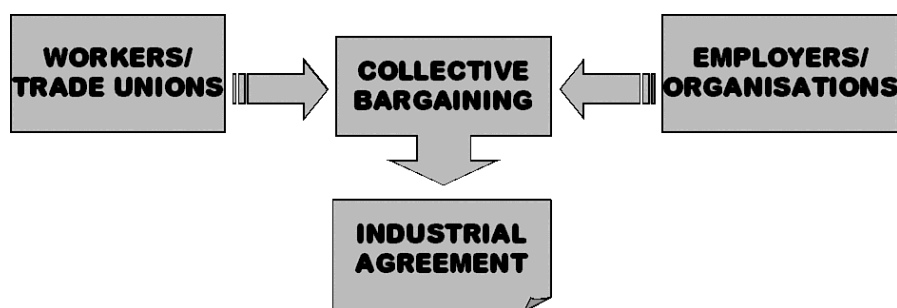


Figure 2.1: Collective Bargaining Process

Figure 2.1 on page 5 gives a graphical presentation of the collective bargaining process within the framework of the LRA. Where a dispute arises between the trade union and the employer, they can proceed to collective bargaining through their bargaining council. The bargaining council is created by statute (the LRA) and the procedures is laid down in the constitution of that bargaining council as determined by the parties constituting the body. Once and if an industrial agreement is reached, such an agreement becomes law - it is ratified by the Minister of Labour and published in the Government Gazette. The industrial agreement overrides the BCEA, but must be an improvement on the BCEA, i.e. be more favourable for employees.

## 2.3 Employment Equity Act (55 of 1998)

The Employment Equity Act (EEA) aims to promote equal opportunities for potential and existing employees by eliminating unfair discrimination, and to implement affirmative action

measures or “positive discrimination” to ensure equitable representation throughout the South African workforce and occupational categories. The EEA is thus legislation that addresses the unfair labour practises that existed in the IR system under Apartheid. The EEA is applicable to all employers who have more than 50 employees. The EEA is policed by the Director-General of the Department of Labour and, through a process determined by the act, can lead to Labour Court proceedings.

The EEA should be read with the Skills Development Act (97 of 1998), – shown in section 2.4 – which makes provision for the skills development of the workforce. This act, which is also administered by the Department of Labour, has one of its aims to improve the employment prospects of persons previously disadvantaged by unfair discrimination and to redress those disadvantages through training and education.

## **2.4 Skills Development Act (97 of 1998)**

Because of strong restrictions regarding education and training especially within the black population, we have a huge amount of un- or semiskilled workers in this communities. Their current skill profile is more than outdated and not matching with the needs of this country. The amount of unskilled jobs generated differs tremendously from the times when primary sector was dominant in this country. At time of writing, only 20 % of workers are qualified in order to perform a skilled work.

The Skills Development Act (SDA) works together with the EEA. It aims at generating a skilled and diversified workforce in this country to enable growth opportunities while the EEA fights for equal treatment and chances in the job. The purposes of the SDA is to:

- Develop the skills of the South African workforce in order to improve the quality of live of workers, their prospects of work and labour mobility.
- To improve productivity in the workplace and competitiveness of employers.
- To improve self employment .
- To promote the delivery of social services.

- Increase the levels of investment in education and training in the labour market and to improve the return on that investment.
- Encourage employers to use the workplace as an active learning environment.
- Provide employees with the opportunities to acquire new skills.
- Provide opportunities for new entrants to the labour market to gain work experience.
- Employ persons who find it difficult to be employed.
- Encourage workers to participate in leadership and other training programs.
- Improve the employment prospects of persons previously disadvantaged by unfair discrimination and redress those disadvantages through training and education.
- Ensure the quality of education and training in and for the workplace.
- Assist Work seekers to find work.
- Retrenched workers to re-enter the labour market.
- Help employees to find quality employees.
- Provide and regulate employment services.

