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INDUSTRIAL CONFLICT MANAGEMENT
IN A
DEVELOPING COUNTRY

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Submitted for the degree of Doctor of Philosophy

City University - London

in the

Department of Systems Science

December 1993

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(Vol. I)

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ACKNOWLEDGEMENTS

The research for this thesis was pursued during the period 1982/92 while I was employed as the Personnel Manager and Industrial Relations Consultant for the Royal Swaziland Sugar Corporation at Simunye, Swaziland. Concomitant with my employment duties was that of RSSC representative on the Council of the Federation of Swaziland Employers, Chairman of the Industrial Relations Sub-Committee of FSE, some time member of the Tripartite Conciliation Council and Employers Assessor - Industrial Court (1985 - 87). All of the professional members of these bodies and government, trade unions and employers associated with labour relations in Swaziland co-operated with information and comment, essential for the research. Their assistance was invaluable. Among those who freely gave of their time and effort particularly were, Peter Dodds, former Executive Director of the Federation of Swaziland Employers; Ralph Bhembe, Commissioner of Labour, Jan Sithole, Secretary-General of the Swaziland Federation of Trade Unions and my colleagues on the Council of the Federation of Swaziland Employers.

Of paramount importance was the detailed, lengthy, critical comment and advice of Prof. Chris Mitchell, formerly Professor in the Department of Systems Science, City University, London and presently Director of the Centre for Conflict Resolution, George Mason University, Fairfax, Virginia. His constant encouragement, albeit from far distant U.S.A. and London over a long period of time, provided the main impetus for my continuation with the project. I am also indebted to Dr. Peter Willetts and Prof. Ewart Carson of City University for facilitating the project work and advising me on communications with Chris Mitchell during my annual visit to London.

For providing the constant secretarial facilities, often at considerable personal inconvenience my thanks are due to Ms. Lillian Culverwell, Veronica Parry, Angie Dube, in Swaziland and Ms. Jenny Abrams at the Computer Services Department at University of Natal, Pietermaritzburg. Ms. Pat Henry, a sociologist, Swaziland assisted and guided me with formulating and interpreting survey data recorded in Chapter 4.

My grateful thanks are recorded to my colleagues at Simunye for patience and assistance, and in particular John Ranger, Director, Booker-Tate at Thame (Oxon) former Chief Executive of the Royal Swaziland Sugar Corporation and to the present General Manager, Simunye, Mike Boast.

Finally, and of the utmost concern to me was the constant patience, support and direct assistance with references and categorisation, from my wife Laura; without her understanding the work would never have been concluded.

STATEMENT

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ABSTRACT

INDUSTRIAL CONFLICT MANAGEMENT **IN A DEVELOPING COUNTRY**

(Trade union recognition for the Swaziland Sugar Manufacturing and Refining Industry 1982 - 1992 from a human resources management perspective).

This study has attempted to consider the complexities of labour relations and industrial conflict within a developing African country. A major case study was followed.

The research covers the ten year period 1982 - 1992 and follows the interaction and conflict between management representatives of employers and trade union leaders in Swaziland's major strategic industry. The specific conflict issue was that of recognition by the employers of a trade union, as the sole collective bargaining agent for workers within the sugar manufacturing and refining industry. Both parties were constrained within the parameters of legislation more applicable to an industrialised nation than to a third world state.

Interaction between participants in an industrial work place occurs within the ambience of the wider society but values, norms and ideologies are reflected individually and in the various sub-systems of that society. A prevailing ideology however pervades the total socio-economic and political system ordered through a framework of rules and regulations determined and approved by the governing elite. In one developing country, Swaziland, the authoritative framework for the industrial relations sub-system during the years 1982 - 1992, was based upon the Democratic Socialist ideology of Western industrially developed states, as catalogued and promoted by the International Labour Organisation (ILO). Organised labour's values and norms were identical to I.L.O. norms but the rank and file of the worker collectives in Swaziland rarely understood the concepts involved. Employers and managers marginally identified with the concepts but did not fully support their operationalisation.

The hypothesis is that it was the impact of the respective values and norms of the employers and their representatives and union leaders which determined the processing of the conflict. The values and norms of industrialised society encapsulated in industrial relations concepts and the notion of collective bargaining embodied in Swaziland's labour legislation contributed little to the resolution of conflict over union recognition.

Collective bargaining with its inherent compromise approach provided a model for conflict management and a forum for the exercise of attitudes and actions arising from individual and group values and norms; it did not provide guidelines for conflict resolution. Overt conflict was avoided but the underlying differences and the basic conflict itself were reinforced and prolonged for ten years.

The study concludes with the suggestion that a locally developed conflict resolution strategy providing a structure for a consensus approach might have resulted in a long term collaborative environment for industrial relations. Such an environment could lead to economic stability and capital investment of benefit to employers and employees and of vital concern to a developing society.

ABBREVIATIONS

A.F.L.	American Federation of Labour.
Comm. F.T.U.	Commonwealth Federation of Trade Unions.
C.D.C.	Commonwealth Development Corporation.
C.E.O.	Chief Executive Officer.
C.O.S.A.T.U.	Congress of South African Trade Unions.
C.O.D.E.S.A.	Conference for a Democratic South Africa.
D.P.M.:	Deputy Prime Minister.
E. = R.:	Emalangen (Swaziland) equals Rand (South Africa) currency.
F.S.E.:	Federation of Swaziland Employers.
Govt. of S.W.D. (G.S.):	Government of Swaziland.
G.D.P.:	Gross Domestic Product.
I.C.:	Industrial Council.
I.C.F.T.U.	International Confederation of Free Trade Unions.
I.L.O.	International Labour Organisation.
I.R.Act.	Industrial Relations Act; 1980.
J.I.C.	Joint Industrial Council.
L.A.B.	Labour Advisory Board.
N.E.C.	National Executive Committee.
R.S.S.C.	Royal Swaziland Sugar Corporation.
R.S.P.	Royal Swaziland Police.
S.N.A.	Swaziland National Administration.
S.F.T.U.	Swaziland Federation of Trade Unions.
S.A.P.W.U.	Swaziland Agriculture and Plantation Workers Union.
S.S.M.R.I.E./A.	Swaziland Sugar Manufacturing and Refining Industry Employers Association.
S.S.A.	Swaziland Sugar Association.
S.A.S.J.	South African Sugar Journal.
T.U.C.	Trade Union Congress.
T.L.C.C.	Tripartite Labour Conciliation Council.
U.N.	United Nations.
W.F.T.U.	World Federation of Trade Unions.

CHAPTER I BACKGROUND OF THE STUDY

1.1 CONFLICT AND VALUES

1.1.1 Introduction

This thesis is concerned with the attitudes and behaviour determining and resulting from people's norms and values as they influence and impact upon the industrial relations sub-system of the sovereign independent African state of Swaziland. Specifically it is directed at the ten year period 1982 - 92. The particular issue is that of industrial relations conflict. A major trade union demanded recognition as the sole collective bargaining agent of the workers with employers within a major industry. The thesis deals primarily with the interaction and results of interaction between management and union representatives as affecting the process of conflict.

1.1.2 Society and Values

A basic premise for this thesis is that of the 'authoritative allocation of values' (David Easton as quoted - Apter D 1965 : 229). It is government, in any society, which maintains a formal structure to that society's values through legislation. The authority of government approves and forces the application of these values, which determines the structure within which societal systems and sub-systems operate. Specific to this study of industrial conflict is the argument that:

'the larger society, through its governing elites initially determines the central features of an industrial relations system, which includes those features and rules of industrial relations that are largely dependent on the power structure

(Barrett, B. (ed) 1975 : 366-370).

But the argument can be carried further. Barrett refers only to certain features. The contention here is that all features not only of industrial relations but of all other sub-systems within a given society, are operative only in so far as the power elites permit them to be. Power-elitism, however is not the prerogative only of government, but resides also in the economic power of employers, sapiential (viz managerial and technological knowledge) power of managers, and the collective labour power of workers. The operationalisation of all cultural/social and economic phenomena are constrained within socio-economic and political values as expressed through legislation and rules/norms. This study notes the extent to which these values promote or detract from the successful resolution of conflict, while considering the management of conflict within the industrial relations sub-system. It does this by an analysis of an emergent nation (Swaziland) possessing a political system specific to itself that is somewhat different constitutionally from any other emergent nation and with a somewhat different political system from that associated with a Western industrial society. It has been stated that little research has been done on the 'overall relationship' between political and industrial relations systems (Barrett, B. (ed) 1975:360). One exception was John T Dunlop (as quoted by Barrett), who considered that 'industrial communities irrespective of the political form set up the major players in the industrial relations game and define their major rules of play'. But in developing this theme, he recognised also that the wider cultural heritage of a given society has an impact and that it is not a static or unique phenomena. It is related both to the stage of economic development and 'the chronological period of history in which the formation of the [industrial relations] system takes place'. (Barrett, B. (ed) 1975:360). Research in this study will show the extent to which the industrial relations system in Swaziland has been affected by the politics and economic developments which have taken place during its post-colonial phase, but more

specifically whether the ideology, operationalised in political and socio-economic values of the actors in the system, has significantly affected the management of industrial conflict.

1.1.3 Belief and Execution

Comment on the concepts of politics and ideology, seems relevant. In 1980, students of the Institute of Labour Relations at the University of South Africa, were asked to consider a statement by the Commission of Inquiry into Labour Legislation appointed by the State President of the Republic of South Africa on 21 June 1977. The text of the statement read-

‘The Republic of South Africa subscribes to the principles of a free market economy based on individual freedom in the market place. This freedom relates to freedom of choice either as consumer or as producer and freedom of competition within a political democracy. This ideology has been practised by successive governments of South Africa since the dawn of the industrial and commercial history of the country and the Commission has no reason to believe that this philosophy will be abandoned’ (Bendix, W. 1980:1-12 as quoted).

The concepts of freedom of choice, freedom of competition within a political democracy, were collectively considered as an ideology by the Commission of Inquiry. It was the inseparability of the political and socio-economic components but even more the political component as the dominant factor of the ideological statement, which caused the author of this thesis to focus attention upon the political concepts of the Commission’s interpretation as being of primary concern. In what was then a restrictive apartheid society which limited freedom of choice and competition in the industrial labour

market and in most other spheres of South African society the Commission members believed that society subscribed to their ideology.

It was argued (Merkl, P. -1967:30) that the basic values of a community relating to the desired basic order are derived from the good, which in turn is derived from the values and is essentially political because that which is good is determined by the authoritative allocation of values. The relevance of this comment on ideology lies in the fact that the argument followed in the author's paper was that normative statements (belief) are not always consistent with execution. For example, interpretation and execution of such wide embracing political values as freedom and democracy can fall anywhere within a spectrum bounded by individualism and the collective social reflection of societal values. The power-elite of South Africa, while existing in an African industrially sophisticated state believed it subscribed to democratic good - a belief far removed in execution by apartheid. If in an industrially sophisticated African state there was such belief, what might be the situation in Swaziland, where industrial sophistication was much less?

Because belief is executed through values it is suggested that the beliefs and authoritative values of the legislators and the beliefs and values of the industrial relations actors as manifested through their attitudes and actions, impact upon conflict processing in industrial relations sub-systems.

To what extent this contributes to conflict resolution, or militates against it by promoting conflict management, is a concern for this study.

The author interprets conflict management as an attempt to maintain the status quo while complying with the legal requirement in Swaziland for effecting collective bargaining in the labour sphere. Conflict resolution requires a combined team problem-solving approach by both management and

labour, towards the achievement of organisation goals. This and related issues are discussed in Chapter 12.

1.1.4 Industrial Relations Rules

Adding to the complexity of the belief and values dichotomy, is the perception by the actors in the industrial relations sub-system of the 'rules'. Flanders quotes Dunlop and supports his contention that a 'system of industrial relations is a system of rules' (Barrett, B. (ed) 1975:21). Strong defines rules as law viz the 'general body of rules which are addressed by the rulers of a political society to the members of that society which are generally obeyed' (Strong, C.F. - 1972:5). Rules for industrial relations however, comprise more than those established by government and legislation. As listed by Flanders they comprise, 'legislation and statutory orders, trade union regulations, collective agreements and arbitration awards, social conventions, managerial decisions, custom and practice', (Barrett B (Ed) 1975:21) to which may be added employer rules and regulations and Industrial and Appeal Court judgments. These rules may be divided into procedural and substantive. The former establish the regulation of relationships (status) between the parties involved in an employment situation and the latter define the rights and obligations attaching to the various jobs in the industrial hierarchy.

