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In May 1979, the Southern Africa Labour and Development Research Unit (Saldru) and the editors of the South African Labour Bulletin (SALB) organised a workshop to consider the first report of the Wiehahn Commission (Commission of Inquiry into Labour Legislation) which had been released on May Day. The workshop was attended by the staff of Saldru, the editors of the SALB, some Cape Town based trade unionists and others.

The groundwork for the critique published here was developed at the workshop. The contributors to this critique were: Philip Bonner, Halton Cheadle, Carole Cooper, Dudley Horner, Liz Hosken, Alide Kooi, Johann Maree, Charles Meth and Eddie Webster. Some initial reactions to the report were collected by Alide Kooi, Pippa Green, Shirley Miller and Gerald Kraak.
Introduction

A persistent theme in the Wiehahn Commission report is that labour law and labour practice are 'drifting apart'. This the Commissioners attribute to the movement of Africans into skilled and semi-skilled jobs alongside white, 'coloured' and Asian workers (particularly since the late 1960s) on one hand, and the continuing 'dualism' in South Africa's industrial relations system, on the other. This means that employers have been put in the difficult position of having to negotiate with African workers through the committee system and with non-African workers, sometimes in the same factory and doing the same work, through the industrial council system.

At the same time, the Commission is concerned at the increase in size and importance of unregistered (African) unions, particularly since the 1973 strikes. These unions, they consider, could undermine the statutory collective bargaining system and should be brought under the control (sometimes referred to as the 'protection') of the law.

Some employers have concluded agreements with unregistered unions. Furthermore, there is considerable pressure from outside the country, particularly through multinationals and the codes of conduct, and the Commission, while stating that it cannot be influenced by foreign demands, considers that it would be naive to ignore foreign attempts to influence labour policy in South Africa.

In this context, it is useful to characterise the purpose of the Commission, in broad outline, as the extension of control over unregistered unions, in a unitary system which can be sold abroad. At the same time, the Commission's report appears to remove some of the formal power of white labour (although the material basis of that power in the industrial structure has probably already been eroded by job fragmentation and the deskilling process) while still providing some protection.
2.

This critique examines the Commission's report, the government white paper and the new legislation in terms of three inter-related questions: control, concessions to foreign pressure, and the removal of formal restrictions on employment of a segment of the African labour force.

A New Organ of State

One mechanism of control is the new National Manpower Commission (NMC) created by statute.

The Commission emphasises the principle of minimal state intervention in a 'tripartite' system (regulatory powers shared between the state, workers' organisations and employers' organisations). But it is clear that the state's role will shift to that of 'architect, designer, guide and initiator' (Wiehahn, para. 2.32). The state's functions are to become 'more dynamic', encompassing active intervention in the allocation and reallocation of labour and the 'preservation and promotion of industrial peace' (Wiehahn, para. 2.22).

The NMC will be headed by a chairman appointed by the Minister of Labour. The chairman will be the only full-time member. Other members representing the interests of the state, employers and employees are to be appointed by the Minister, who retains the right to determine their number and their tenure of office. Appointment will be open to all persons irrespective of race or sex. The Minister is permitted, but not obliged, to consult employer and worker organisations before making appointments (Industrial Conciliation Amendment Bill, clause 2) and to designate a deputy chairman.

The NMC will be empowered to appoint specialist committees and will be supported by a strong professional secretariat.

The principal functions of the NMC will be:
(a) to analyse the overall manpower situation by research into the design, planning and modernisation of manpower programmes,
3.

(b) to keep a close watch over developments on the international labour front,

(c) continually to evaluate the application and effectiveness of labour legislation and practice (Wiehahn, para. 2.45.7).

It is to advise the government on all labour matters, including labour policy and administration (Wiehahn, para. 2.45.7; White Paper, para. 5.2.3; Industrial Conciliation Bill, clause 2). However, the government has warned that the NMC will have to guard against encroaching unduly on the preserve of the Department of Labour.

It thus appears that although the NMC will have no executive powers (these will be reserved for the Minister of Labour) it will be a very influential body with a strong persuasive role. It is to have a 'significant role' in the 'evolutionary implementation of changes to the system' (WP, para. 3.1).

The power of the NMC is evident in the specific primary tasks which it is to undertake immediately. First, it is to investigate the delineation of spheres of activity in labour matters between various organs of state and establish how liaison and cross-representation are to be effected. Here it is to be linked specifically with the Defence Manpower Board (Wiehahn, paras. 2.41, 2.42 and 2.45.10) which advises the government on the use of manpower in times of peace and war to enable the Defence Force to carry out its task.

But as well as these matters of administration, the NMC is to exert influence in several major policy areas:

1. It is to give guidance on the matter of trade union rights, devise a definition of 'fixed employment' (only Africans with permanent residence and in 'fixed employment' are eligible to join registered unions) and advise on how workers excluded from registered unions will be treated no less favourably than those with trade union rights (WP, paras. 6.2.1 and 6.2.3). This presumably refers to wages and working conditions.
2. It is to advise the Industrial Registrar in his task of taking 'a wide spectrum of considerations' into account when considering applications for registration of unions (Wiehahn, para. 3.70).

3. It is to provide guidance on the application of the principle of trade union autonomy, in view of the government's opinion that the system should not be subjected to too much stress initially (WP, para. 6.2.4).

4. It is to keep watch on the matter of eligibility for union office, and make 'appropriate and timeous' recommendations (Wiehahn, para. 3.86; WP, para. 6.3).

5. It is to provide further guidance on the question of 'check-off' (the deduction - sometimes compulsory - by employers of trade union dues). The Wiehahn Commission recommended the maintenance of the existing situation, where the practice is allowed and sometimes encouraged (Wiehahn, para. 3.10.9). The government acknowledged that the practice had become well established and even contributed to sound organisation, but considered that it was open to abuse in that it could 'give rise to the artificial growth of organisations ... (under particular circumstances)' (WP, para. 6.12).

6. It is to undertake constant surveillance of the closed shop and monitor its practical application (Wiehahn, paras. 3.101.5 and 3.101.6). The government will rely on the advice of the NMC before considering abolition or extension of the closed shop (WP, para. 6.11).

7. It is to consider ways and means of extending the negotiating powers of works committees and works councils (the new name for liaison committees) to free them from the restrictions of wage regulating measures in those industries where no industrial councils exist. Ultimately the government sees the committees
and councils as having the same sort of autonomy as industrial councils (WP, para. 6.7.4). The NMC's proposals in this connection will be particularly interesting and will require close scrutiny.

8. It is to provide guidance on the formulation and application of the principle of 'equal pay for work of equal value' (WP, para. 6.13.3) in the context of the replacement of statutory work reservation with measures to protect individual workers or groups of workers who might be displaced.

9. It is to frame recommendations, in association with the president of the Industrial Court, to accommodate the experience and expertise of the present Industrial Tribunal in the new structure (WP, para. 7.3).

10. It is to devise a scheme to accommodate apprentices or prospective apprentices who are liable for compulsory military service, in association with the National Apprenticeship Board and the Defence Manpower Board (WP, para. 8.1.2).

11. It is to do research into industrial relations training and disseminate information on the subject. The NMC will also be consulted by the Minister of Labour before he approves an industrial relations training centre run by bodies which are not registered in terms of the Industrial Conciliation Act or part of the system of formal education (Wiehahn, paras. 5.79.1 to 5.79.3). The government will require the NMC to give urgent attention to the question of industrial relations training by calling together all interested parties to work out the details (WP, para. 8.2.1).

The initial report of the Wiehahn Commission and the government's response to it provide an outline of an entirely new organ of state which is to be created as a top priority. Later reports of the Commission will presumably put more flesh on the skeleton.
The NMC has an antecedent in the informal Advisory Council of Labour, defunct since 1946. However, the NMC is to be a permanent statutory body with prescribed functions and powers, which the Advisory Council was not. The NMC will have no executive powers, but its influence is likely to be pervasive. It will, in effect, prepare policy for the Minister of Labour to enable him to design and direct a highly legalistic industrial relations system. Its promptings will facilitate the Department of Labour's direct and speedy intervention on any matter which the state regards as undesirable.

There is in this a faint echo of the 1940s, when, at another critical moment, the state instituted the office of the Controller of Industrial Manpower with very extensive powers to allocate and reallocate labour and bridle workers' organisations through War Measures 6 of 1941 and 9 of 1942. Although the NMC is to be an advisory body, it could be inferred that the state has moved to set up a watchdog on labour.

**Extending Control of the Unions**

Thus in spite of its expressed commitment to minimal state control in employer-worker relations, the Wiehahn Commission's recommendations in practice involve exactly the reverse. The reasons emerge clearly from the Commission's report. In the last few years, the Commission notes, unregistered trade unions have grown and 'can only continue to grow in strength and importance'. Unregistered unions are enjoying financial and moral support 'on a broad front ... The fact that their existence is not prohibited, while at the same time they are not registrable and are therefore excluded from the machinery of the Industrial Conciliation Act, 1956, serves as an incentive to foreign labour and political organisations to aid them overtly and covertly. Added to this is the fact that other non-labour organisations regard these unions as vehicles for change; using them also in matters other than those of a purely labour character' (Wiehahn, para. 1.10).