## 2.5 GEAR

During the currency crisis of 1996, government introduced a controversial economic strategy to appease investors. The GEAR strategy (“Growth, Employment and Distribution strategy”) sought to introduce a market-driven process for reconstructing post-Apartheid South Africa. GEAR’s key elements are reducing government spending and the rate of inflation, with a view to encouraging private investment, economic growth, and thereby job creation and redistribution.

GEAR is designed to make South African capitalism competitive in the international arena. Part of the strategy involves the privatisation or partial privatisation of state assets as a means of reducing the costs of certain services and finding capital to meet other state objectives.

GEAR is intensely contested: many have likened the privatisation aspect of GEAR to the sale of the family silver in order to fund immediate objectives; economic and political commentators are critical of the embracing of neo-liberalism which is central to the strategy and they question whether it can meaningfully address, let alone transform, the inherited inequities of the apartheid system. GEAR also confirms the substantive abandonment of the RDP. GEAR seemed to have thrown out much of what was commendable in the RDP, and appeared to embrace the principles of the capitalist system.

The GEAR framework suggests that financial stability could be achieved through high interest rates, which would attract short term capital inflows to South Africa and eliminate market pressures on the value of the rand and foreign exchange reserves. As investor confidence increases, these short term inflows would be replaced by growing foreign direct investment.

In addition, high interest rates, by increasing the costs of debt financed purchases, could reduce domestic demand and lower the rate of inflation. Inflation could be further kept in check by lowering tariff barriers and increasing the level of international competition which would prevent domestic producers from raising prices and force them to develop cost saving production techniques.

Deregulation (e.g. eliminating tariffs) is seen as simpler and more immediate solution than regulation (e.g. developing an effective competition policy to deal with industrial concentration) to address the problems raised by GEAR.

The reasoning is not entirely unsound. If a country does not play by the rules, the disciplining power of the financial markets can be severe. Nevertheless, the GEAR policies often inadequately address the question of transforming the structures and relationships in the South African economy and focus instead on an unimaginative collection of what has now become very conventional macroeconomic prescriptions to placate the demands of market forces.

At the center of the GEAR strategy was deficit reduction. The ANC government believed that the government's fiscal deficit necessitated too much additional borrowing, driving up the real interest rate in the domestic money market and crowding out private investment. GEAR envisioned government expenditure to be limited to 19% of projected GDP over the period from 1996-2000. This policy was based on the following assumptions:

- Crowding out was an important phenomenon in South Africa.

- Deficit reduction would result in a fall in the interest rate.
- A lower interest rate would stimulate higher private investment.
- A lower interest rate and higher investment would cause an appreciation of the currency and a slight deterioration of net exports.

The government's medium-term expenditure framework sought to make fiscal policy more credible and predictable by mapping out the government's spending plans on a rolling multi-year basis. Private and public sector wage increases would be kept in check; the government rejected instituting minimum wage to avoid the firms' expectations of wages increasing that would lead to further inflation. Government spending would remain at 19% of GDP. Given the GEAR strategy's reliance on lower interest rates and higher private investment as the main stimulus for economic growth, it was unlikely that its growth targets would be met without this projected effect.

## **2.6 COSATU's RDP**

The Reconstruction and Development Programme (RDP) is an integrated, coherent socio-economic policy framework. It seeks to mobilise all people and country's resources toward the final eradication of apartheid and the building of a democratic, non-racial and non-sexist future.

Within the framework for policy represented by the RDP, the ANC tried to develop detailed positions and a legislative programme of government.

The RDP has been drawn up by the ANC-led alliance in consultation with other key mass organisations. A wide range of non-governmental organisations (NGOs) and research organisations assisted in the process.

This process of consultation and joint policy formulation must continue as the RDP is developed into an effective programme of government. Other key sectors of the society such as the business community must be consulted and encouraged to participate as fully as they may choose.

Those organisations within civil society that participated in the development of the RDP will be encouraged by an ANC government to be active in and responsible for the effective implementation of the RDP.