1.1.5 Complicating Factors

1.1.5.1 Management/Labour Perceptions

Not only the ordering and/or negotiation which occurs in the establishment of those rules however, but also the interpretation thereof and the differing perceptions of the participants constitute, in themselves, a

complicating factor. Simply illustrated, management with its concern for shareholders in addition to its common concern with the work-force for a continuing viable enterprise, is almost certain to have perceptions on some rules at variance with members of the work-force, whose primary concern is with obtaining the optimum reward for the work done. In an industrially developed country this difference is accentuated by social class differences. Conceivably these differences may be even more acute in an undeveloped or partially developed state. Often management consists of expatriate personnel recruited, because of technical and managerial expertise, from a totally different political socio-economic and cultural background to those whom they manage. And it is suggested that it is with the substantive rules where differences impact upon the resolution of conflicts, rather than in procedural matters. For example, there may be little or no disagreement on the need to set a pay rate for a job (procedural) but the fixing of that rate (substantive) could be a very contentious issue. There may be no disagreement that matters affecting employment within an industry should be discussed and debated within a Joint Industrial Council, but establishing what are negotiable items and what are only for discussion can be contentious issues between employers and labour representatives.

1.1.5.2 Constitutional Exercise of Authority

A further matter for study in this thesis is the type of political constitution which existed in Swaziland. It was stated earlier that there was a conceptual spectrum. What must be of concern in considering the impact of political/social ideology upon the industrial relations sub-system, is the position of the respective ideologies within the spectrum. That position can be considered in its operationalised form as a type of government exercise of authority.

All governments exercise power within three dimensions - legislative, executive and judicial. These three functions are inter-related but dependent upon the extent of the power with which they are invested, and this varies dependent upon the position within the spectrum, from individualistic to the collective reflection of societal values. The distinctions in the exercise of power can become unclear. It is common knowledge that the post-independence history of many African States has been that of 'power-by-rifle', characterised by political coup and counter-coup. Inevitably, the distinctions between the three departments of government have disappeared in such situations. But even where the use of authoritative violence has not ensued, misunderstanding can exist between the legislative, executive and judicial branches of government. Junior officials of government departments, who may or may not be conscious of their government viewpoint can attempt to impose their own viewpoint as an authoritative decision of government when (even in terms of their own government legislation) they are only empowered to advise and assist. Examples could be quoted of police officers and uniformed armed individuals (even at the most junior levels) who attempt to enforce their own interpretation of their role.

However, since this thesis deals with industrial relations, it might be more pertinent to note the cases of junior Labour Department officials who attempt to impose a settlement of a labour dispute by instructing either employer or employee to adhere to what the officials believe to be the intent of the labour legislation, rather than indicating to both parties alternative interpretations which might be subject to the need for judicial assessment. Such instances occur more in the sphere of substantive rules rather than procedural or more in cases of disputes of right than in disputes of interest.

As an independent state, Swaziland has inherited from the former British colonial power the concept of the Rule of Law¹

as distinct from the successors of those continental powers whose constitutions embody Administrative Law (Strong C F 1972:66). In the former case, the executive has no special protection, whereas the latter provides protection for the executive arm of government through a special system of administrative law. The question arises as to whether the British Rule of Law concept has effective application to post-colonial African states, now that the source of the concept has been directly removed, but that is not a subject for enquiry in this thesis. What does need stating however, is that the apparent and oftentimes assumed authoritative status conferred on many government servants vis-a-vis the public in developing African states, (even in post-British Colonial States), tends, unwittingly to promote the authoritarian Administrative Law approach of Continental Europe, rather than the more informal and unwritten Rule of Law which emanates from the United Kingdom.

The early classification for the type of government of a State provided by Aristotle endeavoured to assess good or bad government. In doing so, whether consciously or not, it included both the ideology upon which the State was based and the form of the State's institutions. While Monarchy or Royalty (Government of One), Aristocracy (Government of the Few), and Polity (Government of the Many), were seen as good, Tyranny or Despotism, Oligarchy and Democracy, were seen as bad. Through the centuries Aristotle's descriptions of governments have themselves become more complicated. For example, the British Monarchical system of government is no longer 'government of one' and the 'Polity' or 'government of the many' could be seen as a form of democracy by some politicians. The point is that the authoritative allocation of values originates from the perception accorded the ideological foundation of the values by the actors who form the power-source. More simply, both the former Soviet Union and the United States of America, claimed that their values reflected democratic ideology. However democracy can be positioned anywhere on the spectrum. That being the case, the operationalisation of democratic values can differ in practice, although both power-sources would claim democratic values. In developing African States

the perception of values and the practical application thereof can change rapidly through an overnight coup or similar change.

For example, the inherited Rule of Law concept pursued by the former Rhodesian Government, albeit eroded by emergency legislation, would no doubt still be claimed by the existing Zimbabwean Government. Such claim and/or perception by government was inconsistent with the violently authoritative actions of the Korean trained Fifth Brigade of the new Zimbabwean armed forces against the perceived rebels of Joshua Nkomo in 1982/83. A further example of expedient change was the suspension of the constitution of Lesotho in 1970 by the Chief Minister Leabua Jonathan when his ruling Congress Party was in danger of losing an election. In Kenya, the threatened attempts to stifle all forms of opposition following apparent democratic election of President Arap Moi suggests a difference between belief and execution of democracy.

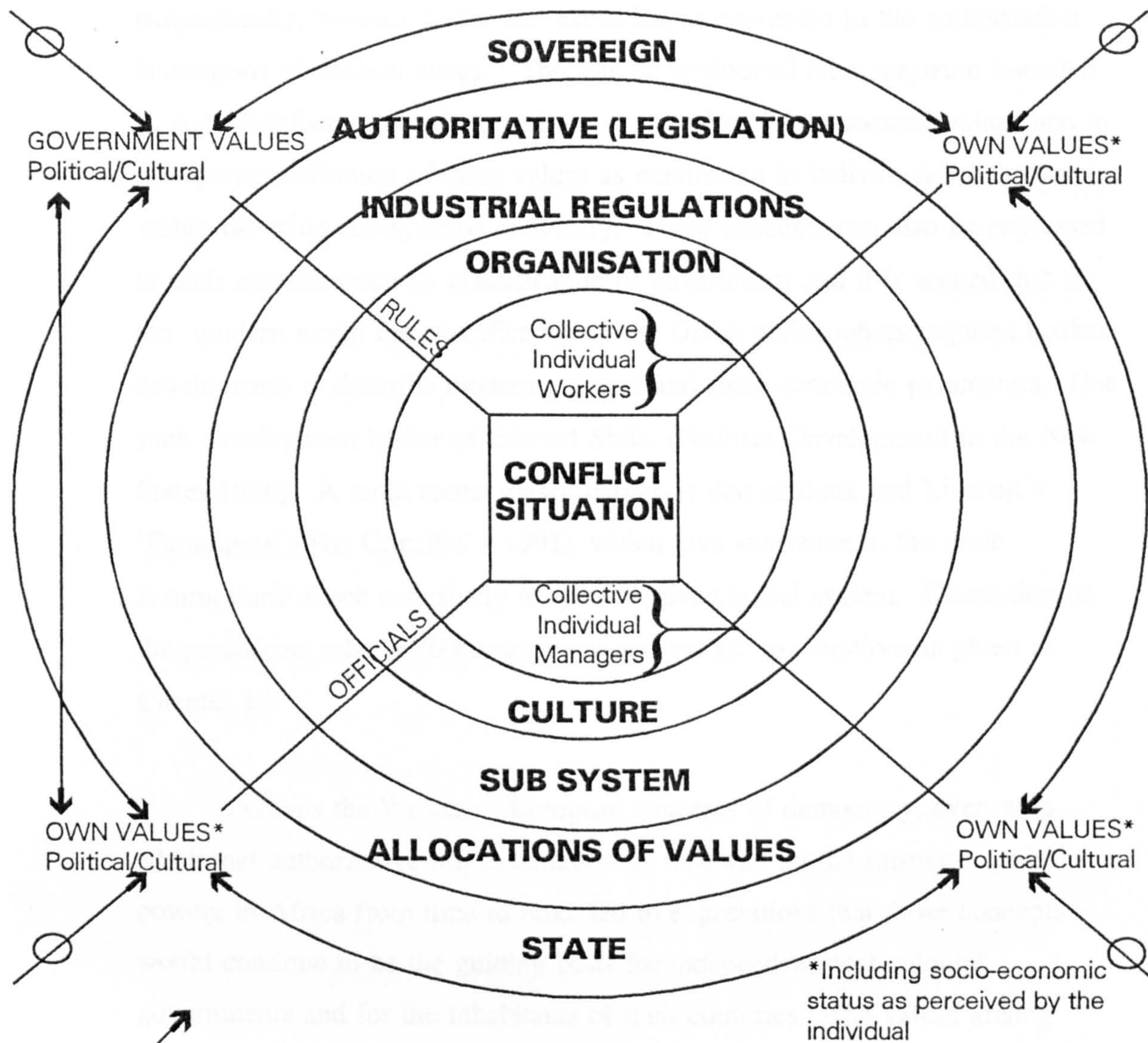
These extreme cases illustrate the confused perception of ideologies operationalised through values, which in turn are manifested by the actors in any of the sub-systems of societies. It might be argued that the less politically and socio-economically developed the society, the more confusion extends to the actors. This thesis will provide supporting evidence for the argument.

It is argued that all the influences to which reference has been made and which culminate in societal and individual values, all bear upon each industrial conflict situation through the specific actors behaviour.

Figure 1.1 as conceived by the author, illustrates the combined involvement of such influences as they impact upon an industrial conflict situation.

Fig. 1.1

Industrial Relations Conflict Arena



External political/cultural influences viz. international

Explanatory Notes:

- (i) Industrial relations conflict is seen as a collective activity - there is no conflict if individuals resolve the difference between them without recourse to an outside agency.
- (ii) All individual values are also embodied in the values of the collective - Viz individuals have either accepted/helped establish the collective group values or subordinated their own and represent their peer group values in conflict activity.
- (iii) Four collective group values are represented, Government, Management, Workers, Government officials. These government officials are expected to represent values coincident with government values. In practice however, as individuals, their perception of their roles may be at variance with government intentions and become manifest in a different value approach to that expected by the other actors and thus produce the fourth group of values.

Confusion can exist between ideology and values arising therefrom or, simplistically, between belief and execution as expressed in the authoritative institutions of modern states. This can be positioned on a spectrum bounded by individualism, rationalism and the social reflection of societal values and in the operationalisation of these values as manifested in individual behaviour within differing sub-systems of society. These concepts can also be expressed in their manifestation by classification of government and it is argued that in the modern world the classification of the Greek philosophers requires further development to describe modern political and socio-economic parameters. One such development is that of Edward Shils, (Political Development in the New States 1966). A more recent classification, is that of Beck and Linscott's 'Paradigms' (The Crucible' - 1991), which give substance to the basic assumptions which cohesively maintain a given social system. Discussion of the paradigms relative to management and worker assumptions is given in Chapter 12.

Perhaps the Western - European concepts of democracy, even with additional authoritative implementation as followed by the former colonial powers in Africa from time to time, led to expectations that those concepts would continue to be the guiding basis for independent post-colonial governments and for the inhabitants of their countries. The values arising therefrom would be the major influencing factors on the governmental machinery, which in practical terms gives effect to the authoritative allocation of values. Some of that machinery was already operative in the colonial era, for example in the Labour Department in Swaziland.

There was a structure for effecting government in practice. What appears to have happened is that the machinery of government (in the guise of officials) has in some respects, become unaligned with basic values upon which the machinery of government was originally established - namely, the desire for stability, the desire for liberty and the desire for justice (Partridge P - 1967 : 44 as quoted by Quinton A (Ed)).

It is within these or similar parameters that the thesis will describe the socio-political environment within which the conflict management activity of the industrial relations sub-system occurred in Swaziland.

1.2 FOCUS OF THE STUDY

Specifically the present study will:

- (i) Discuss the development of industrial relations sub-systems and the role of trade unions within the 'third world'; in this case Africa. A comparison is made between the uniqueness of the independence process in Swaziland and the more overtly violent approach in Kenya. It argues that such differences caused the trade unions in Swaziland to be less politicised than in many other African states.
- (ii) Describe the socio-political values of the main actors within the Swaziland industrial relations sub-system as part of the national value system and as they related to each other. Chapter 4 reports upon an attitude survey conducted specifically in relation to industrial relations issues during the period 1985-88. Chapter 5 describes the authoritative values reflected in Swaziland's legal framework for the country's industrial relations.
- (iii) Describe how those values affected industrial conflict management

within Swaziland's sugar manufacturing and refining Industry. (the country's major industry). In chapters 6 - 10 a major case study shows how the society's overall values were reflected in the handling of an industrial dispute over trade union recognition by the employers association and which extended from 1983 - 1992. The study is empirical in form but contains normative comment as the conflict management process is analysed and it becomes apparent that collective bargaining enabled discussion to proceed from time to time, but differing value perceptions and tactical power utilisation prolonged the conflict.

- (iv) Present a final analysis and conclusions including the author's own evaluation of what went wrong, and the actions which might have established a less confrontational situation.