This is particularly true since the 1973 strikes, the Commission considers. Black trade unions outside the statutory industrial
relations system could well 'bring extreme stress to bear on the existing statutory system - a development which could within a very short space of time pose a grave danger to industrial peace'. Furthermore, 'a very real danger exists that this development is in the process of creating ... an informal system which it might in the long run not be possible to dismantle or restructure even if registration were to be permitted at a later stage' (Wiehahn, para. 3.35.14).

The Commission therefore concludes that the present situation cannot be maintained. It rejects the option of prohibiting black unions which would not only be discriminatory and remove existing rights, but would drive black unions underground and unite black workers 'not only against the authorities, but, more important, against the system of free enterprise in South Africa' (Wiehahn, para. 3.36.6).

The answer is to bring black unions under what the Commission calls the 'protective and stabilising elements of the system' and 'its essential discipline and control' (Wiehahn, para. 3.35.5).

'Registered trade unions', the Commission observes, 'are under certain statutory restrictions and obligations designed to protect and nurture a system that has proved its success in practice'. The report continues, 'The Industrial Conciliation Act, 1956, provides for matters such as the annual auditing of the trade unions' financial affairs; the maintenance of membership registers; the submission of annual reports, statements of income and expenditure and balance sheets to a meeting of members and to the Department of Labour; the strict control of constitutions and membership; and a prohibition on affiliation with any political party, or the granting of financial assistance to a political party or to a candidate for election to Parliament, a provincial council or any local authority' (Wiehahn, paras. 3.35.4 and 3.35.5).

However it seems clear that it was not the intention of the Commission that large numbers of black workers should join registered unions,
nor that all unregistered unions should achieve registration. On the contrary, the 'dualism' in the system is to be perpetuated but its racial element is to be softened and the working class is to be still further fragmented by the incorporation of some categories and the 'freezing out' of others. This disorganisation, particularly of the unregistered trade union movement, is in itself a powerful instrument of control.

Unions with migrant or 'frontier commuter' members are to be excluded from the new labour dispensation. Although numbers of commentators and critics have contrasted the supposedly 'liberal' tenor of the Wiehahn Commission report with the government's subsequent white paper and draft legislation, on closer examination the distinction becomes less clear. In deference to foreign opinion and international standards the Commission comes out against the legislative exclusion of migrant workers from registered unions, but a close reading of the report suggests that the Commission expects migrants to be excluded by the unions themselves and even indicates what measures could be adopted to achieve this aim.

Thus the Commission points out that making migrant workers and 'frontier commuters' eligible for membership of registered unions does not mean that significant numbers would in fact become members. First, 'it is highly unlikely', says the Commission, 'that migrants would want to participate in union activities on any significant scale and to pay membership dues', particularly since collective bargaining has no relevance to workers earning pre-determined contract rates (Wiehahn, para. 3.58.2). Second, the unions would not have much incentive to enlist migrants either. 'It must be remembered that it would be the objective of unions to achieve registration as soon as possible and that this could only be achieved once they had enlisted as members the required proportion of eligible workers. A union which set itself the herculean task of perpetually having to enlist transient workers would do so in the knowledge that it could achieve a sufficiently representative character only with immense difficulty and never be free of the risk of losing its representativeness.'
9.

Constitutional limitations are therefore likely to be imposed by unions themselves as a matter of pure self-interest' (Wiehahn, para. 3.58.3, emphasis added).

The Commission even gives suggestions about such 'constitutional limitations': 'it is unlikely in the extreme that unions would expose themselves to such possible domination (by large numbers of migrant workers) if they had at their disposal simple means of preventing it - by requiring, for example, that membership would be open only to persons who have worked a specified qualifying period (such as two years) within the particular industry, trade or occupation'. In addition, where migrants were to be admitted in significant numbers, 'the union would also be fully at liberty to restrict voting rights in a similar manner' (Wiehahn, para. 3.58.1).

In this context, it is interesting that a large registered union has apparently already introduced a new constitutional provision whereby a member must have had four years membership of the union, of which two must be as a shop steward or industrial council representative, before he can be elected to the executive; a three-year term on the executive is necessary before he is entitled to nomination as chairman.

In considering registration or de-registration, the Industrial Registrar, in consultation with the National Manpower Commission, will take into account 'a wide spectrum of considerations', including 'the prevailing circumstances in the particular industry ... and the implications for the country as a whole in social, economic and political aspects' (Wiehahn, paras. 3.70 and 3.71). This confers a measure of discretion on the NMC and the Registrar which is extremely wide. Registration, de-registration and the regulation of unions will take place by administrative fiat from which there will be little room to appeal to the Industrial Court because the terms of reference of the Registrar and the NMC are so broad.

The Commission recommended - and the draft legislation incorporates this recommendation - the establishment of a system of provisional registration to increase the Registrar's flexibility in this matter (Wiehahn, paras. 3.87 to 3.89, IC Bill, clause 4).
In general, then, the message seems clear. Certain unions, probably weak parallel unions, will be incorporated into the official system and others will face difficulties. Unions with migrant labourers among their members will face problems in securing or retaining registration, or if they do secure registration on officially sanctioned terms will be condemned to impotence on the shop floor because migrants working there are formally excluded. Finally in situations where an existing 'mixed union' needs to unionise migrants it might be encouraged to alter its constitution to maintain a bureaucratic leadership and exclude 'undesirables' from executive roles.

As already noted, the National Manpower Commission is to keep watch on the question of election or appointment of persons to union office and make recommendations if necessary (WP, para. 6.3).

Further control on trade union activity will be achieved through the establishment of financial inspectors in the Department of Labour to inspect and analyse the financial affairs of industrial councils, employers' organisations and their federations, unions and their federations, works councils and works committees 'with a view to guarding against irregular or undesirable practices' (Wiehahn, para. 3.157.7; WP, para. 6.6).

The new industrial council provisions are also aimed at the disorganisation of the labour movement by splitting it up into unions contained by the formal system and those controlled outside it. At present industrial councils are constituted half of employer and half of employee representatives, individual unions being represented roughly according to size. Under the new dispensation this situation will change. Industrial councils, in the words of the Commission, 'will have to contain safeguards and guarantees against a particular interest group dictating the process of decision-making at the expense of other groups' (Wiehahn, para. 3.90). In practice this will involve 'the statutory requirement of strict parity in the representation of the various employee parties to the council' (Wiehahn, para. 3.92.1). No mention is made here of race, but it seems likely that race groups will be the main interest groups involved.
Following the Commission's recommendations, further controls are to be instituted in industrial councils: all present parties to a council will have to agree in writing before new parties are admitted (IC Bill, clause 10). (It is true, however, that the draft legislation was amended in Parliament to permit an appeal to the Industrial Court against the exercise of this veto. The court's decisions in this regard will be crucial for the direction which the labour movement takes.) A two-thirds majority of the council is required when matters are put to the vote, except in disputes concerning alleged 'unfair labour practices' where unanimity is required (IC Bill, clause 11). The definition of 'unfair labour practice' has been specifically included in the legislation to cover changes in 'traditional' labour practices (WP, clause 1).

The industrial council is thus structured in such a way as to restrict severely the right of presently unregistered unions once registered to gain admission to industrial councils and, once admitted, to protect their interests on a variety of issues. Almost certainly the same preference for parallel unions will be exhibited when it comes to admission to industrial councils, and in the unlikely event of other unions being admitted their hands will be tied by the need to vote collectively with these parallel unions (in relation to whom they may well be a minority). The emasculation of the independent unions will thereby have been achieved.

The Commission recommended strong restrictions on industrial relations training, accepted in the government white paper. Apart from employers, registered employers' organisations, registered trade unions and their federations, industrial councils and works councils and committees, and institutions within the system of formal education, all persons and institutions are to be prohibited from offering industrial relations training except at a centre approved by the Secretary for Labour. The Minister of Labour is empowered to grant exemption from this provision (Wiehahn, paras. 5.79.2 and 5.79.3; WP, clause 8.2.2).
The provisions are expressly aimed at unregistered unions and training institutions. The Commission considers that these organisations use material 'of uncertain origin and questionable ideological motivation' (Wiehahn, para. 5.58).

Freedom of Association

The Commission repeatedly refers to foreign pressure and the need to take account of it, and pays particular attention to the ILO Conventions. It makes great play with the principle of 'freedom of association'. As set out in article 2 of the ILO convention 87 of 1948 this means that workers and employers, 'without distinction whatsoever, shall have the right to establish, and, subject only to the rule of the organisation concerned, to join, organisations of their own choosing without previous authorisation'.