This inclusive approach to developing and implementing policy is unique in South Africa's political history. The special nature of the ANC as a liberation movement and the traditions of the Freedom Charter make it the only political organisation capable of unifying a wide range of social movements, community-based organisations and numerous other sectors and formations. Widespread and broad-based extra-parliamentary support allowed the ANC, within a Government of National Unity, to implement the programme.

According to the paper, the RDP should be an integrated and sustainable programme, a people-driven process, bring Peace and security for all, be Nation-building, establish a link between reconstruction and development as well as pushing the democratisation of South Africa.

The RDP consists of five key programmes named

1. meeting basic needs;
2. developing our human resources;
3. building the economy;
4. democratising the state and society, and
5. implementing the RDP.

The RDP aims to achieve several socio-economic objectives and targets, transform the way government functions and engage the private sector, labour and civil society in a concerted campaign to secure economic growth and equity, social justice, poverty alleviation and better services for all. Issues like Housing, Water, Electricity, Education, Health, Transport and Land Reforms are to be addressed in order to improve the situation of the former disadvantaged.

## 3 Evaluation

### 3.1 Policy Instruments within GEAR

The policy instruments discussed in this paper, named Basic Conditions of Employment Act, Labour Relations Act, Employment Equity Act and Skills Development Act are preparing the ground for good working conditions, collective bargaining, equal treatment in the workplace and programmes for education and skill-building. But this is only the “labour” part of GEAR. The economic (“capital”) part is not mentioned in these acts. Maybe this is the reason why the economy lacks performance and growth. An economic system can not really be directed using laws and acts. It has to be guided carefully and it must be supported by the government.

### 3.2 Comparing RDP and GEAR

The South African Constitution – drafted through multi-party negotiations in 1990- 1993, and finalised in 1995 – is hailed as one of the world’s most liberal constitutions for its strong focus on the provision of socio-economic rights. The early years after 1994 were largely spent building the institutions that would oversee the transformation from apartheid and monitor implementation of government programs targeting constitutional imperatives. The first official policy that emerged was the “pro-poor” Reconstruction and Development Program (RDP), which set delivery targets for all key socio-economic portfolios. Although the government still claims to be guided by the RDP, it is widely accepted that this policy was abandoned in 1996 following the adoption of GEAR, which replaced the emphasis on state-led development with a focus on market liberalisation. The government promised that GEAR would enable the market to correct the imbalances created by colonialism and apartheid.

In June of 1996 the South African Government announced the Growth, Employment and

Redistribution Strategy (GEAR) which is a mixture of tax incentives, renewed fiscal restraint, further relaxation in exchange controls and a commitment to labour market reform. GEAR is in keeping with the objectives of the Reconstruction and Development Programme (RDP) which was designed as an all-party agreement on how public funds could best and most immediately be identified and deployed as effective short-term remedies for poverty. Apart from an outright rejection by the labour unions of the GEAR, reactions were muted.

COSATU's opposition to GEAR "has not simply been abstract or ideological. We have opposed GEAR, because of the very practical negative impact which it is going to have on the level of government service delivery and on jobs".

The vision generated by RDP is fundamentally different from the one by GEAR. RDP uses a people-centered transition with all South African participating in the political process to overcome the years of white rulership. Especially the ANC made use of this vision as a basis for the 1994 elections. Since the the people-centered approach is quite useless without a sufficient economic system, the ANC favoured GEAR in order to focus more on growth than RDP did.

Privatisation is not really mentioned in the RDP, while GEAR provides a basis for this kind of operation. This is one of the main points of COSATU against GEAR. There are several plans in place to privatise big state-owned companies like Telkom.

Unemployment is not especially handled in RDP, due to its very early place in the democratisation process it concentrates on issues like democratisation and meeting basic needs. GEAR on the other hand uses financial stability in order to provide growth and more jobs.