This research is essentially practical rather than theoretical. The introductory chapter is intended to argue that much industrial relations conflict originally arises from the broader value-systems of society, and the differing values and perceptions of the collective actors. These are reflected through the behaviour of the individuals towards the conflict and each other as they actually meet face-to-face through the collective bargaining process to manage the conflict situation.

It will become apparent that no attempt has been made to indulge in deep psychological analysis or to develop sociological theories or a model for the analysis of industrial relations within developing countries or for the resolution of social conflict. In so far as the study follows any academic discipline, it tends, as a point of departure, towards political reality, in that industrial relations conflict frequently, even in Swaziland, has some political connotation. The basic premise is that the complexities of power concentration

in human inter-relationships creates conflict and while it may be economically prudent, to seek ways and means of managing conflict, the realities of industrial relations require recognition that conflict is an inherent part of contemporary industrial life. This argument is discussed further in Chapter 12.

Both the ILO (PSLRA/1991/ILO : 5) and Siddique (Siddique S A : 1989) conclude from a macro-analysis of the socio-political and economic environments of third world countries, that the state continues to play a dominant role in industrial relations 'and is likely to do so in the foreseeable future'.

This study will examine whether this is the case with industrial relations in Swaziland.

1.3 SCOPE AND SEQUENCE OF THE STUDY

The study is divided into 4 major parts.

Part I Background to the Study (Chapters 1 and 2) -

Chapter 1 discusses collective and personal values of society and the state as the authoritative power for imposing values in relation to concepts of democracy and industrial relations sub-systems and the issue of conflict. Chapter 2 discusses the problems of developing societies with particular reference to industrial relations and the role of trade unions.

Part II - Socio Political and Economic Environment (Chapters 3, 4, 5)

This part of the study essentially describes the Swaziland industrial

relations sub-system as it was located within the overall socio-political and economic environment during the period 1982 - 92 and of the development of the main Swazi institutions which became parties to subsequent conflict.

Part III - The Conflict over Recognition (Chapters 6 - 10)

This section contains a historical analysis of the conflict over trade union recognition by employers. It follows the development of this issue within the major industry of Swaziland and shows that over a nine year period the participants were unable to resolve the conflict. Chapters 8 and 9 consist of a lengthy description of the interaction; the chapters have been structured so as to maintain the continuity of the conflict content for the reader.

Part IV - Analysis and Conclusions (Chapters 11, 12)

The reasons for non-resolution of the conflict are analysed. Practical, rather than theoretical observations are made from the author's own experience and as a participating manager. Suggestions for minimising and reducing conflict in industrial relations situations in African developing countries are proposed.

1.4. CONCLUSION

This introductory chapter has sought to establish the relationship between a society's (industrial) values (ideology) and conflict as it occurs within the industrial relations sphere. Much industrial relations conflict originally arises from the broader value systems of society and the differing values and perceptions of the collective actors. Within the conflict arena of industrial relations the value (ideological) sets, influence the processing of

conflict.

First, the government through the authoritative allocation of values establishes those of the governing elite which reflects and dictates those of society. In Swaziland the industrial relations sub-system embodied the (Swazi) non-traditional values of post-colonial Western style industrialised countries, viz. democratic socialism. This is reflected in the I.L.O.'s concept of collective bargaining.

Secondly, the collective values of worker organisations were encouraged and promoted by Western government agencies, international worker organizations and the ILO in accordance with the industrialised countries' concepts of collective bargaining.

The third set of values, management/employer values, tended to derive from authoritarian, paternalistic colonial sources but were forced into a collective bargaining mould by the legislation. The conflict arena accommodates, through collective bargaining, these sets of values as an organised approach to conflict management. Essentially the aim for management and labour is to obtain through compromise the best of the bargain in any conflict situation. This process is repeated when the next similar situation arises. The central theme of this study is that of the actors' approaches to conflict over almost ten years as they reacted to the demand for recognition of a major trade union by employers in Swaziland.

Given this background as orientation the problems of developing societies in adapting relationships to industrialisation are described in the next chapter.

ENDNOTES

- 1 . In practice the lower courts of the Swaziland National Administration, do not adhere to the concept. These tribal courts assume guilt unless proved otherwise. But S.N.A. Courts are not concerned with the level of incidents normally dealt with by the Magistrates, Industrial, High and Appeal Courts.

CHAPTER 2 INDUSTRIAL RELATIONS IN DEVELOPING COUNTRIES (CULTURE, MODERNISATION AND TRADE UNION ROLES)

2.1 POST-INDEPENDENCE DEVELOPMENT

The concept and structures of Industrial Relations are essentially associated with a modernised society. And the definition of a modernised society in this context relates to those of the developed nations of the Western World - economically industrialised and politically veering between Social-Democratic (Western Europe) and controlled capitalistic (United States of America). It is true that the industrial developed nations of Communist political orders also had Industrial Relations structures, but two specifics are of concern here:-

First, the industrial society itself, originated, as did the formalised industrial relations structure, in the comparatively liberal society of the United Kingdom. This was one result from the Industrial Revolution of the late eighteenth and the nineteenth centuries.

Second, the tendency in Communist political systems was for organised labour to be seen as, or was expected to be supportive of, the dominant political ideology. The point to be established is the extent to which industrial relations in developing societies that are only at the 'economic take-off stage' (Rostow W : 1960) follow either the Western or Communist pattern or have evolved an original model for themselves.

There appears a paradox between what has emerged as a one-party political order (viz African Nationalist or Marxist) and industrial development.

The former born out of the independence conflict situations of many ex-colonial states and the latter inherited from and oftentimes maintained, by the very states, from whom independence was sought. Simplistically, British colonial political rule was rejected, British financial, technical, industrial and managerial aid was accepted. The complexity of the issue was accentuated by the fact that political and economic (industrial) development evolved simultaneously, if not always in harmony, in countries such as the United Kingdom. In the developing states, the industrial structures because they had been inherited from the former colonial masters or had been impatiently initiated by the 'new' modernising elite, were in place before the politically developed system necessary to sustain them.

Merkel (1967:380) noted the danger of 'expecting the politics of developing societies to conform to standards which not even Great Britain observed until she was well along the way on her journey to modernisation'. The same may be said of the industrial relations (viz the industrial political values) sub-systems in developing countries. The teaching and learning of technical (pure science) processes is somewhat more rapid than the development and change required of values consistent with an industrially orientated society. Authoritative values are the constraints imposed by governments within which any society exists. It is those values which give energy to industrial relations sub-systems and give direction to all of the sub-systems of their respective societies. If those societies are at an early stage of modernisation then they are beset with the difficulties and problems (Merkel P : 1967:381) of

- (a) unity and consensus
- (b) government stability and effectiveness
- (c) political communication between leadership and the masses
- (d) articulation of interests and organisations reflecting those interests

(e) psychological aspects of political development

It is argued in this thesis that precisely the same problems are reflected within the industrial relations sub-systems of developing countries. It is observed that technical development and societal (human group) development are 'out-of-gear'. Many African societies are endeavouring to pursue both economic and political modernisation and development. South Africa, as a contrast, already has both a well-established and technologically advanced political and socio-economic society endeavouring to absorb a socio-political undeveloped heterogeneous additional society. The process of modernisation appears in different forms. Industrialisation and the values which determine its progress can be 'directly linked' to the industrial revolution, which had its origin in the midlands of England 200 years ago (Dalton G 1975:42).

But those values were uniquely English based upon a liberal tradition which while inhibited from time to time by government action, evolved over many centuries and continues to change today. The challenge of modernisation in the underdeveloped nations is that of developing or evolving their own values to sustain and direct a ready-made, but imported technological sub-system. The tendency is to adapt or simply accept the regulative (industrial relations) values inherent in the industrialisation of Europe and America. For example, employment and industrial relations legislated structures take little or no account of traditional national or sub-group values.

2.2 THE KENYA EXPERIENCE

There is a need to consider the effect of the following phenomenon which has arisen in the post-colonial era since 1945 in any study of industrial relations in developing states. In some states (e.g. Kenya) labour organisations

were identified with the perceived struggle for independence. A contrast between Kenya, for example, and Swaziland relates specifically to the difference in the process towards political independence. It has been stated that native Kenyans opposed European settlers from the beginning of British occupation in the late 19th Century (Lubembe C 1968:31-37). This opposition almost of its own volition gained ground throughout the first-half of the twentieth century. In 1920, in opposition to a proposed reduction in the pay-rates of African workers as a counter to poor harvests and drought conditions, and to what was perceived as a discriminatory measure, the young Kikuyu Association staged a demonstration in Nairobi.

Perceived exploitation by employers gradually led to the formation of organised workers associations, which, from the start, were concerned not only with improving wages and conditions of service but with 'a wide range of other matters appertaining to the growth of the economy and rapidly changing social status of the workers' (Lubembe C 1968:31-37). The situation of political involvement became more acute throughout the 1940's and the African Study Union, a political body, began to make representations on African political rights in 1944. It later became the Kenya African Union, headed by Jomo Kenyatta.

By 1948, a strike by the East African Workers Federation in Mombasa, at the railways and harbours, clearly demonstrated the political nature of the workers struggle. By 1949 a number of nationalist movements emerged following the lead by the Kenya African Union.

The Kenya Government declared a state of emergency on October 20th 1952 and arrested and detained a number of prominent trade unionists as well as some leading political figures, including Jomo Kenyatta, the President of the Kenya African Union (Lubembe C 1968:76). It was considered by government

that the trade union movement harboured most of the Mau Mau adherents. The labour movement denied any Mau Mau involvement and indicated that any unionist implicated in the violence and political subversion by Mau Mau 'should therefore be judged in an individual capacity' (Lumbembe C 1978:76). It is interesting to note however, that the trade union movement clearly identifies itself with the independence of Kenya, 'if it were not probably due to the role played by the workers during the emergency, Kenya would not be independent' (Lubembe C 1968:190). A similar situation developed in South Africa during the late 1980's in so far as political violence and trade union involvement were concerned.

2.3 THE SWAZILAND EXPERIENCE

By contrast, the same identity of interest between the independence movement and Swaziland's trades unions was not apparent. While some challenge to the political power base occurred prior to independence, it ultimately manifested itself as an attempt to obtain employers' recognition of trade unions, rather than attempts to obtain, by violent means, a political independence from the protecting power. Swaziland was a British Protectorate, dating from the conclusion of the Anglo-Boer War (1899 - 1902). It was not a self-governing colony with governments dominated by European Settlers as for example Kenya, Northern Rhodesia (Zambia), Nyasaland (Malawi) and Southern Rhodesia (Zimbabwe). A further influencing factor was that of single tribe - Swazis - whose King was the acknowledged leader by both natives of Swaziland and the protecting power. It was expected, and in fact became the situation, that the King negotiated the removal of the British political administration. The independence movement as such did not become an armed challenge or Maoist-style guerilla movement of attrition against the colonial power. What collective action occurred was confined to two series of

(employer and government perceived) political strikes - at Big Bend (sugar industry) and at Havelock Mine (asbestos). Whoever advised the workers movement would seem to have perceived the strategic importance of these industries to the Swaziland economy. Both play a major part in the economic development of the country. A follow-on strike within the Railways Construction project in 1962, as with the earlier strikes, did not succeed in forcing recognition of the unions.

From 1962 until 1980, trade unions were restricted in practice, if not by legislation, and from 1973 when the late King, Sobhuza II, suspended the Westminster type of constitution left by the British Government in 1968, all forms of public gathering and association were prohibited by the Crown, unless permitted by the Commissioner of Police. Political activities and political parties were prohibited; this was still the situation in 1992.

One consequence of the independence identity phenomena, as observed in Swaziland, was that those politicians or administrators who occupied high positions of state (1992), but who were formerly junior members of the labour force, tended towards a worker-orientation in the administration of legislation. Thus, for example, suggested amendments to labour legislation which were agreed in 1985 between the employers' representatives and the then leaders of the trade unions, as members of the Labour Advisory Board, had still not been discussed in Cabinet by December 1990, although there were two changes of government during that period.

However, the Kenya experience indicates that the opposite effect, can occur, in which those senior members of government previously active in the labour movement 'are only interested in securing their position and see collective labour activities as directly challenging their power'. (Lubembe C 1968:190)

2.4 SOCIO-POLITICAL DIRECTION

In so far as political leadership has influenced labour movements and vice versa, it is clear from the foregoing that socio political considerations and labour relations as in Europe and the United Kingdom during the late nineteenth century and even to the present day, are inseparable. In developing countries this pattern has been followed and as indicated previously, a similar situation appears in South Africa in so far as Black trade unions are involved.