On the face of it, this right is guaranteed in the Wiehahn Commission's report by the proposal that unions comprising any workers should be entitled to registration. However, not only are migrant workers expected to be excluded by the Commission (and definitely excluded in the white paper and draft legislation) but closer scrutiny of the Commission's suggested criteria for registration discloses further limitations on this right.

Thus the Commission suggests the following criteria:

1. The extent to which an organisation represents its eligible membership within the undertaking, industry, trade or occupation;

2. the degree of organisation existing within the undertaking, industry, trade or occupation and the extent to which the various interest groups (or population groups) are adequately represented;

3. whether or not the organisation is a bona fide union which in composition and objectives is relevant to the legitimate needs of the employer-employee relationship in the undertaking, industry, trade or occupation concerned;
3.87.4 the balance of representation of the various population
groups within a mixed organisation;

3.87.5 economic activity and general conditions prevailing
within the undertaking, industry, trade or occupation;

3.87.6 the viability, financial and otherwise, of the organisation
seeking registration;

3.87.7 any other factor which would serve to maintain peace and
harmony within the undertaking, industry, trade or
occupation, and the national interest in general.

A number of differences can immediately be noted between these and the
criteria laid out in previous industrial conciliation legislation
and, more generally, between these and the definition of the right
of free association set out in ILO convention 87. To begin with,
in place of the requirement that a trade union be able to serve
the membership it represents is the requirement of representativity
in the industry, whatever that may mean, which is obviously far more
difficult to achieve. Further, the insistence on a balance of repre-
sentation of the various interest groups in a mixed organisation
seems to suggest parity along the lines of industrial councils what-
ever the respective strength of the race groups involved.

The draft legislation in fact prohibits the registration of new
'mixed' unions and restricts the geographical expansion of existing
'mixed' unions (IC Bill, clauses 3 and 5), unless the Minister of
Labour sanctions such registration or expansion.

Finally, the two blanket provisions relating to 'economic conditions
prevailing' within the industry, undertaking etc. and 'any other
factor which would serve to maintain peace and harmony ... and the
national interest in general' allow the authorities to take almost
any action.

Neither do these criteria allow for the registration of general unions,
since unions will have to be based on an undertaking, industry, trade
or occupation.
14.

Clearly these criteria in no way secure the right of free association. The grounds for exclusion are so broad as to prevent registration of almost any trade union, and so vague as to make appeal to the Industrial Court in all probability fruitless. Furthermore, when read in conjunction with the Wiehahn Commission's implicit support for parallel unions and its negative attitude to migrant worker unionisation, these provisions seem to indicate an intention to register weak and pliable trade unions and a policy of attrition to those which remain outside the statutory system.

The obstacles in the criteria and procedures for registration are increased through the structure of the new industrial councils. Previously, once registered, a union was entitled to admission subject to the constitutional requirements of the industrial council concerned, provided a council existed in the industry. Under the Wiehahn recommendations this will no longer be the case. As has been noted, all existing parties to the council must agree before a new party is admitted. The implications of this veto when read in conjunction with the provisions on the closed shop are serious. In terms of the Commission's recommendations and the white paper, closed shop agreements already in existence are to continue. This means that if a union is refused admission to the industrial council, the union's membership will be excluded from the closed shop and their only options will be joining a registered 'mixed' or parallel union or giving up their jobs. This is a travesty of the principle of free association.

So also is another consequence of non-registration. The chief means of incorporating the pliable unregistered unions and freezing out the others, apart from the closed shop provisions and possible administrative action, is the proscription of legally binding agreements between employers and unregistered unions. As a result of this the unregistered unions will be unable to continue with what was previously one of the main thrusts of their strategy - reaching legally binding agreements with employers on a plant by plant basis.
The expansion of the works/liaison committee system, recommended by the Commission and accepted by the government, is likely to constitute further inroads on freedom of association and provide further mechanisms of control.

The major recommendations of the Commission in this respect are:

- Liaison committees should be renamed 'works councils', works committees and councils should be open to all races and their establishment should be actively encouraged. In the 'organised' sector, where an industrial council agreement is in force (or where a wage determination or other wage regulating measure exists) works committees and councils will not have statutory bargaining powers but in other industries the committees and councils should be able to enter into agreements which are statutorily enforceable (Wiehahn, paras. 3.119 to 3.121).

- The government has agreed that the autonomy of industrial councils must not be endangered, but considers that it is desirable that works councils or committees be permitted to negotiate 'on as many matters as possible' and to come to firm agreements with employers. Industrial councils should give these bodies 'as much latitude as possible' (WP, para. 6.7.4).

- Further, as has been noted, the National Manpower Commission is to give attention to the extension of the powers of works councils and committees to free them of restrictions so that in the foreseeable future 'they enjoy the same autonomy as industrial councils' (WP, para. 6.7.4).

- Regional works councils are to be established as an important link between the level of the industrial council and the level of the undertaking. These regional bodies are apparently to be actively encouraged in those industries where no industrial council exists because employer or workers' bodies are not sufficiently representative. This reinforces, or introduces a new form of, dualism which will weaken the potential industrial council structure.
It is important to realise that the works council or committee is a factory or undertaking based unit without organisational links with other factories. Its worker representatives are employed by the company and therefore are at the mercy of management for their jobs. It has been fairly easy to victimise workers for actively furthering collective interests and there is no guarantee that the new system under the Industrial Court will be any different. In any case, the works council or committee will have no independent officials who can negotiate strongly with management, nor will it have a strike fund on which to draw should workers decide to go on strike.

The government's intention of encouraging works councils or committees to negotiate on as many matters as possible suggests an attempt to remove from the unions many of their traditional shop floor functions. Employers have already been able to use works and particularly liaison committees to forestall the establishment and recognition of unions. The same is likely to be true of works councils. Once the works council is formally recognised management will have a powerful argument and institution with which to keep trade unions at bay.

Retention of the existing requirement that works committees and councils must be registered with the Department of Labour lends further support to this argument. In the past the Department of Labour has, on occasions, clearly indicated its preference for liaison committees over any form of worker organisation.

The Wiehahn Commission recommends that the works committees and councils be encouraged to attend Wage Board sittings 'in an effort to improve conditions of employment and to gain statutory protection'. The Wage Board procedure is not a collective bargaining process as no direct negotiation takes place between management and workers. Furthermore, under existing legislation African workers may not strike within 12 months of a wage determination. This recommendation of the Wiehahn Commission is therefore contrary to collective bargaining procedures.
The relative status of unions and works committees or councils in the 'unorganised' sector where no industrial councils exist is not clear. The term 'unorganised' is inaccurate since trade unions do exist in many industries where no industrial council has been established. The government has not yet indicated whether in such cases works councils or committees are to be given statutory powers or whether the unions are to take preference.

Skilled Shortages, Training and Job Reservation

An important prong of the Commission's argument is the need to continue and encourage the movement of blacks into semi-skilled and skilled jobs to counter the shortage of artisans which it identifies. This and the perceived need to move away from 'dualism' and race discrimination in employment led the Commission to propose changes in work reservation, the closed shop and apprenticeship training.

The Commission reports a shortage in April 1977 of 9,667 artisans (9,144 of them white) and 597 apprentices (485 of them white), mostly in the metal, electrical, motor and building industries. This supports the view, the Commission says, that 'in the event of a continued upswing in the South African economy, serious shortages of skilled labour will result and that these shortages could become a distinct threat to the rate of recovery and the maintenance of a satisfactory rate of economic growth' (Wiehahn, paras. 5.14 and 5.15). Demand for black artisans in the 'white areas', the townships and the reserves is likely to increase, the Commission considers. At the same time, the training of unemployed black youths as apprentices in the 'white areas' could alleviate unemployment and 'could also satisfy the aspirations of some of them' (Wiehahn, paras. 5.16 and 5.17).

Thus the Commission concludes that it is 'absolutely essential' to allow the training of black apprentices in the 'white areas' and therefore recommends that indenturing be opened up (with suitable protection for group interests). The Apprenticeship Act as such does not exclude Africans but, the white paper points out, 'it has
up to the present been the policy of the Government not to allow the indenturing of Blacks outside the Black areas' (Wiehahn, paras. 5.16 and 5.32; WP, para. 8.1.1).

The Commission intends to cover the question of apprenticeship training more fully in a later part of its report; and this critique will therefore not go into detail on the matter of skilled labour and apprenticeship. However, a few points need to be made.

First, the significance of the reported shortage of artisans is not clear. The Commission's interpretation of the shortages reported in the Manpower Survey is misleading; the Survey in fact shows that the really serious shortages were reported not in the 'metal, electrical, motor and building industries', but in the categories 'government and provincial administrations' and 'South African Railways and Harbours' - 3 799 and 2 209 artisans respectively, out of a total reported shortage of 9 667 (Manpower Survey No. 12, Sector Groups, Department of Labour, 1977).

In contrast, the major industrial sectors, the construction industry and the motor trade reported an artisan shortage of only some 1 500 in a total artisan employment of 213 715 and a total workforce of 5 289 415 in 1977. (The basic metal industries alone, presumably ISCOR in the main, accounted for over 900 of this shortfall.)