Neither RDP nor GEAR brought South Africa the success it needs very urgently. It might be due to implementation or planning errors that both did not succeed in building a strong economy.

### **3.3 COSATU's Role as Alliance Partner**

The Congress of South African Trade Unions (COSATU) is part of a tripartite alliance with the African National Congress (ANC) and the South African Communist Party (SACP).

In 1985, the COSATU that exists today was formed. Currently, COSATU includes over 2



million workers and remains a part of the Tripartite Alliance, focusing on workers' rights.

Looking at the Equilibrium Convergence (EC) model, we can see that COSATU exclusively works for the workers needs and therefore concentrates on labour issues. The ANC on the other hand realised that they need a strong economy (Capital) in order to reach their target of improving the situation of the former disadvantaged. They can be seen as part of labour but also as part of the capital side of the EC model.

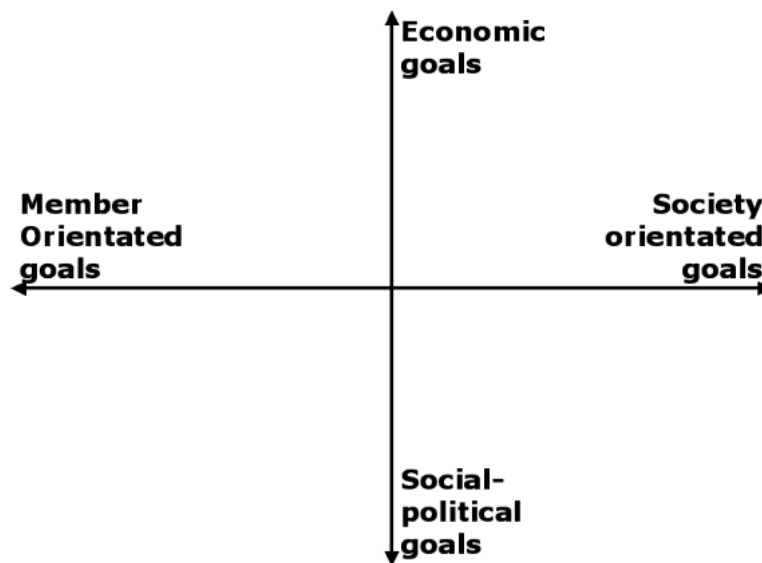


Figure 3.1: Union Policy Matrix

The Union policy matrix shown in figure 3.1 on page 13 has two dimensions. The basic orientations are economic/non-economic and members/society. Each party can be put somewhere in this matrix, depending on their orientation. While COSATU is more on the members and non-economic side, the ANC experienced a shift during the years. Meanwhile they are a little bit more in the center, trying to build relationships with the "capital". Because of this, many people complain about the small amount of pure labour-concentrated parties in the government.

## 4 Conclusion

In the “past-apartheid” years of South Africa, the government had to concentrate on equality of the former disadvantaged people. The working conditions and later on the skills development had first priorities. The government really succeeded in doing so, but today their major problem is the lack of economic performance. The ANC is kind of trapped in the hole between “labour” and “capital” while COSATU – together with RDP – focusses more on the “labour” side.

The goals of GEAR have not been achieved and one of the major problem might be, that an economic system can not be influenced to the same extent as the social system. The social and employee system is regulated by the several acts mentioned in this document.

South Africa still has a lack of skilled workforce, and it might take a few more years to overcome this weakness. As soon as qualified labour is available, the economic system must be on its place to support this trend.

It is also very early to draw conclusions on the policy of the government. Some issues really take some time to develop. Educating is not a process of months, but a ongoing challenge. Some other issues – like the working conditions – have been solved, and create new problems like informal employment. To succeed in establishing equality in the workplace, the former disadvantaged workers must have the same skills in order to compete with the other workers.

While establishing equity and good working conditions through acts was a comparably easy task, building a strong economy is a real challenge for the future, in order to improve the situation of *all* south-africans.

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