To improve social well-being is seen as requiring political power. In Sri Lanka, for example. 'Almost every political party has its own trade union arm and the chief office bearers are the leaders of the respective political parties' (Da Silva W 1978:53). Nevertheless, the actual political power and the collective bargaining power of African Unions (apart from South Africa) are very far from having a significant impact either upon the state or the employers. It would be unwise to assume that they have no impact however. The fact is that, except in South Africa, most African Unions are limited in size and poorly organised (Jackson M 1977:66). It has been suggested that much of this is due to the fact that trade unions have developed directly as a result of the contacts with European unions promoted, and, in some cases, encouraged by colonial governments, prior to independence. The theme of the argument lies in the fact that the concept and structure of trade unionism has generally created a poor potential leadership in African societies, (other than in South Africa) which is out of touch with the rank and file of the work-force. However two exceptions occurred. In Zambia, it was the leader of the trade union movement who successfully ousted Kenneth Kaunda as President in a multi-party election in 1992. The Prime Minister of Swaziland in 1992, although directly appointed by the King, was also a former Trade Union official.

Jackson (1977:60) states 'This line of reasoning argues that because of the European influence unions were introduced too early and with the wrong kind of organisation for the situation in which they have to work'. To a large extent the writer of this thesis would, from direct observation, support the statement, in so far as unions are active in the former Southern African colonial states. The paradox of the independence struggle as it was labelled by unions, has been that the political power which was desired, has nevertheless not yet succeeded in the equalising of wealth. The unions which supported the so-called struggle seem no longer capable of pursuing it to achieve the ultimate re-ordering of society which was part of the original objective. However, the country which was perceived to be restrictive, (South Africa) permits well-organised and somewhat Marxist-orientated trade unions which wield very considerable economic and major political influence. The reasons for this are politically and socially complex, the details of which are beyond the scope of this study, but the observation offers an interesting field for comparative research.

2.5 CONCLUSION

It has been shown in this short chapter that the ideology of independence has tended to be one focus for developing industrial relations activity in African states recognised by worker collectives and employer associations. What must be noted however, was that in developing trade unions in Swaziland, the political independence theme was of much less importance to the unions than was the situation in other former colonial states and also in South Africa. For Swaziland it was much more a question of the values reflecting the right to worker collective representation. As stated in the previous chapter, that right was established through the authoritative value system via industrial relations legislation and thus became a central feature of the industrial relations sub-system values. This will become more evident from the first section of the following chapter which

outlines such development from a union perspective.

Guidance for labour organisations in developing countries has stemmed largely from European unions, while legislation has been enacted in accordance with United Nations conventions. In Swaziland, for example, the legislation was drafted by an International Labour Organisation official (1980) (Dodds P 1981). The problems of industrial relations sub-systems however reflect the problems of African traditional life attempting to adapt to twentieth - century technology and to the problems of economic, political and social modernisation. It may be added that the concept of traditional life encompasses the impact of colonialism, in so far as it still importantly reflects the values of both employee and employer within the African context.

PART II - SOCIO-POLITICAL AND ECONOMIC ENVIRONMENT

CHAPTER 3 BACKGROUND TO TRADE UNION DEVELOPMENT IN SWAZILAND

3.1 THE SWAZILAND SOCIETY

3.1.1 Socio-Political Background

Swaziland, while appearing to follow an underdeveloped country's pattern of political and industrial progress, has since 1976 reverted in many respects to an almost feudal system (Government of Swaziland 1983/84 : 1987/88 23-30). Government is based upon an absolute monarchy, advised by a Council of Elders (Liqoqo) or National Council (since 1990) who consult with a part elected, part nominated Senate and House of Assembly.¹ Elected members represent districts, supervised by Chiefs (the Tinkundla); political parties as such are prohibited.

In practice, this may not be dissimilar to the pattern of one party states or military totalitarianism which prevailed in Africa until 1991, except that in Swaziland elements of popular democracy, defined as participation in discussion of proposed legislation, exist in parliament. From 1982 non-political trade unions were permitted. These trade unions permitted and protected by legislation made some progress in recruiting members (see previous chapter). The significant feature of this socio-political infrastructure is that the overriding political power-base is essentially traditional and emphasises the cultural heritage and the Tinkundla electoral system. The recognition of the need to progress industrially however is also present and was given approval by His (late) Majesty King

Sobhuza II when he assented to the thoroughly modern and sophisticated labour legislation.

Economically, there is undoubted acceptance of the need to industrialise. Encouragement is given to industrialists to pursue modern management methods and techniques in the communication process. It is against/within the framework of a traditional society, that the rules in practice ensure that while giving substance to internationally accepted standards of conduct, in management/worker communications, the implementation thereof does not preclude the traditional petition to the Chief. Petitions can be made to the Elders of the Nation or any one of them individually in the event that any decision by an employer is unacceptable to the petitioner.

In a land-locked country of only 3/4 million people but with a population growth rate of 3.4 percent per annum (Government of Swaziland 1988 : 33), there are major social problems of illiteracy and malnutrition. The determining vagaries of nature, alternating between drought and flood (a disastrous cyclone in 1984-cost some R150 million to repair the infrastructure alone) pose an additional burden for the authorities. There is however, a superimposed industrial and modern sub-system, which draws the majority of its labour force from among the subsistence social strata. The workers in this sub-system however, have progressed to the extent that economically they are dependent upon industry as wage earners and are socially, in terms of Western standards, beginning to 'climb-the-ladder'.

3.1.2 Industrial Development

There is very little completely up-to-date statistical information available (Govt of Swaziland - 1988:84) concerning the composition of industry within Swaziland. In general terms however, it can be stated that gainful employment

for a total estimated 80,000 adults, is provided by: sugar cane growing, milling and processing, forestry and timber extraction (e.g. paper), fruit growing (pineapples) and canning, mining of iron ore and asbestos, government and public utilities (electricity, railway, government departments) public transport operators, three major hotels and two major banks. In addition, a small number of manufacturing units exist: furniture, brick works, textile plant and one or two larger organisation such as a brewery, cold drinks processing and bottling, and a great number of one man business activities of the cafe type.

While primary production operations have been established for many years and the addition of one large sugar cane growing and milling unit employing +- 3 500 from 1981, the light industries only emerged within the period 1975-90. As indicated, accurate statistical information is lacking, but it would seem that "sugar" employs some 25% of the labour force and probably another 35% is employed in some form of primary activity (agriculture, mining).

As might be expected, the majority of work consists of low level activities of the general labouring and unskilled type and the labour force comprises of probably 60% illiterate and semi-literate workers. The remaining 40% however covers those with Junior Certificate (or equivalent) to "O" Levels and beyond. These members of the work force perform skilled (artisan) work, clerical and secretarial activities and increasingly supervisory and junior managerial responsibilities.

Except in government service, almost all higher level industrial appointments during the period of this study (1982-92) were held by expatriate staff, many of whom significantly came from Southern Africa. It must be understood, however, that all expatriates require Temporary Residence Permits, issued every two years, and because of Government localisation (affirmative action) policies, the total number of expatriates existing in industry and commerce

reduce each year. Larger business organisations were committed to training (often of the 'lip service' type however, except for artisan/apprentices) and had produced written localisation and succession plans. For example, one large sugar milling operation reduced its expatriate complement from 123 in 1982 to 53 in 1990 and thereafter reduced to no more than 30 within the succeeding three years. Numbers could change slightly thereafter dependent upon diversification and the initial need for technical and managerial staff.

On the assumption that the most important single component of labour relations, centres on pay-rates² it may be of interest to note that the lowest paid worker existed in agriculture where the Wages Regulations Order (Agricultural Industry) 1992 set the minimum rate of E3.97* (R3.97) per day, plus basic food and meat ration. Employers also provided accommodation (and fuel), which ranged from the primitive to a relatively sophisticated house with coal stove, for low-level employees.

Housing of a progressively higher standard according to job, or a housing allowance, was usually provided.

In practice, larger employers usually paid well beyond the minimum legislated pay rates (for example, the Sugar Millers' minimum was E9.00 (R9.00) per day in 1992 for permanent employees, on the basis of a six day week; plus one additional day's pay as 'attendance' bonus and on the larger agricultural estates the employers provided all medical services, social centres, lighting, water and similar services and primary schooling in conjunction with the State.

3.1.3 Industrial Communication "Framework"

Historical "pattern" (pre 1980)

3.1.3.1 Minimum Legislation Protection

The former Colonial Administration sought to provide minimum protection for employees in terms of Wages Protection, Workmen's Compensation, terms and conditions of employment and the regulation of industrial relations. Government was advised by a Labour Advisory Board and established Wages Councils consisting of employer/employee representatives whose recommendations endorsed by the Chairman, were embodied in 'Orders' issued by the responsible Minister and thus became law.

3.1.3.2 In-Company Communication

3.1.3.2.1 Methodology

Much of industry's methodology in the labour relations sphere in Swaziland, was akin to that pursued within the traditional (defined as paternalistic) process industry of South Africa as it existed prior to the legislation for Black trade unions in 1980. Thus communication systems ranged widely. The formal highly structured production-orientated management/worker relationships, with well established, management dominated Works Councils existed on the sugar estates and in larger companies. But most followed the almost totally non-existent structure of disciplinary/autocratic meetings on an ad hoc informal basis, whenever management felt it had something important to announce. Wages had been negotiated, under government appointed Wages Councils but collective employee

representation as generally understood and as associated with the labour relations concept, was virtually non-existent.

3.1.3.2.2 Communication problems

Within the industrial relations sub-system of developing Swaziland, as a generalisation, it was observed at the end of 1982 that conflict and related communications problems were generated by misunderstanding of differing government, employer and worker values manifested in management and worker attitudes towards each other. This phenomena gave rise to mistrust and further misunderstanding. A low-priority rating was given by middle and junior management for personnel problems. This is not unique and persists even in industrialised countries in production-orientated organisations. There was a lack of education among managers on people problems and on management, particularly among middle and junior management. There was a lack of education, by workers, concerning the whole profit goal concept of business enterprise.

Additionally, the cultural and ethnic differences between White (and a small number of Black Swazi) managers, many of whom were of Southern African origin, and the almost tribal culture of traditional Swazi society, attempting to communicate within an advanced industrial organisation, generated much frustration on the part of both management and workers.

Communication at the management (supervision level) worker interface other than work-related, consisted of such matters as requests by workers to management on "other" factors. Apart from wages these were of a very localised nature. More often than not such requests were difficult to agree; changing working hours, additional/protective clothing, improved quantity and quality of

rations which were perceived to be of inadequate amounts and poor quality. Also included were requests and complaints concerning transport to social events (football matches); extra medical benefits to families, which because of the extended family system would be impracticable. Because of the increased costs involved in acceding, and often the mishandling by management when rejecting such requests, there was a continuing tendency to alienate both parties from each other.

A disciplinary code, formulated by management, implemented without due consideration of all of the facts, frequently resulted in unfair terminations. The whole incident upon incident created an environment far from an acceptable level of good labour relations.

The paradox was that most managers were unaware of the poor level of communication. They were convinced that their workers were contented and seemed incapable of recognising as managers the explosive nature inherent in this type of situation. One might almost have predicted the difference between management/worker responses to a given attitude survey on "what do you think of the company and its communications?" This situation still existed in 1992 in some companies and was certainly so when the Industrial Relations Act came into being in July 1982.

3.1.3.3 Company Initiated "Development" Action

Certain elements then of poor communication continued to exist throughout the 1980's and into 1992 but the legal rights given to workers by the Employment and Industrial Relations Act to 'negotiate', 'collectivise', and to 'strike' caused management in some of the major companies to reassess its policies and procedures, sometimes to standardise as an industry (e.g. sugar milling) on much

of the personnel methods and to instil credibility into the works council system.

Internal training courses were conducted for both management and labour to explain the implications and practical application of the new legislation; to show the problems which arise as a result of ill-advised management action and to explain the reasons (and advantages) to be derived from a carefully developed Disciplinary Code and Grievance Procedure. Personnel staff were accorded greater management support from senior and middle level managers and were increasingly seen by both managers and labour as facilitating the introduction of the machinery for negotiation and the resolution of disputes and grievances, permitted by law. It is naive to think that communication, with all of its facets, had improved since the 1982 labour legislation, but it had become a live issue towards the end of the decade and caused a greater depth of thinking about human problems, often for the first time, other than in an autocratic/paternalistic or subservient anti-management manner.

3.1.3.4. Collective Bargaining/Negotiation

It will now be apparent that legislation had encouraged the more progressive employer and spurred others to recognise that collective agreements, either with individual works councils or trade unions, provide a basis for working in an environment of understanding, if not of complete satisfaction. Simultaneously, the permitting of negotiation through collective association of workers, had given an impetus to trade unions and a new lease of life to some works councils and to formalised disciplinary codes and grievance procedures.

Some 50 or so cases usually of unfair dismissal, had reached the Industrial Court by 1988 (December) with judgement almost always in favour of the employee. A spelling out of agreed wage rates and

conditions of service in collective agreements should have reduced the problems of localised misunderstanding. These formal agreements however identified more specifically disputes at this higher level, thus giving some credibility among the labour force to the concepts of industrial relations.