The lead time for artisan training is three to four years. The economy was expected to reach the turning point of the recession in 1977. If industry had foreseen a severe shortage of artisans thousands of unfilled vacancies for apprentices should have been reported. Instead, the Manpower Survey shows a reported shortage of only 137 apprentices in seven major sectors employing more than 1 170 000 workers. (Values for shortages in the different sectors were obtained by applying a scale factor supplied by the Department of Labour for the shortages of white artisans to the figures for apprentices and artisans of other races.) And these are the sectors (building, metal products, machinery, electrical machinery, transport equipment, basic metal and the motor trade) where the ratio of artisans
to the work force is highest - around 10 per cent in all except basic metal. In government and provincial administration, where more critical shortages were reported, artisans and apprentices formed, respectively, 2 per cent and 0.7 per cent of the workforce, and in the SAR and H 5.4 per cent and 3 per cent.

It is in fact probable that the movement of blacks into semi-skilled and skilled jobs (to which the Commission repeatedly refers) conceals a process of 'de-skilling' of artisan work. Job dilution and fragmentation have probably already eroded the skill content in many 'skilled' jobs in South African manufacturing. The whole question of shortages of skilled labour barriers to black 'advancement' should be examined in this context.

In the same way, white worker resistance to changes in apprenticeship training, work reservation and the closed shop should be seen in terms of an attempt to protect remaining skills or at least the appearance of skills.

Following the Commission's recommendations, the draft legislation repeals the work reservation provision (Section 77) of the Industrial Conciliation Act. The present five work reservation determinations are to stay in force but are to be 'phased out' by the Department of Labour in co-operation with the interested parties (Wiehahn, paras. 3.159.2, 3.159.3 and 3.159.4; IC Bill, clause 17).

In place of work reservation, the Commission recommends consultation between employers and workers before changes are made in established labour practices, with a requirement of consensus in these matters in industrial councils and the adjudication of allegations of unfair dismissal by the Industrial Court (Wiehahn, paras. 3.159.2.1 to 3.159.2.3).

In its recommendations on the closed shop the Commission was split with a majority of nine (including three of the four trade union members) supporting its retention, and five (three of whom were
employers) recommending that further agreements be prohibited but existing agreements remain in force as long as the parties so desired. The government accepted the minority view (Wiehahn, paras. 3.157.19 and 3.158; WP, para. 6.11).

The minority argued that the closed shop was a negation of freedom of association as well as being the most common form of work reservation. 'The closed shop', they declared, 'is a means of restricting skills training at a time of dire need of such skills, and of limiting entry to the skilled trades - be it for motives of enhancing the market value of union members by creating artificial shortages or for reasons of sectional interest on the part of a particular population group' (Wiehahn, para. 3.103.1). In a situation of 'trade union plurality' the closed shop practice could cause 'extreme inter-union and union-employer tensions - with the danger of industrial unrest on racial lines' (Wiehahn, para. 3.103.3).

The government decided not to prohibit the practice but to suspend it: no further agreements are to be concluded, but existing agreements are to stay in force, and the National Manpower Commission is to provide advice on the reinstatement or prohibition of the closed shop (WP, para. 6.11).

The wording of the white paper is extremely vague. Three interpretations of the term 'no further agreements' are possible. First, the term might refer to totally new agreements as well as to agreements which are due for re-negotiation. In this case a closed shop provison would automatically fall away when a fixed term agreement was re-negotiated (some closed shop agreements are indefinite in period: these would in any case remain in force). However, parties to an agreement might choose to amend rather than re-negotiate it, in which case the closed shop provison could be left intact. Second, the term might refer to new agreements only. In this case closed shop agreements would continue even where industrial council agreements were re-negotiated.

Thus the new dispensation provides for continuation of the closed shop. Work reservation thus remains, albeit in a modified form (since some
blacks will now be able to join registered unions) through controls over the admission of new parties to the industrial council. If a newly registered union were admitted on application to an industrial council it would automatically become a direct party to any closed shop agreement. But the crucial question is whether or not existing parties (given the veto right referred to above) would admit the new union.

A third interpretation of the term 'further agreements' is that it covers the introduction of a new party to a closed shop. In this case either all newly registered unions would effectively be kept out of the closed shop, or the closed shop provisions would no longer apply. It seems likely that some unions on an industrial council would be permitted to operate a closed shop and others not.

Work reservation through the closed shop could also be maintained by the control of black unions at the point of registration. For example, if a black union is refused registration its members and other black workers might look to already registered unions to represent their interests. This would give a great deal of power to a registered union where a closed shop is in operation.

As has been noted, migrant workers and 'frontier commuters' have been denied entry to registered unions. Their position in terms of existing closed shop provisions will depend on whether the Minister makes these provisions non-applicable, thus allowing for their free employment, or applicable, thus allowing for a prohibition on their employment. If the provisions are made applicable to migrants and 'frontier commuters' a split among black workers would be encouraged, with some having easier access to unions, and therefore jobs, than others.

Control via 'Security' Legislation

The Wiehahn Commission has ostensibly pursued a course of 'normalisation' of industrial relations to facilitate fuller expression of
the principle of freedom of association. However, in spite of apparent differences between the Commission's approach and the government's responses there is a common theme from which neither depart, namely the necessity to contain and control the labour movement.

To focus too narrowly on 'industrial legislation' in the strictest sense obscures many South African realities. Changes in the labour field are contained ultimately in the system of control to which the entire labour movement is subject.

Four Acts dealing with 'national security' either have been or could be used to control trade union organisation and activity.

1. **Internal Security Act**

   This Act provides for the prohibition of publications, the prohibition of attendance at gatherings and the prohibition of persons being within or leaving defined areas - commonly known as banning - where, in the Minister's opinion, they endanger the security of the state. Before 1976 the Act was known as the Suppression of Communism Act.

   Since its inception in 1950 the Act has been used at crucial stages in the development of non-racial trade unionism as a means of destroying effective leadership. The first person to be banned under the Suppression of Communism Act was Solly Sachs, the very effective secretary of the 'mixed' Garment Workers' Union. By 1956 the names of 75 trade union officials had been placed on the 'liquidator's' lists. Of these 56 had been asked to resign from their unions. The Institute of Race Relations has calculated that between 1960 and 1978 81 trade unionists had been banned or had their banning orders renewed. Certain industries have been more severely affected by bannings than others - the textile industry has had 27 trade unionists banned since 1950. More ominously, in October 1977 the first trade union organisation as such, the Union of Black Journalists, was banned.
The Act is in breach of ILO Convention No. 87, in particular paragraphs 3 and 4, where inter alia it is argued that 'public authorities shall not interfere and must provide necessary and appropriate measures so that workers can exercise the right to organise freely'. The Minister acts on information derived from security police and this evidence has not been tested in a court of law. This lack of evidence can be illustrated by the case of Douwes Dekker and Tyack vs. Grobbelaar where Grobbelaar admitted, after being sued for libel, that there was no reason to believe that these banned people were engaged in activities that could endanger law and order (South African Labour Bulletin Vol. 4 No. 3, p.5).

2. The General Law Amendment Act of 1962

This Act contains provisions concerning sabotage which is defined very widely. It has been argued that the pursuit of trade union rights could fall within this definition and the ILO, in Special Report No. 2, argued that this was totally contradictory to the ILO's principles on freedom of association.

3. The Riotous Assemblies Act

This Act, in particular Chapter II, has been used against picketing, as this description of the Armour Plate strike in 1976 would suggest. 'On September 23rd, striking workers began to picket at Armour Plate. Workers holding placards walked at intervals along the pavement up to the firm and back. The first to appear was management who took a close look and went into the factory. Shortly after, one policeman arrived by car. Later, police vans arrived and 27 workers were taken to the police station. Within a few hours they were in front of the Magistrate and convicted under the Riotous Assemblies Act. They were each fined R50 or 75 days and detained in Modderbee Prison.' (SALB, Vol. 3 No. 7).
4. **The Terrorism Act**

In terms of the Terrorism Act a person is *prima facie* guilty of terrorism if - '1) with intent to endanger the maintenance of law and order in the Republic, he commits acts in the Republic or elsewhere, or attempts to commit such an act, or incites or organises its commission, or inspires others to bring it about, 2) he undergoes training in the Republic or elsewhere which could be of use to any person intending to endanger the maintenance of law and order, or attempts or consents to undergo such training or incites or advises any person to undertake it, 3) he possesses any explosives, ammunition, fire arm or weapon.' Clearly this Act does not affect trade union activity *per se* but the vagueness of the definition of terrorism is such that it could be used to charge people for trade union activities or strikes. In the case of the State vs. Hoffmann, Parker and Jackson in Cape Town in 1977, the accused were charged under Section 2 of the Terrorism Act for producing and distributing pamphlets during the 1976 stayaways, designed to undermine law and order. They were found not guilty. In 1976 in Pietermaritzburg 10 men were charged with being members, or active supporters, of the ANC, and recruiting others to undergo training of a military or political nature outside South Africa to assist in the overthrow of the government by violence. The accused argued that the activities in which they were engaged dealt with trade unions and trade union training and not military training. But the court rejected their defence and found all but one of them guilty.
SOME INITIAL REACTIONS TO WIEHAHN

1. TRADE UNIONS

Mine Workers' Union

Mineworkers' Union general secretary, Mr. Arrie Paulus:

By accepting the Wiehahn report, the government 'committed the greatest treachery against the white employees of South Africa since 1922, when hundreds of miners were shot because they opposed the Chamber of Mines who tried to force them to share their work with blacks.'