3.1.3.5 Summary

This section has described in broad terms Swaziland's socio-political and economic development as background to the communications process and situation within the industrial sub-system. Communication may be seen as facilitating management/labour interaction.

From the earlier Colonial Administration attempt to establish minimum protective employment conditions and regulation of industrial relations to the newer I.L.O. promoted legislation of independent - Swaziland there was a developing awareness by government, employers and employees of the importance of communication between management and labour. The criteria for important varies with the actor, but what was significant was the realisation that traditional autocratic concepts and methods inherent in Swazi culture, but also practised by management, required some modification. There was recognition of a need to provide for articulation and representation of the collective - worker viewpoint.

The following section 3.2 describes the development of trades unions in Swaziland as the representative bodies of those worker-collectives.

3.2 TRADE UNION DEVELOPMENT IN SWAZILAND

3.2.1 Introduction

It was observed in the previous chapter that whereas there was a close association between the struggle for political independence and union movements in most ex-British Colonial States in Africa and in particular Kenya, no such identification existed in Swaziland. In Swaziland, trade unionism was and is concerned initially with obtaining employer recognition as the one legitimate voice of the worker collective. Some employers, however, did perceive attempts for union recognition as a potential bid for national political power.

This section describes briefly the socio-political environment in terms of union and management perceptions within which Swaziland's trade unions have sought recognition. More detailed qualitative analysis of the normative environment, specific to trade union activities, is reported in the following chapter. Most of the content of this study is written from a management perspective, because of the author's active involvement in management in Swaziland. However, because of the nature of the involvement, that is to say the active concern with all aspects of industrial relations development in Swaziland during the years 1982-92, some personal contacts with individual trade union leaders were established by the author.

Sufficient data were accumulated to provide a union perspective on the development philosophy and strategy of trade unions in Swaziland as part of the background to the study. It would be naive to expect that anything confidential was divulged, but in so far as the general development of the trade union movement was concerned it was possible to obtain a union view to some extent. Additionally a union publication (undated) also provided much material. ('Your Union Organization' - A study circle material - SFTU) - Appendix 4.

3.2.2 Perceptions

3.2.2.1. A 'Union' Perspective on Origins and Development (SFTU 1983:13-197)

Swaziland was seen as providing 'an excellent climate for employment' especially in the mining, sugar and forestry industries. These economic activities provided a stimulus for organised labour as a counter-force to employers and a safeguard against social injustice and poor working conditions and low pay. As a result of these conditions the gospel of trade unionism was already being received during the 1960's. The British Colonial Government early in 1960 recognised the urgent need to develop communication between workers and management and to assess working conditions. In May 1960 the F.C. Catchpole Commission was appointed to study labour relations in the face of the growing socialisation of labour. The report of the Commission found that the labour relations of the future would be dominated by mass attitudes. The law should therefore provide the framework for peaceful industrial relations, guarantee minimum conditions of employment and minimise opportunities for discontent by establishing the machinery for negotiation. Cognisance should be taken of changes in the basic attitudes to employment by Swazi labour as a concomitant of the establishment of a large permanent industrial labour force. The report appeared coincident with African nationalist political movements. It was received with scepticism by some but 'the workers were quite happy with it'.

The first trade union in Swaziland was formed in 1962 but legislation did not exist to establish collective employee recognition. The Pulp and Timber Workers' Union sought not only to improve conditions in the forestry industry but also to promote collective workers' movements in other industries which could then unite in a federation of trade unions.

On 6 April 1962 poor working conditions and the employers' attitudes forced the union to call a strike - initially affecting only the forestry industry. But early in 1963 a national strike developed throughout Swaziland spreading from Ubombo Ranches Limited on 18 March, in the east of the country to Havelock Mines³ on the Western border with South Africa on 20 May. Two newly formed political parties, the Swaziland Democratic Party and Swaziland Progressive Party supported labour, while the indigenous, traditional Swazi National Council and the European Advisory Council together with the employers opposed the strike. The involvement of political parties caused the strike to be seen as political rather than industrial and led to bitter differences between opposing political parties. Failure to avert the strike caused King Sobhuza II to issue a Royal directive for workers delegates to visit Royal Headquarters. Striking workers defied the King's commands; an unprecedented act, foreign and unacceptable in Swaziland. The British Government was asked for assistance and troops of the First Battalion Gordon Highlanders were airlifted from Kenya to augment the 350 strong Royal Swaziland Police. The strike was crushed. Hostility to trade unions by employers and Swazi traditionalists increased considerably and a compulsory mass de-registration of trade unions ensued. 'Internal squabbles due to political differences also rocked Trade Unions' (SFTU 16:1983).

After independence from Britain in September 1968 when the Unions organisers 'expected a change of attitude', it became apparent that Swazi traditionalists and the Government opposed union formation because trade unionism was seen as a foreign concept unnecessary for Swazi Society. As an attempt to placate labour feelings, Government sponsored one national trade union body for all workers in the country. This was totally rejected by labour.

Poor working conditions caused ILO intervention and ILO support was given for the study of union formation in Canada. The International Confederation of Free Trade Unions sent a representative to Swaziland to assist in the formation

of genuine democratic trade unions 'free from employers and politicians domination' (SFTU 16 : 1983).

An attempt was made to form a Swaziland Federation of Trade Unions as an umbrella body to promote the formation of trade unions in all industries (19 October 1971). This federation would have included the established Swaziland Citrus Plantations, Agricultural and Allied Workers Union but the effort was ineffective. Political upheavals, not directly connected to trade unionism, led to the King's suspension of the Westminster style Constitution in 1973. A State of Emergency was declared and the effective banning of the few trade unions which did exist (e.g. the Agricultural, Mining and Timber Industry Unions). However, Swaziland's new membership of the ILO in 1973 and its ratification of 15 ILO Conventions caused the reactivation of the Federation of Trade Unions as an umbrella body, to which were affiliated the following Unions:-

- Swaziland Agriculture and Plantation Workers'
- Swaziland Commercial and Allied Workers
- Swaziland Union of Financial Institutions
- Swaziland Manufacturing and Allied Workers
- Swaziland Transport Workers.

The Prime Minister (January 1992), The Honourable Obed Dlamini MP, was the first Secretary-General of the Federation of Trade Unions. Consultation within the Labour Advisory Board led to the enactment in 1980 of the current labour laws. However it required considerable time to revive individual unions and the support of the ILO and the Organisation of African Union Unity-Nairobi Project Office. Five trade unions were registered in May 1983, one of which was the Swaziland Agricultural and Plantation Workers' Union. The Commonwealth Trade Union Council funded an office and typist for six-months for the Federation of Trade Unions anticipating that sufficient union funds would become available

within that period to sustain the office.

Unions initially contributed part of their funds for the maintenance of the Federation and their responsibilities vis-a-vis the Federation are contained in the Constitution (Appendix 4). All unions follow similar organisation structures and operating procedures. Each union has a national executive committee which manages the day-to-day affairs of the union and which interprets and implements official union policy. Policy is decided at a general meeting. The general meeting, open to all paid-up members takes place annually. Issues are discussed and resolutions passed by open majority vote. Adopted resolutions determine union policies and the members attending general meetings have powers to appoint full-time union officials.

Once every two years a Biennial Delegates Conference is strictly confined to the election of the national officers and trustees and the national executive committee. In addition to the existing officers and trustees, the general meeting is attended by delegates from union branches or from industries (where no union branch exists) forming the union. It must be clearly understood that while a union may exist and have been registered and legally established, it does not follow that a branch of that union exists within every undertaking within the industry.

It is emphasised that the supreme authority for the conduct of union business emanates from the Annual General Meeting. Major emphasis is placed on union democracy operationalised by Unions as follows:-

- By Consensus - after discussion there is general agreement on the course to follow.
- By Show of Hands - this is the most common form of voting.

- By Acclamation - sometimes used at large congresses or conventions. The decision is taken in favour of those who 'shout loudest'.
- By Ballot - sometimes ballots are used for the election of officers. The ballot can be a direct one taken at a meeting or a secret ballot where no one knows who voted for whom or what.

3.2.2.2 Union Philosophy

A major premise for union activity is that of unity; it is sometimes described as the first principle of trade unionism. The bargaining strength of unions depends upon member support and this is considered of particular importance when dealing with both national and local issues. Management is perceived as being concerned with divide and rule strategies which are especially common in capitalist societies. Unions must ensure that such attempts are resisted.

Unity also minimises opportunities for splinter unions and it is the aim of most unions to achieve 100% membership in the industry within which members operate. Particular group interests can only be served within the confines of union policies and divisions must be minimised through firm leadership. Energies directed by minor officials in quarrelling among themselves distracts them from their main task of representing members. Peace and stability must be achieved through constant recognition of the need for unity. The emphasis upon union unity and the problems arising from disunity leads to a basis for union strategy of dividing employers. Particularly relevant to the Union insistence on unity is the fact that legally (I R Act 1980 - Sec 20 (1)) - unions in Swaziland are in respect of an industry as distinct from craft unions (such as exist, for example, in the United Kingdom and South Africa). There are no craft unions in Swaziland. What constitutes an industry, however is contentious and was one of the major issues

of the recognition conflict between SAPWU and SSMRI E/A. Reference is made to this in more detail in Part III.

3.2.2.3 . Union Strategy

The formation of demands or proposals are considered by Swaziland union leaders as a crucial problem area between officials and union members. Members will invariably pursue 'huge and wishful' demands which, if submitted to employers without modification, can destroy the opportunity for beneficial mutual discussion. Union officials must convince their members to put forward realistic and reasonable proposals. However, no matter how unreasonable workers demands may be, they have a democratic right to be involved and to know that the strongest possible representation is made on their behalf.

Negotiation with management must be in good faith in order to bring about compromise and secure agreement without involving a third party. Union strategies include timing negotiations to coincide with an economic boom period thus building union economic power, but realism in negotiation can mean tactical use of personal attacks upon the integrity of members of the management negotiating team and allegations of anti-worker, anti-Black attitudes. (Appendix 5 'Ground-rules' for Union Negotiators). It is also part of union strategy to maintain an image acceptable to government in Swaziland. Satisfactory settlement of all disputes requires exhausting the legal machinery for settlement without resort to strike, thus maintaining industrial peace 'for the good of all, the workers, employers and the nation'.

On 9 December 1986, the Swaziland Federation of Trade Unions and the Federation of Swaziland Employers agreed at an informal meeting to a statement of intent embodying their joint views on the need for and methods to achieve 'constructive and harmonious industrial relations in the Kingdom of Swaziland'

(Appendix 6) (Part III of the study will indicate that the SAPWU executive was divided over this 'commitment').

Such was the unions' formal approach to relationships with employers and government. The author's perception of the relationship between management (employers) and the work force up to 1990 was as follows.

3.2.2.4 A Management Assessment of the Communication Environment.

Discussion and contact with those who experienced the situation in Swaziland industry prior to 1980 and who were still employed in industry and could make comparison with the situation in 1990 revealed that the communications environment prior to 1980 was not effective. Indeed, this was the situation even well after the introduction of the Industrial Relations Act (1980) which became operative only from 1 July 1982. Such an environment was continually reinforced, in that the colonial superiority of management not necessarily to be considered bad, was additionally sustained, not only by the ethnic superiority considered by the managers themselves, inherent in the Southern African upbringing of many managers, but also by the rigid Swazi respect for the "Chief" (Elder), be he White or Black! And indeed, where local Swazi junior management existed, it pursued the identical autocratic/paternalistic pattern, often more severe in its implementation than was originally intended by the superior senior management.

The more sophisticated employers, which does not imply a necessarily more progressive management style, had arranged works councils. These were intended to provide a means of consultation on day-to-day matters usually of a minor nature (e.g. quality of rations, protective clothing, transport to sporting events and similar) but certainly not consultation on wages and conditions of service. Negotiation was not a consideration. More often than not, what was

supposedly initially intended by top management, to be some freeing of communications in an attempt develop mutual understanding, became a one way dictatorial activity by middle and junior management. This approach was tacitly encouraged by some senior managers. The whole exercise became time-wasting and frustrating to management and workers alike.

The works council system as such was not popular with the work force in Swaziland. This reflected a dissatisfaction common throughout the whole of Southern Africa. Some of this frustration manifested itself, as early as the 1960's viz prior to "independence" in two series of strikes as already indicated - at Big Bend (sugar industry), and at Havelock Mine (asbestos) and a further Railways/Construction strike in 1962. Political and union observers would assess these as indicating the frustration of workers generally and as a union move to force employers to recognise unions rather than that of challenging the political power base. At that time they did not succeed and from then until 1980, trade unions were restricted in practice, if not by legislation. From 1973 when the late King suspended the Westminster Constitution left by the British at independence (1968), all forms of public gathering/association were prohibited by the Crown unless permitted by the Commissioner of Police. Political activities were banned (this was still the situation in July 1992.)