'With the acceptance of the Wiehahn report there will in future be no distinction between Blacks and Whites; gradually more blacks will be introduced to fill the traditional posts at present held by whites ...'

'It is the aim and object of any Trade Union worth its salt to endeavour to achieve only the best for its members. Black Trade Unions ... are going to go all out to replace whites by blacks ... and they will be supported in their endeavours by employers.'

'With the acceptance of the Wiehahn report the white worker is going to find himself in a position where he has to fight the employer who is only interested in gain, and cheap labour, and the escalation of blacks, trying to force him out of his present job.'

The aims of Tucsa, 'the leftists' and even the Communists like Solly Sachs' were now becoming a reality, he said.

'With the recognition of Black Trade Unions, the Government has embarked on something the result of which it cannot or will not contemplate. Power will be placed in the hands of the Blacks which will inevitably lead to labour unrest and a threat to the position of the white worker.'

'The first report of ... Wiehahn ... is applicable to everyone. There are those who aver that the mines are excluded. I want to state categorically that this is not so. The only aspect still to be investigated is the "Mines and Works Act".'

'All workers in the mining industry form therefore an integral part of the amendments now being introduced to the Industrial Conciliation Act.'
Mr Paulus said that at a meeting during May 1977, in the Germiston Town Hall, in the presence of Professor Wiehahn, 'the Minister gave the assurance in response to a question by me that Black Trade Unions will never be afforded recognition in S.A. Answering a further question by me, why Black Trade Unions should not be prohibited by law, he replied that such a move would cause worldwide commotion'.

'When on the 4th May 1979 I confronted Mr. Botha in his office, with these facts, and pointed out to him that in the light of what has happened now, he lied to us on previous occasions, he flew into a violent rage, summarily closed the meeting and insisted that I should apologise. I refused and told him that I do not apologise to a person who lied to me. I thereupon left the meeting'.

'To date no newspaper has reported Mr. Botha having denied that he lied to us'. (The Mineworker, 16 May 1979).

Note: The Mineworkers Union, through The Mineworker, is conducting a poll of members to find out their opinions on the proposed changes.

In a statement on 16 May the Mineworkers' Union president Mr. P.C. de Jager said the union had decided to cancel its membership of the South African Confederation of Labour because 'it is not in the interests of the white worker to belong to an organisation which accepted the Wiehahn report'.

S.A. Confederation of Labour

Confederation executive member Mr. Attie Nieuwoudt:

'I would like to warn the Minister of Labour to be very careful before he decides to take the rights away from our white labour organisations' (Daily Dispatch 3 May 1979)

'The changes are too drastic. They could have a backlash ...'

The white worker should not be exposed, he said, to a situation where his way of life and standard of living were threatened and protective legislation should remain on the statute book. 'I don't want to be an alarmist but ... to face the facts - strong opposition must be expected if the government accepts these revolutionary proposals'.

'The Minister had promised that he would consult with organised labour before changing the labour laws in this country. In fact, the Minister had promised us this in writing ... Now the Minister has gone ahead and announced that the government has accepted the main recommendations ... without having consulted us first'.

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'I therefore want to give a serious warning to the Minister of Labour that if there is labour unrest in this country - and this is possible - the responsibility will rest squarely on the shoulders of the Minister.'

(Cape Times 3 May 1979)

The statement called on the government not to introduce legislation this session but to refer it to a select committee so that all interested parties could state their views. It accused the government of wanting to 'steam-roller' changes to the Industrial Conciliation Act through parliament before the white worker had a chance to realise what dangers they held.

(Cape Times, 17 May 1979)

S.A. Iron, Steel and Allied Industries Union

General Secretary of the S.A. Iron, Steel and Allied Industries Union, Mr. Wessel Bornman:

'Never before in the history of the country have the White Trade Unions and White Workers been meted out such embarrassment and slap in the face as has been done by the recent report of the Wiehahn Commission.'

'The publicity accorded to this report can only be seen ... as shocking and provocative. Fortunately it is not yet legislation, and we can only hope that the Minister and the Government in their wisdom will exercise good discretion and fulfil their responsibility towards the workers who have built this country ...'

'To my mind the Report boils down to nothing less than a plea for total labour integration which in turn will eventuate into social integration of all races...'

'If the Report is accepted as it stands, which we hope will not be the case, and such acceptance should result in the disappearance of the labour peace that has been ours for many years, it must be clearly understood that the fault should not be sought at the door of the White workers and their Unions.'

'As an excuse reference is continually made to the representations made to the Commission. Evidently notice was only taken of certain representations and one wonders what has happened to the rest of the representations that were submitted to the Commission.'

'Finally, for the benefit of those who might not remember, I would like to remind (them) that the policy of the S.A. Iron, Steel and Allied Industries Union remains unchanged irrespective of any report by any Commission.'

(Statement made on 2 May 1979, reported in The S.A. Worker, May 1979)
In an interview in the same issue, Mr. Bornman is reported as expressing the following views on the proposed legislation:

He agrees that it is essential that unregistered black unions be controlled and that they should not be allowed to continue operating as at present. But the question arises as to whether they should have been allowed to organise to the present extent in the first place.

The new legislation seems unenforceable and will not control black unions very effectively. Mr. Bornman welcomes the very heavy fines for transgressors but 'to believe that sufficient control could be exercised by the Department of Labour is nothing but mere wishful thinking'.

'Excepting for pressure from abroad he finds it difficult to conceive of any motivation for granting equal trade union rights to permanent black residents. Since pressure for one-man-one-vote will continue, a concession as far as trade union rights are concerned can only be seen as a step in this direction. He further predicts that it would lead to the restriction of the right to strike of the White workers, which would bring about an impairment of the fundamental rights of the White workers.'

He is also concerned about the wide discretionary powers of the Minister in granting exemptions to groups and individuals from restrictions on union membership.

The veto right is not likely to offer any meaningful protection to the white worker. There could, for example, be delays if one party made use of its veto right and the other appealed to the Industrial Court or to the Minister. In any case, the veto right already exists at Industrial Council level, although in a different form (a single party can call a dispute when disagreeing with a decision).

On job reservation, Mr. Bornman considers that the phasing out of the remaining five determinations will cause problems since employers will use this as a negotiating condition 'to the detriment of workers'.

He cannot agree that job reservation be abolished before meaningful protection for minority groups is established - veto rights and the principle of negotiation are not sufficient.

Mr. Bornman considers that the National Manpower Commission could be of great value. However a question arises as to how the powers of the present Apprenticeship Board and other existing councils and committees will be affected by the Commission.
In general the Industrial Court should play an important role, provided workers have easy access at nominal cost and unions have authority to appear on behalf of members. The court should be equipped to hear all cases without delay, especially since it appears that any labour dispute can be submitted to the court, and the present Industrial Tribunal should be retained as a sub-division of the court to attend to such matters as demarcations.

Finally, Mr. Bornman emphasises that 'in his opinion, the historical and traditional rights and interests of specific population groups in particular areas are not sufficiently protected and that his union will stand by and continue with their established policy and principles. The union reserves the right to make representations on this and other legislation to the Government'.

'Further he is disappointed that for such an important issue so very little time was allowed to study the report and the White Paper and that legislation is now piloted through Parliament at an unheard of speed. It is also to be regretted that the industrial sociological implications of findings were not thoroughly tested and that the moving away from discrimination was apparently politically inspired.'

(News release dated 9 May 1979, S.A. Worker, May 1979)

In the following issue, the editorial explained that at a meeting of the Confederation of Labour on 11 May the union had proposed a motion stating that the Confederation did not find the government's standpoint on the Commission report acceptable because 'the historical and traditional rights and interests of all the population groups are not recognised, protected and respected and therefore it is not acceptable to all groups affected by the legislation'. The editorial continues: 'We were pleased that, among others, the Mine Workers Union through their General Secretary, supported this motion and also eventually voted in favour of it. The only other motion came from another union and was aimed at the acceptance by the Confederation of the contemplated legislation ... Our union could not agree and the matter was put to the vote.'

'Thirteen delegates voted in favour of the motion put forward by the other union, eleven voted in favour of the motion proposed by our union and five delegates abstained.'

The editorial continues that although the delegates do not agree with the Minister, the government and the majority of the Confederation, this does not mean that they want no further consultation with the Minister.