In essence then, in assessing the usefulness or otherwise of the pre-1980 industrial communications, it seems almost self-evident that they were ineffective. If communication is defined as joint consultation, negotiation, collective bargaining, freedom of association and the right to organise then such communication did not exist. It was one-way communication from the top down.

3.3 DEVELOPMENT (POST 1980)

3.3.1 Legislation Changes

To comply with ILO conventions and to establish formally an industrial relations sub-system within the wider society, the Employment Act 1980 and the Industrial Relations Act 1980 were made available via an ILO Adviser at the request of the Swaziland Government. The legislation reflects the then Government's desire to establish a labour policy for Swaziland. The draft bills were reviewed by both employer and employee representatives of the Labour Advisory Board. The Employment Act became effective in November 1981 and the Industrial Relations Act in July 1982. The Acts take little account of the customs and cultural requirements of Swaziland, but incorporate provisions which reflect internationally accepted employment practices. The laws are essentially protective and although their main effect is to improve the status of employees in the employment situation, they include safeguards and protective clauses for both employees and employers. All previous Acts pertaining to employment and industrial relations (e.g. Trade Unions and Industrial Conciliation) were repealed with the introduction of the new legislation.

Since this study deals with union recognition and by association, conflict management, as distinct from conflict resolution, concern is more properly focused on the Industrial Relations Act. In essence, it provides for legitimate trade union activity, including strikes (and for employers to use lock-outs), except for essential services. The basic principles of Freedom of Association and the Right to Organise, are clearly established as is negotiation on wages and salaries and conditions of service and collective bargaining with an Industrial Court as the ultimate adjudicator and arbitrator. The Court consists of a President - a judge of High Court status, and one assessor each from the Federation of Employers' and the Federation of Trade Unions. Appeals on points of law only are possible to the

Appeals Court. (See Ch. 5 The Legal Framework)

3.3.2 Post-Change Action - General

Immediate reaction on the part of employers generally to the introduction of the Act was that such sophisticated legislation was inappropriate and premature. Employees viewed the Act with some suspicion, based on the earlier suppression of trade unions and many were totally unaware or apathetic concerning their rights under the Act.

By 1987 the original 5 (1973) trade unions had increased to eight and by 1988 to fourteen trade unions registered⁴ with the Department of Labour. This did not mean recognition by employers and only the small Financial Institutions Union and the Metal and Allied Workers Union had been accorded recognition by 1990. The Agricultural and Plantation Workers Union, seeking to represent all employees in Swaziland connected in any way with agriculture had still not been accorded recognition by the major employers by April 1992. By March 1988 a Joint Industrial Council for the Sugar Manufacturing and Refining Industry (12 - 14000 employees) had been agreed between employers and a works council system of elected representatives, but without trade union representation. This system, unlike the earlier works council system provided an industry wide opportunity for attempts at collective bargaining. The trade union (SAPWU) rejected this J.I.C. because it was promoted by employers.

3.3.3 Employer Collective

Anticipating collective employee action via trade unions, however long delayed, the foremost employer groupings developed employer associations. The most effective of these were the Swaziland Sugar Manufacturing and Refining Industry Employers' Association and the Swaziland Cane Growers Employers'

Association.

As already indicated various groupings of employees sought to establish trade unions. Indications were that by April 1992 little real progress had been made vis-a-vis major employers, with the exception of the Union of Financial Institutions - the employees of the commercial banks.

3.4 CONCLUSION

An attempt has been made in this chapter to record on a broad basis the significant background and features of the Swaziland industrial scene as it related to the major issue of union existence and recognition by employers.

It has been noted that from the reshaping and reintroduction of legislation relating to employment the Government of Swaziland sought to establish a framework for labour relations within which both employees and employers could operate without too much disruption of the status quo, a situation which employers favoured. Continuously at first, organisers steadily developed the union membership and organisation structure. They also conducted, over several years, education meetings to acquaint those less familiar with union rights and responsibilities with a basic understanding of the principles and regulations established by the new Acts. While not actively encouraging union organisation and membership, the major employers reluctantly acceded to requests for union meetings, to be seen to be assisting with the implementation of the Acts.

For the unions, it was necessary to be seen, in view of the earlier suppression, as non-political and acting strictly within the law. The worker-collective movement sought to enhance the concept of unity and the legal right to challenge the employers. Initially this was done through representation of

individual worker grievances, even as far as the Industrial Court, but eventually by discrediting the employers promoted Joint Industrial Council for the Sugar Manufacturing and Refining Industry. SAPWU ultimately sought recognition from the employers in that industry on three occasions before 1992, but without success.

The employers through their Association, sought to keep within the law but made no attempt to collaborate with the union movement. Unions, hopefully, would fade out because of incapability and many employers saw them as alien to the Swazi culture, a breeding ground for subversion against employers and possibly even against orderly government.

As expected, unions welcomed the opportunity for Freedom of Association and the Right to Organise. Employers appeared to view both with apprehension and sought ways of legitimately minimising the perceived adverse effects of unionisation against themselves and national socio-economic and political stability.

This was the author's observation, but was this the reality? An attempt to establish a more precise, if qualitative assessment of the industrial relations environment was undertaken in 1988 and the report follows in Chapter 4.

ENDNOTES

- 1 . For an up-to date (1992) review see Appx 2 - Masson J R 'Swaziland's Changing Political Climate and the Role of the Investor Community'.
- 2 . See Appendix 3 for 'Comparative Rates'.
- 3 . It is of note that in November/December 1989, Havelock Mines again experienced a strike of workers, against the advice of their own representatives who were negotiating with management. Violence erupted during which the lives of both European and Swazi managers and families were endangered. On December 13, 1989 Ubombo Ranches Ltd was served with a notice of dispute for failure to Recognise the Swaziland

Agricultural and Plantation Workers' Union. The order was answerable in the Industrial Court on 15 January 1990. It was rejected on a 'technicality' and finally came to Court - April 1992. (see Ch.12).

Comment:-

Twenty six years on from 1963, the same two major companies were involved in disputes with Trade Unions! But in 1992, the 'progressive' employer - Royal Swaziland Sugar Corporation - Simunye - was also subjected to a strike, for failure to recognise SAPWU as perceived by the Union Executive.

4 . See Footnote 2 of Chapter 4.

CHAPTER 4 TRADE UNIONISM - A SURVEY OF ATTITUDES AND PERCEPTIONS IN SWAZILAND - 1982 - 88

4.1 A NORMATIVE APPROACH

Chapter 2 noted the inseparability of politics and industrial relations. A major concern in this work therefore is with socio-political values as they affect industrial conflict situations and attitudes towards trade unionism. It is pertinent, at this point to consider the concept of political values, as they derive from political ideology and to locate those values within the overall structure of the sovereign state.

David Apter (The Politics of Modernisation) extensively considers the coercive nature of social systems. The premise for this thesis is that the mainspring for coercion in practice is that the political ideology gives direction to the 'authoritative allocation of values'. Problems arise, however, when normative argument is processed for popular consumption (Jackson M : 1977 : 180) and when political rhetoric is used to mobilise mob support in pursuit of a particular socio-political objective. There is need to note, in passing, the distinction between ideology for non-cognitive purpose or more simply 'emotive' language and ideology which gives collective identification to a broad direction for the ordering of a given society; (for example, Marxism or Capitalism). This is not to say that such basic ideology does not become used for emotive purposes; it very often does. (Landau : 1972 : 147 - 176). The suggestion in this thesis is that ideology (values and beliefs) influences the respective approaches to industrial relations of government, employers, trade unions.

It is not intended to engage in lengthy sociological argument here, but in describing the political values of the society under review, a point-of-departure

must be specified. That specification relates to what it is that is to be evaluated. Essentially it is the practical impact of socio-political values upon the industrial relations sub-systems. Norms (values) may be divided into 'relational' - (the 'positive' aspects of interpersonal or sub-group relations) and 'permissive', or 'regulative', relating to those norms which are imperatives for a given society (Napier & Gershenfeld, M. 1972 : 77 - 102). If transgressed or rejected the result is the use of legitimate pressure (de facto if not always de jure) to ensure adherence. In this context, 'norm' and 'value' are considered the same and comment will consider both positive and regulative norms/values as necessary, with the latter of significance in terms of the 'authoritative allocation of values'.

The concept of political value and practical impact is basically the reduction of ideology to its elemental form. It is its application to the day-to-day operations of a society; its practical effect upon the actors and upon the authoritative regulation of those components of social interaction; in this case those involved in industrial conflict situations.

Simplistically, where, in a given society does socio-political thinking (values) impact upon the resolution of industrial conflict situations? It must be accepted that for conflict to arise, there must be social interaction and social interaction is essentially the contact which actors or groups of actors within society or a sub-system of that society, have one with another. Given the fact that conflict situations arise from the interaction of people, it is necessary to recognise the identity of those people (actors). It is a basic sociological premise that irrespective of the individual's role in society (in this case whether a member or executive of government, management or labour) all are conditioned by and help to establish conditioning, as a result of education and cultural background. This experience is carried over to the peer group and in so far as the group expresses socio-political values common to the group, it may be asserted that the individual both influences and is influenced by the group. In this study of industrial conflict

management, it may be said that the actors are government, management and labour, acting through their representative institutions and organisations which in this Swazi case are the Department of Labour, SSMRI, E/A and SAPWU.

Simplistically government will legislate in line with its socio-political values. Management will manage in terms of legislation and its own socio-political values and labour will articulate its interests in terms of legislation, management policy and labour's own socio-political values. It must be noted that neither management nor labour need necessarily subscribe to government's socio-political values, which of itself can create a conflict situation (for example the leftist orientation of the UK miners in their strike in 1985, compared with that of the rightist Conservative government).

The concept of ideology as a normative determinant of the 'authoritative allocation of values' was referred to in Chapter 1 and an attempt made to locate the principal actors in the industrial relations sub-system and place that sub-system within the influencing sphere of the authoritative value system. The need now exists to reduce the concept to reality as a subject for study and measurement if meaningful observations are to be made. Having considered the subjective view of the development of trade unions in Swaziland and a management (subjective) assessment of the (1986) situation, it seemed appropriate to try to establish more precisely the attitudinal situation if subsequent meaningful comment was to be made.

It is not the intention here, to indulge in discourse concerning analysis of ideology itself as a concept. For the study it is taken as given that ideology is envisioned as the summation of actor attitudes pertinent to potential conflict (thus socio-political situations arising from the recognition process for trade unions). In effect, it is the socio-political environment which is the subject of analysis, as it particularly relates to trade unions and other structural forms of collective

relationship between employers and employee. This environment may be constructed from a qualitative analysis of categorised data.

The particular point to be understood is that the analysis (empirical) is of the normative environment. The method is that of a positive approach to normative criteria which may influence the development of collective bargaining and a negotiating environment which is the ultimate aim of a modern industrial relations sub-system. It is suggested that the normative criteria are derived from the socio-political ideology embraced either consciously or sub-consciously, from the collective norms of the peer group in the wider society. As has been argued in Chapter 2, those norms may not necessarily accord with those of the other actors in the industrial relations sub-system.

4.2 THE INDUSTRIAL RELATIONS ENVIRONMENT

Dunlop (1958 : 128) considers that the full environment of the industrial relations sub-system consists of 'technical conditions, the market or budgetary context and the power context, and the derived status of the actors is always to be appreciated'. In summation, this may be termed the normative ambience which pervades the full environment; that ambience may be seen in the attitudes displayed by the actors in their inter-relationships. These attitudes as they affected the Swaziland situation are now to be considered, through a qualitative analysis, with a minor emphasis upon some quantitative measurement. The study, indeed this whole work, has been that of a participant observation (S R Parker : R K Brown et al : 1972 :20) in which the observer can immerse himself in the situation to grasp its subtlety and complexity. It must be clearly understood that this particular participation has been solely in the nature of observation; it is not intended to deduce any specific scientific thesis nor even to disguise value judgments as scientific fact (Landau 1972 :25). However, if an understanding of

the total sub-system is to have meaning, the attitudes of the actors must somehow be identified. That is all that has been attempted here.

It has been stated (Farbey BA : Mitchell C R et al : 1979 :29) that most political movements have at their centre one or a few principles which, in principle, structure the nature and responses to other issues and problems'. It is this kind of assumption which the observer in this study used as a basis relative to employers, unions and government officials for the identification of attitudes towards the concept of unionisation in industry in Swaziland. In this context socio-political movement is equated with political ideology - belief - attitude.

This simple analysis, then, attempts to describe attitudes towards the existence of trade unions in Swaziland. It is based upon the observer's collection of commonly expressed statements made over a period of six years, by employers, unionists and government officers. The survey statements (Appx 7) were then utilised as guidelines for 16 in-depth personal interviews¹. A series of eighteen statements were then extracted from the in-depth initial list of fifty statements to reflect the specific and important issues as seen by the interviewees and then circulated as a survey questionnaire (Appx 8) to members of the Federation of Swaziland Employers who attended that body's half-yearly General Conference in May 1988. The intention was to obtain a wider response from employers if possible. Of the ninety-two delegates to that conference, fifty-four responded including all of the major employers.

It had been anticipated that a similar wider survey could be conducted among trade union members. Unfortunately, either because of lack of co-ordination among union officials and/or suspicion among the union rank and file of the employer (observer) initiated survey, it was not possible to obtain the hoped for response. A similar non-participative attitude from trade unions was experienced in May 1991 by an independent survey group attempting to establish

the corporate image of 'large business' in Swaziland (Human Resource Services - Swaziland 1991). What may be reiterated, however, is that of the sixteen in-depth interviews, six were with the top ranking officials of five different Unions and of the Swaziland Federation of trade unions. Each interview lasted some 2 hours and was in the nature of a discussion about the need (or otherwise) for industrial relations legislation and about the legitimacy of trade unions in Swaziland. As already indicated interviews were conducted with six chief executives of business organisations, six elected senior officials of trade unions and four high ranking and ministerial government appointees. During the discussion each person interviewed was asked to agree or disagree each of the fifty statements listed. Although the fifty statements were compiled randomly and thus in a number of cases duplicated each other, it was possible to identify eight specific and important issues.

These were:-

- 1) Union existence
- 2) Political power
- 3) Economic power
- 4) Conflict potential
- 5) Union effectiveness
- 6) Legal action
- 7) Police involvement
- 8) Social involvement

These issues are explored in more detail in Section 4.3 of this chapter.

To the extent that the trade union officials determine and influence (Jackson M P 1977 :21), the policy and action of the trade union movement and there were, at that time only eight registered 'industrial' type Unions in 1987² it is a reasonable assumption that trade union attitudes towards employers and industrial relations issues were obtained.

It should also be noted, particularly in the African context that leaders are frequently self-appointed in the initial establishment of an organisation and/or maintain their position via a public denunciation of those who would seek to challenge their leadership. The leadership also frequently remains because of the apathy of the masses or through intimidation including the fear of witchcraft.

A further manifestation of attitudes to public matters arises from the statements of those appointed leaders of specific organisations who then assume the mantle of a leader of the masses. For example, Archbishop Desmond Tutu allegedly elected by one vote from among his peers as the appointed leader of the 2 million member Anglican Church in South Africa, claimed to speak authoritatively on behalf of the nineteen million members of the heterogeneous society of black people within the borders of South Africa.³ Even in the United Kingdom and the USA political parties use rhetoric to claim majority viewpoints. Not unique, as such; and it is common knowledge that the relatively limited membership of the Communist Party of the former Soviet Union acted as the leaders of the two hundred and fifty million population of Soviet Russia. It was also a common characteristic of African Nationalist 'One Party' states - e.g. Zambia, Nigeria, Zimbabwe⁴. It might also be said that in many pluralist societies the government actually represents only a clear minority of the population, an argument used by those in favour of proportional representation. The governing Conservative Party in the United Kingdom (1991) was a minority government by this criterion as was the (then) democratically elected Kenya government of Arap Moi (1991).

The point argued here, however, is that leadership in a Marxist or African Nationalist context, cannot be equated with leadership as evidenced by most Western democratic societies. As considered in chapter one, it is conditional upon the definition of democracy. These comments are not unique nor even original, but observers of African societies will recognise the need to draw attention again,

to the characteristics of such societies.

However, it was reasonable to accept that the senior officials of the trade unions in Swaziland were those unionists who influenced the industrial relations situation as it pertained, especially to relationships with the employers and government. It is emphasised again, that all in-depth interviews, were conducted among the top echelons of the organisations concerned as was the limited questionnaire.

The attempt to establish attitudes derived from the perception that trades unions influence society at large, influence industry, influence government and influence wider social concerns (See Sec. 4.3 of this chapter). Inevitably, in the behavioural sphere, many of the statements used in the survey can be related to more than one of these influences. As already indicated, the statements formed the basis for the content of the in-depth interviews and for the shortened questionnaire and were listed at random. This was done in order to avoid a conscious attempt to direct attitude towards any particular influence. Spontaneous attitudes predominate in daily interpersonal communication.

To summarise, the interviews and survey were conducted on the assumption that the socio-political ideologies embraced by an individual influence that individual's attitudes towards specific issues in society. The major purpose was to determine a collective profile of Swaziland opinion among the decision-makers concerned with industrial relations and to establish their specific view of the issues concerned with the concept of collective bargaining in industry and employers' legal recognition of trade unions.

".....the industrial relations arrangements of a country require an inner consistency to operate and persist" (Dunlop J T: 1958 : 335). The interviews and questionnaire were designed to explore the actors' attitudes to common statements

arising from that inner consistency - which in the case of Swaziland had as a common basic core an authoritative allocation of values (viz legislation). In reviewing the data, some insight may arise from observation of these attitudes as they apply to 'contending elites' which in this situation seek to determine 'the industrialisation process and the building (developing) of an industrial relations (sub) system' (Dunlop J T 1958 : 335).

One further concern, before reporting on the interviews and survey. J.K. Galbraith (Quoted by Napier T and Gershenfeld M : 1973 :92 - 93) referred to the 'life cycle' of organisations, analogous to that of the individuals who comprise them. These range from youthful vigour, aggression, evangelistic, and 'even intolerant' to conservative in old age.

To the extent that group norms may be described as 'conservative mechanisms' (Napier and Gershenfeld 1973 : 92), it is pertinent to reflect upon what might be the conditioners of employer attitudes - and the union attitudes, to the same value statement. What is being stated here is the simple fact that in Swaziland, employers as a group professionally, have a very much longer association with each other, than do the trade union leaders in Swaziland. And further, "Norms are developed by the group as expectations perceived as appropriate by that group. They are highly resistant to change!" (Lewin (1947) quoted by Napier and Gershenfeld 1973 : 93).

4.3 INTERVIEWS AND RESPONSES

The full statements (50 items) and questionnaire (18 items) formats are shown in Appendices 7 and 8. The balance of the statements tend, roughly in the ratio of 3:2, to reflect an anti-union perspective on the part of employers. This perspective derived from the perceived environment by the observer both in 1986

(see Sec 3 Chapter 3) and in 1988 before the commencement of the interviews and survey. It will be recalled that the statements had been noted and collected over several years. In essence there appeared to be a hostile environment, and respondents' answers confirmed or rejected that assessment. What were the major issues and the attitudes towards these issues?

It was possible to identify specific statements as they pertain to the various influences, but as previously noted, there is considerable overlap with both statements and responses. This is due to the fact that a given statement can relate to more than one type of influence. The results of the interviews indicated the following:

4.3.1 Influence on Society

4.3.1.1 Statements

The following statements were perceived as being clearly concerned with influencing society at large:-

Trade unions are: Communist inspired/exploited.

Trade unions provide a democratic form of expression in an authoritarian (industrial) environment.

Trade unions should not be permitted in developing countries.

Trade union rights should be restricted to work related matters.

Collective bargaining subverts the industrial society.

Developing societies must forego the desirable institutions of developed societies until they reach the same level of development.

Industrial relations is a conflict situation. Industrial relations can best be controlled through the legal system.

Industry unions cause fragmentation of the union movement. Trade Unions should be prohibited by law from political involvement.

Trade unions should be consulted by Government on any matter of social concern.

Trade unions provide a breeding environment for political agitation.

In a capitalist/free enterprise society trade unions are unnecessary.

The concept of collective bargaining is alien to traditional Swaziland society.

The police have no part to play in the industrial relations sub-system.

Strikes and lock-outs should be prohibited.

4.3.1.2 Responses

There was an even division among employers on the question of Communist inspiration of trade unions, but all recognised the potential for political, not necessarily Communist exploitation. A similar response was recorded from government officials and while a majority viewpoint amongst unions rejected any suggestion of Communist influence, there was some uncertainty in so far as there was an awareness of attempts from outside Swaziland to influence union affairs. There was some suggestion that the

influence emanated from a Marxist - orientated country. There was also reference to attempts by Libyan delegates at an international union conference in a West African state to dominate and coerce those delegates from Southern Africa to adopt a more revolutionary stance towards affairs within their own countries. All three types of respondent recognised the possibilities inherent in the provision for democratic expression for political exploitation. Half of the employers rejected the concept of permissible democracy in the industrial situation and some commented that in Swaziland, particularly, democratic expression at that stage, was of theoretical concern only. Nevertheless, with only minor dissent, all those interviewed accepted the establishment of trade unions in developing countries.

From the employers there was a 50/50 preference for negotiations with union leaders, who might at least have some understanding of the issues involved, rather than to attempt to discuss industrial matters with those who had little real awareness of business economics. Employers were required by law to recognise the negotiation process; in these circumstances unions were preferred to any other collective body by rather more than half of the employers.

It was evident that while all trade unionists strongly supported unionisation in African Countries, employers by a 3:2 ratio believed that such activity requires a level of sophistication not yet attained by African workers. Those employers who supported unionisation did so however, with qualification that the conceptual requirements were at present too subtle for worker understanding, 'but the labour force will only learn if given the opportunity', (quote).

Unionists commented that trade unions can help in the economic development of an African country. A powerful union, in terms of member contributions, can make financial loans even to government 'as has happened in Zambia' (quote). As expected, government, Labour Department and judicial officials supported unionisation; other members of government including police

and those employers in the large minority category, were of the opinion that trade unions should NOT be permitted in developing countries.

Given the existence of trade unions, all three types of respondents were equally divided on the question of restricting union activity to work-related matters. Those who accepted that unions should and could comment upon wider socio-economic matters did so mainly from a perspective that once unions are established it is pointless to believe that their activities can be effectively restricted to work-related matters only. A pragmatic argument certainly, but an answer to those employers who believed that unions should be permitted to discuss only work-related issues.

On the question of political rights, employers and government believed that unions should not be permitted to indulge in nor be affiliated to political activism. This attitude conformed to the existing legal situation in Swaziland. With very limited exceptions union leaders took the opposite view.

All participants were divided concerning the statement that industrial relations is a conflict situation. A minority commented that it need not be so, but that it was the situation at present. Those who supported the statement were of the opinion that conflict is inevitable where two parties have different perceptions of the issues involved; a situation which is unlikely to change. External influences (viz from outside the country) could foster conflict for political gain.

An interesting paradox arose concerning Government consultation with trade unions on matters pertaining to social conditions. The majority of employers and government officials thought this desirable, with an emphasis on consultation only. Unions did not see the necessity for such consultation.

On the necessity for trade unions in a capitalist free enterprise society,

there was very much support from virtually all respondents.

Although most employers and trade unionists thought that the concept of collective bargaining was alien to Swazi society some illuminating comment from government and unions, suggested that the traditional negotiation between families for 'Lobola' (viz for a bride's dowry) which is very prevalent in African societies, is not perhaps so far removed from collective bargaining!

Total agreement existed between all respondents (including police) vis-a-vis police activity. Such activity was seen as legitimate only in so far as it preserved law and order. The police have no part to play in settling disputes, neither individual nor collective, and can, in fact, have an intimidatory and negative effect upon the resolution activity. It was noted by some officials that, in Swaziland, the police had an overt role as political watch-dogs. Bearing in mind that all three types of respondents were at very senior level, they recognised that, unfortunately, a common occurrence in most independent African states, is for junior police commanders and their subordinates like their counterparts in the military and Labour Department to sometimes exceed their legitimate duties. Unnecessary problems are caused by their ill-founded interference and often complete misunderstanding of what is involved.

A small number of employers believed that strikes and lock-outs should be prohibited. The majority agreed with the unions and government officials that such were the ultimate weapon, acting as a safety-valve but both parties to a dispute should adhere to the procedures for settlement. However, there really should not be a need to use the final sanction.

In summary, the potential to influence national stability adversely was seen as being mainly political, subversive and disruptive, with employers and government concerned with the need to monitor, if not actively control, the

potential for political agitation. Unions were aware of the inherent problems, but were virtually unanimous that they should not be prohibited from political involvement. The fact that they are does not negate their belief. They were conscious, however, not only of their lawful responsibility, but also that they were very much in the spotlight and could not afford to be seen to pursue political objectives. At that stage they had no desire nor intention of doing so, nor did they wish to become involved in wider social issues.

4.3.2. Influence on Industry

4.3.2.1 Statements

Trade unions are: essential for effective industrial relations.

Trade unions provide a democratic form of expression in an authoritarian industrial environment.

Trade unions seek to destroy management rights.

Trade union rights should be restricted to work related matters.

Workers should be encouraged by management to join trade unions.

Employers should facilitate union organisation.

Government should provide 'umbrella' legislation only for industrial relations.

Collective bargaining subverts the industrial society.

It is necessary to formalise the worker/management relationships.

Industrial relations is a conflict situation.

A strongly organised trade union is a prerequisite for effective industrial relations.

Employers have a responsibility to train trade union members in industrial relations concepts, skills and practice.

Industrial relations can best be controlled through the legal system.