'We believe that we can still negotiate successfully with the government and are convinced that the future will prove that our attitude was the right one in the circumstances ....'
'We do not want to close doors unnecessarily through which we can negotiate on behalf of the White worker only to find it difficult at a later stage to open them again.'
(The S.A. Worker, June 1979)

Running and Operating Staff Union (Group C) S.A.R. & H.

Railway unionist Mr. Johann Benade:
'While business leaders are hailing this from the rooftops this has landed us with shocking domestic problems.'
(The Star, 3 May 1979)

Underground Officials' Association of South Africa:

Editorial opinion in The Underground Official:
The editorial lists 11 major recommendations of the Wiehahn Commission, and continues: 'Nou se mnre. Nieuwoudt en Bornman ons moet bang wees. Ek is g'n bang nie. As ek enigsins 'n bekomernis het is dit oor aanbeveling (h) (dat geslote geledere ooreekomste behoëe moet bly). Gegunte gaan rond dat die' Regering dit nie wil aanneem nie. Dit sal verkeerd wees. Geslote geledere moet alleenlik verbied word as dit 'n kleurgrondslag het. Waar geslote geledere egter gebaseer is op 'n vaardigheids - of kwalifikasie- grondslag moet dit toegelaat word.'
(Underground Official, vol. LIV No. 12, June 1979)

Trade Union Council of S.A.

TUCSA senior vice-president, Mr. Andre Malherbe:
'Tucsa has been fighting for 25 years for the changes recommended by the Commission, especially the removal of job reservation and regarding the Black as a worker in every sense of the word. Tucsa has recommended trade union rights for Black workers since its establishment.'
'If you preclude a section of workers, especially the largest section, from the industrial process then you lay the foundations for subversion and unrest.'
(Garment Worker 11 May 1979)

Garment Workers' Union of S.A.

Garment Workers' Union and National Union of Clothing Workers, editorials in Garment Worker:
Under the heading 'A Gentle Revolution':
With qualifications (that the report had not yet been fully weighed, and that the legislation was not yet avilable), 'it is possible to give an enthusiastic
welcome to this report. Clearly it is a magnificent blow for progress and development. ... The key recommendation that the state should recognise Black Unions is to be welcomed with long-overdue relief...

'But even more important is the recommendation that Mixed trade unions be allowed. We hope that the state response puts no impediment on mixed unions. We have always fought for the trade union rights of Black workers, because this is a right and not a privilege as some would have it. Such rights can be expressed in Black unions but rather than this racially-based idea we advocate a multiracial trade unionism which sees workers as workers. Blacks must be free to join unions, and as unions are free to admit as they choose we hope and trust that true trade unionism will influence such decision.'

'Our industry, as the very first to be affected, fought job reservation from the outset, and we will get great satisfaction at seeing it removed from the law... Wiehahn certainly represents a major change of policy direction in South Africa.'

(Garment Worker 11 May 1979)

The following week's editorial introduced 'A Note of Caution':

'This week we feel it necessary to introduce a note of caution, because so many people seem to have gone overboard over the reports of the Wiehahn and Riekert Commissions, concluding that problems are over and a new era is at hand.'

'Some journalists have gone so far as to see the demise of apartheid ideology in the events of the last two weeks. Unfortunately two swallows don't make a summer, and nor do two commissions.'

Several questions caused concern, the editorial continued, 'and above all it seems that despite the repeated claims in the report that the aim was less State control and interference, the machinery that is being set up will allow more controls'. 'Firstly, we disagree with the limiting of trade union rights to those Blacks who have Section 10 rights to remain in urban areas...'

'While we agree that the closed shop can be misused in the negotiation of what is effective job reservation, we do not believe that it should be outlawed, as it is the right of workers to collectively negotiate a closed shop. Agreements which operated a form of job reservation should be prevented by other means. 'Given', the editorial continues, 'that unregistered unions are not going to be allowed, we are also concerned over the functioning of provisional registration. Will a union be allowed to organise before such registration in order to gain registration, and even then exactly what rights will it enjoy until it is fully registered?'
'A union has a right to exist by virtue of the fact that a group of workers chooses to support it, not because a state registrar agrees to register it. But this is what will happen as the State is given stricter controls over all unions. We do not question the honourable intentions of either the Commission or the Minister but from the proposals it seems to us that Wiehahn's recommendations could result in the recognition of a few Black unions at the expense of the suppression of many others...'

(Garment Worker 18 May 1979)

'A Wrong Move':

'In coming down against mixed unions we feel that the Government has made the wrong move. We realise that our racial situation is a delicate one, but for that very reason we think that a freedom should have been permitted, which would have allowed a steady development towards normalising trade unions on a non-racial basis. The speed would depend on the industry and its past traditions. So often the Commission was unspecific, and this should have remained so, at least in this case. Unfortunately, this move will detract immensely from the positive changes being brought about. Consider the results: We will fail to meet the criteria of freedom of association although we have taken the largest step towards it by recognising Black unions and the right of Black workers to join such unions ...

'We will have enshrined politics in our trade union set-up. True trade unionism is concerned with workers and knows no colour - to divide unions on grounds of colour is a purely political move. By considering the objections of right-wing Whites, the State now in fact boosts Black extremists... It opens Black unions to political influence against the tradition of South African trade unionism, and could result in steps against such unions to the detriment of their members. Moderate forces of multiracialism are being crippled. We will have complicated our industrial relations set-up no end by encouraging a multiplicity of unions in one industry where there might have been one. Employers invariably prefer to deal with a single, representative union, and industrial relations in Britain, for example, are horribly complicated by an inability to do so.'

(Garment Worker, 1 June 1979)
Garment Workers' Union president, Senator Anna Scheepers:
'The government's acceptance of the Wiehahn Commission report would break the back of apartheid. Workers would learn to work together and respect each other, to think not in terms of colour but in terms of worker unity. They would learn that safety lay in co-operation with Blacks, not confrontation.'
(Sunday Times 6 May 1979)

'This is a major and historic step forward in South Africa's labour relations... Improved relations with trade union movements in democratic countries will diminish South Africa's isolation. This will also lead to improved foreign investment and result in increased employment in South Africa itself.'
(Garment Worker, 11 May 1979)

National Union of Clothing Workers

General secretary of the National Union of Clothing Workers, Mrs. Lucy Mvubelo: 'We are jubilant at this development. We feel our dream has come true. Now we hope we are able to use the facilities of trade unionism and be able to prove our ability.'
(Rand Daily Mail, 2 May 1979)

'I regard it as a great victory for our struggle.'
(Garment Worker, 11 May 1979)

S.A. Society of Bank Officials

S.A. Society of Bank Officials, editor of SASBO News: The editor stresses the value of 'co-operation as opposed to conflict' in the industrial relations field. He points out the economic losses involved in a strike and argues that 'the reason for the reduction in strike action in South Africa (after 1973) is attributable to the fact that large numbers of black workers are now either members of trade unions although these cannot be registered, or members of works and liaison committees where they have some form of communication with their employers'.
'Flowing from this, I think it is obvious that there is a direct relationship between industrial peace and worker participation. If other employers would follow the lead of "our" banks, if Government implements the recommendations of the Wiehahn Commission and if all South African workers would accept that prosperity is indivisible we can look forward to a future built on the twin corner stones of economic growth and mutual co-operation.'
(SASBO News, vol. 4 No. 12, May 1979)
In the following issue, the editor dealt at greater length with some of the recommendations of the Wiehahn Commission, particularly those concerning freedom of association.

'The vast majority of Trade Unions', he wrote, 'are of the opinion that the majority recommendation of the Wiehahn Commission should be accepted and that it should be left to the good sense of the Unions and their members to decide on the Constitutional provisions for membership eligibility.'

'In my opinion, making it obligatory for the different races to have separate Unions whilst their members do identical work for the same employer can only lead to a conflict of interests in the years that lie ahead ...'

'I am not trying to pretend that other Unions do not have problems that would possibly be magnified if they were to amend their constitutions so as to admit persons of other racial groups as members. All I am saying is that each Union knows its own circumstances best... Let us hope that ... Parliament... will decide to demonstrate to the world that they have sufficient faith in the South African Labour movement to accept the Wiehahn Commission recommendations, secure in the knowledge that the vast majority of South African Trade Unions are responsible enough to cope with the concept of "freedom of association".'

'Finally, if this is done, bearing in mind the other improvements to our Labour Legislation and Industrial Relations structures recommended by the Commission, the South African Labour Legislation will undoubtedly be one of the best in the Western World.'

(SASBO News, Vol. 5, No. 1, June 1979)

National Union of Furniture and Allied Workers of S.A.

General secretary of the National Union of Furniture and Allied Workers',
Mr. M. Lalaram:
The recommendations were 'the greatest contribution to peace and human happiness'.
(Rand Daily Mail, 2 May 1979)

S.A. Engine Drivers', Firemen's and Operators' Association

Mr. Ken du Preez, S.A. Engine Drivers', Firemen's and Operators' Association:
As expected, the Wiehahn report was 'loudly praised in some quarters and condemned in others ...'

'We live in a changing world and a Country in which changes are inevitable, but despite all this, I am still convinced that we can face the future without fear. Our immediate task is to create, in co-operation with ... the State
and employers, adequate machinery to protect our White members and their working conditions.'

(Indicator, vol. 8 No. 5, May 1979)

S.A. Typographical Union

S.A. Typographical Union, editorial:

'Where we sharply differ with the Government is on their stated policy that in the initial legislation the status quo of existing unions will remain, which means that although Blacks will now be permitted to join unions that must be registered they will not be permitted to join existing mixed or purely white or coloured unions. In other words, existing unions will be barred from recruiting blacks in their own ranks even though it may be the desire of those employees to rather join an existing union of their own choice than to be exposed to influences that may not have their true interests at heart. This is a situation that is totally unacceptable to us ...

'Although late in the day we still intend making every possible representation to the Government to have second thoughts on this aspect. The Minister's intention to leave controversial issues such as this one to the proposed National Manpower Commission will not work. Once the organisation of black workers has passed into the hands of outside influences it will be too late to reverse the process and the country could well be faced with a total race polarisation in the labour movement.'

'Much the same arguments are being used today that we heard during the stormy fifties. Wiser council prevailed then and the mixed unions at that time were given the option of remaining mixed or of separating on racial lines. We preferred to remain one union and have never regretted it. Although we have to comply with the requirements of the Industrial Conciliation Act we have managed to retain industrial peace and harmony in our Industry. All we ask is to be allowed to continue to manage our affairs in the interest of all employees in the Industry in co-operation with our employers.'

(SATU Journal, vol. 81, No. 933, May 1979)

Consultative Committee of Black Trade Unions

A member of the Consultative Committee of Black Trade Unions, speaking in an unofficial capacity:

The report was a welcome move towards bettering industrial relations. 'Some of the recommendations should have been implemented long ago - things like equal pay for equal work.'
But, he continued, 'whites and other groups have had trade unions, while we were burdened with the liaison and committee system. The commission has cleverly recommended that black and mixed trade unions be recognised'.

'What this means is that for a long time to come the trade union movement will be under white control.'

'All the commission should have done was allow black unions free access to the negotiating table. Now the white unions, with the experience and ready machinery, will organise blacks and kill the black trade unions.'

(Post, reported in EcuNews, Bulletin 14, 4 May 1979)

Mr. Henry Chipeya:
He gave credit for some of the principles in the report, but 'found nothing to be very cheerful about' in the new deal: tens of thousands of black migrant workers would lose their union membership, the state would encroach on union territory through safeguards to exclude politics from labour, the veto right of registered unions could exclude black unions from industrial councils and safeguards designed to reassure white workers could prevent the removal of job reservation.

'There are many areas which could make the role of black unions in the new industrial relations system an unworkable one.'

(The Star, 23 May 1979)

Federation of S.A. Trade Unions

General Secretary of the Federation of S.A. Trade Unions, Mr. Alec Erwin:

'Now that we've had the benefit of ministerial interpretations of the Niehahn Commission some of the fears of the African workers and those unions committed to non-racial unionism are rapidly being confirmed...'

'The Minister is rapidly eliminating the most progressive aspects of the report. His stand on migrant workers makes a mockery of the well-argued reasons in the majority report for admitting them to union membership. It makes a mockery of the chances of existing unregistered unions achieving representivity since the vast majority of workers are migrants in terms of the Minister's definition.'

'Certainly the principle of freedom of association goes out the window since the criteria for union membership remain the Government-imposed apartheid structures, criteria rejected by the Niehahn Commission.'
'All that remains is the convenient likelihood that existing registered unions will in the main be the ones likely to attain registration and recognition.'

'The non-racial approach now also seems to have gone since the Minister is quoted as saying that mixed unions including blacks will not be registered for the time being...'

'The Minister's claim that unregistered unions have large amounts of money which no one knows anything about is nonsense. We have no fear of an inspection of our finances and our constitutions are largely modelled on those registered unions and subject to scrutiny at any time.'

'However, now it appears that our registration would only be given after taking into account numerous considerations including the national interest... Who can blame us for being cautious? Particularly as even if we get registration we may not get onto any industrial council since the right of veto over new entries will be given to existing parties.'

'Unfortunately those unfamiliar with labour and its problems have only seen in the Wiehahn Commission the cherry-topped cake and think we'll all be able to eat it.'

'Regrettably, as the African worker knows only too well, internationally accepted freedoms when applied to him never come without the snags. We've still waiting for the legislation but with a caution that rapidly grows to open scepticism with every new statement of the Minister.'

(Sunday Tribune, 6 May 1979)

Black Allied Workers' Union

Mr. M.T. Moerane, public relations officer of the Black Allied Workers' Union:

He had just returned from a tour of West Africa, where the report had made a favourable impression, he said. He called on the government not to 'undercut' the recommendations of the commission.

'In the circumstances, the proposals in the Industrial Conciliation Amendment Bill limiting mixed membership of trade unions and membership of workers who are commuters ... are not only unjust but mischievous and provocative and wanton. They must be scrapped.'

He said it would be a pity if plausible moves towards the promotion of black workers' rights were undercut with 'unnecessary, flagrant intrusion of apartheid hang-ups' when hopes for change had begun to flutter in the hearts of black workers.

National Union of Commercial and Allied Workers

Mr. S. Ariefdien, president of the National Union of Commercial and Allied Workers:
He told the union's annual conference in Cape Town that many workers who had been members of unregistered unions would now be excluded from any union rights.

'The Wiehahn Commission has wisely recommended the granting of trade union rights to all black workers. The White Paper, however, has accepted only a part of this, by providing for trade union rights only for those black workers permanently resident and employed in South Africa.'

He said strong incentives had been given to black unions to register, although this would mean denying membership to migrants and 'frontier commuters'.

'It appears that the government will illegalise agreements between employers and unregistered unions. This is clearly an attempt to compel the existing trade unions to register.' Another 'carrot' which was being held out to induce unions to register was stop-order deductions, he said.

(Cape Times, 21 May 1979)

2. COMMERCE AND INDUSTRY

Assocom

Assocom executive director Mr. Raymond Parsons:

He singled out three highlights from the report. The proposed Manpower Commission 'is a very valuable instrument for South Africa to do its planning'. The opening of apprenticeship to all races was welcome, he said. Growth depended on harnessing total human resources in South Africa. The registration of black trade unions was 'a very positive picture on the labour relations front'.

(Daily Dispatch, 3 May 1979)

Afrikaanse Handelsinstituut

Afrikaanse Handelsinstituut president Mr. J. van Wyk:

'The scrapping of job reservation is a good idea as far as overseas is concerned', he said. Job reservation was 'a statutory fact but a practical fiction'.

(Daily Dispatch, 3 May 1979)

He acclaimed the investigations as 'very timely'. The report was 'rational, mindful of the fears of white workers'. He welcomed the proposed Manpower Commission. 'Trade unions have a bad image because of the miseries they have caused in Britain but we must not lose sight of the positive benefits. As an instrument for negotiation it (the trade union) is essential to peace in labour. We wish to see it as a new safety valve so that we do not land
in the minefield without warning'.

(Cape Times, 2 May 1979)

Afrikaanse Sakekamer

Chairman of the Afrikaanse Sakekamer and general manager of the Ciskei Development Corporation, Mr. Frans Meisenholl:
'This is a very important and positive step forward. Let us hope it results in better labour relations and development of manpower'.
(Daily Dispatch, 4 May 1979)

Border Chamber of Industries

President of the Border Chamber of Industries, Mr. Max Phillips:
The government acceptance in principle of the Wiehahn Commission report was 'a big stride forward - it should improve relations with our trading partners'.
He said many of the recommendations had already been put into practice by firms operating on the Border.
(Daily Dispatch, 4 May 1979)

Federated Chamber of Industries

In submissions to the government suggesting amendments to the draft legislation, the Federated Chamber of Industries:
-noted that some blacks in an establishment would be employees in terms of the Act and others would not, which would cause problems. It asked that 'at least' commuters in Natal and the Northern Transvaal be included in the definition.
-suggested relaxing the bar on multi-racial unions so as 'to permit unions to enrol subdivisions of skilled groups of a different race' if mixed unions were not to be permitted.
-asked that employer organisations be allowed to join industrial councils if a majority (instead of all) existing parties agreed.
-urged that the five remaining work reservation orders be repealed as soon as possible.
-and that a 'clear' appeal from the Industrial Court to the Supreme Court be allowed for.
-urged that existing unions and employer organisations be allowed to lodge objections to the provisional registration of new bodies.

One submission of the FCI has already been accepted - the clause in the original bill forbidding a registered union 'having any relationship' with a person who is not an 'employee' has been scrapped.
(Financial Mail, 22 June 1979)
East London Chamber of Commerce

President of the East London Chamber of Commerce, Mr. Jack Snell:
The implementation of the proposals would create the atmosphere for good and lasting labour relations. The recommendations were not unexpected, he said, as they were very much in line with Assocom thinking.
(Daily Dispatch, 4 May 1979)

Cape Town Chamber of Commerce

Cape Town Chamber of Commerce president, Mr. R.M. Friedlander:
'Prima facie, the recommendations sound first-rate, positive and constructive. They should go a long way to bringing about a better society and are certainly in the interests of the economy. Without having analysed the full report, it does seem as if the recommendations are fundamentally in line with the views of the Chamber of Commerce.'
(Cape Times, 2 May 1979)

Western Province African Chamber of Commerce

President of the Western Province African Chamber of Commerce and vice-president of the National African Federated Chambers of Commerce, Mr. Lucas Phillips:
The recommendations were 'a dream realised at long last'. They were 'what the black people have been looking forward to for many years', he said. The recommendations were particularly welcome as NAFOCC had made strong recommendations to the Commission last year.
(Cape Times, 2 May 1979)

Western Cape Traders' Association

General secretary of the Western Cape Traders' Association, Mr. K. Allie:
If Parliament agreed to the proposals it would be 'a great day in the lives of the working-class people of South Africa because till now black workers have had no bargaining power'.
(Cape Times, 2 May 1979)
3. MULTINATIONALS

International Business Machines

Mr. Dick Clarke, IBM:
He described his company's reaction as generally very favourable. 'I hardly imagine the new proposals will satisfy all the overseas critics. But we need to be concerned with what is right for us, not with what radicals abroad want.'
(Sunday Times Business Times, 6 May 1979)

General Motors

Mr. Lou Wilking, chief of General Motors in S.A.:
He agreed that the stress should be on doing the right thing for this country, not on the impossible task of trying to satisfy overseas pressure groups. 'We welcome any moves to advance fair employment practices... We especially welcome the progress towards registered black trade unions. We feel every employee should have the right to choose how he wants to negotiate and bargain - and within officially-recognised machinery.'
'Also, we think the follow-through from Wielhahn, if properly handled can do wonders for the economy in terms of confidence and, longer-term, in terms of output, productivity and management.'
'To have a viable economy, the private and public sectors must be able to draw on all the country's resources, without fear or favour ...'
(Sunday Times, Business Times, 6 May 1979)

Ford

Mr. F. Ferreira, Ford South Africa's director of industrial relations:
'The report by Professor Wielhahn must be welcomed by all quarters as it gives clear recognition to the development on the broad labour front which we have witnessed over the last number of years...'
'More specifically, the present shortage of skilled labour at all levels which has arisen over the last few years can now be tackled purposefully with the co-operation of employer and employee organisations.'
(Rand Daily Mail, 2 May 1979)

Chase Manhattan Bank

A spokesman for Chase Manhattan Bank:
He hoped the report would draw some of the fire it had to suffer from US critics, 'particularly about trade unions. The major preoccupation with the Sullivan and EEC labour codes has been the need to give blacks their own
officially-recognised unions.'
(Sunday Times, Business Times, 6 May 1979)

Siemens

Reinhold Sanne, financial and commercial chief of Siemens in South Africa:
He said his company firmly supported the scrapping of discrimination at all
levels in business.
' We have lobbied strongly for mixed, as opposed to separate, unions for
blacks and whites. There would certainly be conflicts of interest between
the members of separate white and black unions in the early stages'.
'We think there would be trouble if entrepreneurs and employers were expected
to arbitrate between black and white registered unions. With mixed unions
it will be up to the union members to resolve their different interests before
meeting with managements.'
(Sunday Times, Business Times, 6 May 1979)

General

Stephen Orpen and David Carte reported in the Sunday Times, Business Times
(6 May 1979) that 'there were no dissenters among the chief executives of
multi-national corporations in South Africa when questioned about the Wiehahn
Commission report ... Bosses of companies doing some R2-billion worth
of business in this country were unanimous in their enthusiasm for the main
thrust of the report, which they described as "historic" and "the greatest
breakthrough in race relations in South African industry in the past 30 years"."

4. INTERNATIONAL REACTION

International Congress of Free Trade Unions:

Andrew Kailenbo, head of the Africa Section of the International Congress
of Free Trade Unions:
'We are very pleased at the news we have heard so far. If they are talking
about recognition of black trade unions then this is certainly a step in the
right direction. But our organisation still has to study the full report
before taking up a formal position'.
(Daily News, 2 May 1979)

ICFTU Headquarters, Brussels:
'The recommendations to abolish job reservation by law could easily be
invalidated by the continued sanctioning of the right of White unions to negotiate
collective agreements barring Blacks from certain jobs... (We have) the strongest reservations on the clauses dealing with the recognition of Black trade unions'.

(Garment Worker, 11 May 1979)

International Labour Organisation

The International Labour Organisation studied the Wiehahn Commission report and legislation at its annual meeting in June. At the meeting several statements were made.

France's delegate to the ILO annual conference in Geneva:
The Wiehahn recommendations were 'a step forward', depending on the degree of implementation.

Assistant general secretary of the International Metalworkers' Federation, Mr. Werner Thonnessen:
The Federation had given the Wiehahn report a cautious welcome when it was first published. But, he said, the Industrial Conciliation Amendment Bill 'corrected the impression' that the South African government was in favour of the Wiehahn proposals. Mr. Thonnessen said he had met Professor Wiehahn in Geneva on 25 May and asked him why the bill fell short of his report's recommendations. But Professor Wiehahn had seemed unaware of the nature of the legislation.
The IMF had always opposed boycotts, partly because of 'the hopes that many people in the West placed in the Wiehahn Commission', he said. 'But if these hopes fail - if what comes out of it is no improvement but makes conditions for black unions even worse - it will be very difficult for us to convince our affiliates that economic boycott and disinvestment are not the right way.'

Vice-chairman of the ILO's governing body and Canadian workers' delegate, Mr. Joseph Morris:
The Wiehahn report threatened the very existence of black unions.

A representative of the International Confederation of Free Trade Unions:
The draft legislation had 'revealed S.A.'s true intentions to destroy the black trade union movement'. The exclusion of migrants and commuters meant that existing black unions would lose up to 95 per cent of their members. It was 'a masterplan of bantustanisation'.

(Financial Mail, 22 June 1979)
British Ambassador to S.A., Sir David Scott:
The Wiehahn report was a significant step towards making S.A. a leading economic nation. 'If the Government accepts the Wiehahn Commission's report it will help put more into the pockets of Blacks and this will add a new dimension to the economy.'
(Natal Mercury, 4 May 1979)

US State Department

US State Department spokesman Mr. Hodding Carter:
The Carter administration had not seen the full report but it welcomed any lessening of restrictions over the rights of various people in the labour field. The lifting of restrictions based on race was welcome.
(Cape Times, 3 May 1979)

United States Department of Labour

Professor Wiehahn stated in Washington that the US Department of Labour had given him the first negative response to this report. 'They were rather negative in their reaction to the legislation ... They didn't think it was what we promised. They think it contains one or two steps backwards. I think this is unfair. It is premature to judge now.'
(Cape Times, 27 June 1979)
To anybody interested in what is happening in Southern Africa at the present time, it is clear that an understanding of changes taking place in the field of labour is crucial. The whole debate about the political implications of economic growth, for example, revolves very largely around different assessments of the role of black workers in the mines and factories of the Republic. Many of the questions with which people involved in Southern Africa are now concerned relate, in one way or another, to the field generally set aside for labour economists to cultivate. The impact of trade unions; the causes of unemployment; the economic consequences of different educational policies; the determination of wage structures; the economics of discrimination; all these and more are matters with which labour economists have been wrestling over the years in various parts of the world.

At the same time there are many who would argue that these issues are far wider than can be contained within the narrow context of ‘labour economics’. These issues, it is pointed out, go to the heart of the whole nature of development. In recent studies, commissioned by the International Labour Office, of development problems in Columbia, Sri Lanka, and Kenya, for example, leading scholars have identified the three crucial issues facing these countries as being poverty, unemployment, and the distribution of income. Thus the distinction between labour and development studies is becoming more blurred as economists come face to face with problems of real life in the Third World.

It is here too that an increasing number of people are coming to see that study of the political economy of South Africa must not be done on the assumption that the problems there are absolutely different from those facing other parts of the world. Indeed it can be argued that far from being an isolated, special case, South Africa is a model of the whole world containing within it all the divisions and tensions (black/white; rich/poor; migrant/nonmigrant; capitalist west/third-world; etc.) that may be seen in global perspective. Be that as it may, the fact remains that the economy of Southern Africa (for the political and economic boundaries are singularly out of line with each other) is one of the most fascinating in the world. It is one on which far more research work needs to be done, and about which further understanding of the forces at work is urgently required. It is in order to attempt to contribute to such an understanding that Saldru is issuing these working papers.