Employers have a right to determine wage rates and conditions of service.

Worker (trade union) meetings should be conducted outside of work hours.

Industry unions cause fragmentation of the union movement.

In a given industry, an industry union is more reflective of worker demands, than general unions.

Trade unions should be prohibited by law from political involvement.

4.3.2.2 Responses

Trade unionists totally endorsed the need - the 'essential' need - for trade unions, for the maintenance of effective industrial relations. The premise was that capable trade union leaders can help to minimise conflict and reduce potential conflict situations. Employers were equally divided on this issue as they were upon whether or not the localised works councils were a more effective communication forum than trade union/employer meetings. It will be recalled

from the previous section, that many employers preferred a strong trade union to any other form of worker representation.

Employers were divided on the question of fragmentation; unions and government agreed, but employers and government coincided on industry unions being more reflective of worker demands in a given industry. The union officials interviewed rejected this statement.

Government and employers saw unions as usurping or encroaching upon management prerogatives; unions totally rejected this view stating that they sought only to protect workers from exploitation.

Employers rejected, but government and unions agreed, that management should encourage workers to join the union movement. The apparent contradiction by government can be explained by the hypothesis that the more organised the workers the easier it is to ensure adherence to procedure - it was not an acceptable premise to those employers who saw organised labour as a threat to authority. While government and unions believed that employers should facilitate union organisation, the employers were far from agreed among themselves upon the desirability of doing so. Traditionally this has been the attitude of employers until they have experienced the advantages of dealing with an organised trade union movement. British and European experiences have followed this pattern, with the development of professional management (Dunlop, J. 1958 : 311-2).

Legislation should be of the umbrella minimum protective kind, ensuring Freedom of Association and the Right to Organise and the right to seek redress for perceived unfairness. All parties were agreed that this was the major concern for government in the industrial relations sphere.

A further paradoxical response was that while government and employers generally accepted that financial support for unions could come from outside the country, the unions, with only one dissenting voice rejected this, with comments concerning the 'he who pays the piper calls the tune', variety. Clearly, the union leaders in Swaziland wished to control their own affairs.

Instances of support from the American AFL/CIO, British T.U.C., Commonwealth F.T.U. and initial attempts by the W.F.T.U., were mentioned. Financial aid was taken, power-bloc influence was rejected.

All those interviewed were of opinion that industrial relations should ideally reflect an employer/employee partnership, but this did not necessarily imply lack of conflict, since even partners disagree. Conflict was not seen as disaster, but rather inevitable on major issues. Such conflict could be jointly resolved through union/employer negotiation. With minor exceptions, all three actors believed that union ('labour') power, if adequately organised, was a reasonably effective counter-balance to the employers' economic power and would become more so as union influence was seen by workers to produce an improvement in their working conditions. A formal union/employer relationship was seen by the majority of respondents as providing an open channel of communication between shop-floor level and top management which had not previously been effective under a simple works council system. Such a democratic opportunity was not seen as being incompatible with the system of authoritative hierarchical industrial organisation.

Total agreement was recorded that direct, non-legal, conciliation between the parties involved was preferable to the legal judgements of the Industrial Court.

In summary, the attitudes reflected by statements of direct relevance to the industrial situation showed concern at preserving and maintaining control of

respective power-bases and a maintenance of prerogative. While the need for an established formal system of relationships was necessary, referral to legal machinery and the Industrial Court should be reduced to a minimum. The desire was for harmony but recognition existed that disputes (conflict was not envisaged in its harshest sense) should be resolved between the parties.

4.3.3 Influence on Government

4.3.3.1 Statements

Trade unions are by their nature anti-authority.

Trade unions provide a vehicle for agitation.

Trade unions should not be permitted to affiliate to international worker movements.

Government should become actively involved in chairing union/employer bodies.

Government should provide umbrella legislation only for industrial relations.

Collective bargaining subverts the industrial society.

Industrial relations is the concern of government and not employers/employees.

Industrial relations can best be controlled through the legal system.

Industry unions cause fragmentation of the union movement.

Trade unions should be prohibited by law from political involvement.

Trade unions should be permitted to receive funds from outside the country.

Trade unions should be consulted by government on any matter of social concern.

Trade unions provide a breeding environment for political agitation.

Inter-union and intra-union rivalry will ensure that the union movement will never 'get-off-the-ground'.

The police have no part to play in the industrial relations sub-system.

Strikes and lock-outs should be prohibited.

4.3.3.2 Responses

That trade unions are by their very nature 'anti-authority' was subscribed to by four of the six employers interviewed. Government officials were divided equally on the statement and union officials vigorously rejected it.

The question of affiliation to international worker movements received total support from unions. Employers and government representatives were equally divided among themselves, with those who did not support affiliation concerned at the importing of ideas and ideologies alien to Swazi society, qualified by an acceptance of Western influence if necessary but a rejection of what was, at that time referred to as Eastern bloc approaches, equated with extreme militancy and revolution.

There was no clear evidence that anyone from government, employers or unions, knew anything detailed about the role and functions of trade unions in Europe. There was no clear indication about absolutes concerning direct government involvement in the collective bargaining/negotiation process except that comment was made of the need (and legislation provided for this) for arbitration/conciliation. The inference was that unless the Labour Commissioner himself became involved, then no real purpose would be served by existing Labour Department officials attempting to intervene in disputes. A local cultural

reflection by workers was that only the chief has power, but employers at that time were of the opinion, that only the Labour Commissioner was capable.

The role of the Industrial Court as the final arbiter was accepted, but even then, employers were not totally convinced that the weight of judgement was not in favour of employees. This viewpoint was specific to individual rather than to collective disputes. Unanimous agreement existed among all respondents that industrial relations was primarily the responsibility of employers and employees. Government's role was as watchdog to ensure non-exploitation by unscrupulous interests. To believe otherwise was a contradiction of the basic concepts of industrial relations.

Unions and government recognised that industry unions caused fragmentation of union-power. Most employers did not see it this way. Union power could be maximised through the Federation of Trade Unions, in any event. All parties were aware of the perceived danger to government of the mobilisation of General Unions power.

As reported under sections 1 and 2, it was the unions who rejected consultation by government on matters of social concern. Opinion was divided almost equally in all three interviewed groups, concerning the problems of personalities, leadership and inter and intra-union faction disagreement, but no party actually believed that unionisation was a non-starter.

Unions did not agree that strikes and lock-outs should be prohibited; they were not a challenge to authority. Even those employers and government officials who were in favour of prohibition saw it as a need primarily to prevent disruption of industry rather than as an exercise in the suppression of political unrest. However, industrial unrest was seen as a possible generator of political unrest.

4.3.4 Social Concerns

4.3.4.1 Statements

Trade unions are: Too sophisticated (concept) for Swaziland.

Trade union leaders are elected through intimidation.

Trade union leaders are only concerned with establishing personal power.

Workers should be encouraged by management to join trade unions.

Employers should facilitate union organisation.

Developing societies must forego the desirable institutions of developed societies until they reach the same level of development.

Employees have a moral right to bargain for wages and conditions of service.

Employers have a right to determine wage rates and conditions of service.

Worker (trade union) meetings should be conducted outside of work hours.

Industry unions cause fragmentation of the union movement.

Trade unions should be permitted to receive funds from outside the country.

Trade unions threaten the 'right to manage'.

The concept of collective bargaining is alien to traditional Swaziland society.

Inter-union and intra-union rivalry will ensure that the union movement will never 'get-off-the-ground'.

The aim of collective bargaining is to produce industrial harmony.

The Industrial Court provides protection only for the employee.

4.3.4.2 Responses

In addition to comment already made concerning the sophistication of concepts beyond local comprehension, it was emphasised by high-ranking government officials that all societies are dynamic organisms. To develop and improve, commitment must be given to specific concepts. For effective industrial relations, commitment must be given to the concept of trade unionism. It has been established that it is not so important if many industrialisation goals are unattainable (Apter D. 1965 : 261); what is essential is a commitment to achievement in a developing country, which leads to greater social and political stability through an increasing entrenchment of a unified system. This is important in the sphere of industrial conflict situations. Most of the employers disagreed with these comments.

A 3:1 majority of employers were convinced that union leaders in African countries are concerned only with establishing personal power; they were undecided whether or not intimidation is the basis for election. Trade unions and government by a 9:1 margin rejected these viewpoints.

Employers were divided on the issue of facilitating union organisation and encouraging workers to join unions. As to be expected, unions and government totally subscribed to this view.

On the moral right of employees to bargain with employers on wages and conditions of employment, employers and government were divided within their own groups; unions were totally in support, but negotiation must be via the union. A high ranking policeman agreed on the negotiation issue but believed it should be dealt with by workers direct with management - "where the shoe feels the pinch" (quote). But to the more specific statement concerning the right of employers to determine wages and conditions of service the employers themselves and unions rejected this, but government reinforced this 'right'.

With only one dissenter, all employers considered that union meetings, as distinct from joint employer/union meetings, were entirely the business of the union members alone and should therefore be held during out-of-work hours; the unions and government, also with only one dissenter, thought the opposite.

Union power was a matter of concern to all employers, with a preference for industry unions in spite of extending the power base vis-a-vis single/craft unions, they were more reflective of local matters. Fragmentation of unions however would help to decrease solidarity and the strength of the unions power-base. As indicated already, combination within the Swaziland Federation of Trade Unions acts as a cohesive counter effect. Unions and government were also opposed to fragmentation; the industrial relations legislation specifies industry unions.

Detailed comment on the receipt of funds in support of unions from outside the country, was given in the previous sections as were notes on the threat to the right to manage, political agitation, social concerns, harmony, strikes and lock-outs.

There was divided opinion among employers as to the impartiality of the Industrial Court - the unions and government representatives responded that the

intention was for the court to be impartial.

It will have become apparent that the attempt to segregate statements specific to social and moral concerns has been more difficult to achieve than with those pertaining to society, government and industry.

In essence however, the issues considered were:

- Unions are essential to developing economic, social and political stability which should be encouraged by all parties.
- Social responsibility of union leaders requires them to subordinate personal power aspirations to the overall good.
- There is an inherent right as employees for labour to bargain/negotiate with employers.
- Industry based versus plant-based and numerous smaller unions subscribing to or detracting from socio-economic and political stability.

Obviously, moral concerns permeated comment and discussion of what are essentially value statements.

4.4 EMPLOYER SURVEY DATA

4.4.1 Explanation

It should be noted that attitudes are general conceptions held by people. Attitudes cannot therefore always be measured by a response to a single question

as this may measure only one aspect of the attitude and may evoke idiosyncratic responses.

A sample of items/questions covering a range of dimensions of the attitude is therefore desirable initially. From this initial large pool of items/statements, it is possible to reduce the dimensions by relating a number of responses to a number of statements relevant to specific issues. It is then possible to establish the extent of agreement/disagreement with a specific issue question/statement. This is a somewhat superficial approach. Nevertheless in what was observed to be a generally hostile environment towards unionisation, it was possible to determine opinion on specific issues by following the above approach and to obtain a more detailed quantitative indication of the then prevailing environment.

In assessing attitudes by this method, the 18 Questionnaire Statements (Appx 8) were selected by the observer which, in his judgement, were indicative of the major issues identified during the personal interviews and discussion of the 'pool' of the fifty initial statements. These eighteen Questionnaire statements were then grouped and interpreted to give dimensions to the specific issues.

There is no claim to sophisticated statistical method. However some quantitative indication of attitudes was obtainable which provided a wider base for assessing employer attitudes to unionisation in Swaziland.

4.5 SUMMARY

The socio-economic and political environment at least as it appeared, can be established, as at mid 1988 by summarising the attitudes/values reflected by both the interviews and survey. Thus the author's assessment that there was little change in this situation in mid 1992. The process for union recognition in

Swaziland as it concerned the issues between the Swaziland Agriculture and Plantation Workers' union and the Sugar Manufacturing and Refining Industry Employers' Association was pursued within this environment as follows:

- 1 A tolerant acceptance by employers of union existence; both union and government, as expected have a higher acceptance.
- 2 A high emphasis by employers that unions should not become involved in politics; apart from noting the existing legal prohibition, the union would not concede the principle that it should not become involved in politics but at that time had a priority with the industrial work situation.
- 3 Employers were aware of the potential economic (viz effect of manpower withdrawal) power of the unions and there was a high recognition by the union of this latent power which they had available. Government recognised this situation but believed that there were sufficient legal safeguards to prevent abuse.
- 4 Employers saw the union/employer relationship as a conflict situation of medium seriousness - they recognised the potential for, but did not see the need for conflict. The unions, however, saw the situation as essentially conflict. This is the major difference - perhaps the most significant difference - between the employers and unions to collective bargaining. Both parties aspire to harmony and a joint partnership, but unions and some employers found it difficult to believe that this ideal could be attained. Government was very much aware of the potential for conflict.
- 5 Employers were not completely convinced that unions, as effective organisations were effectively established. Unions, while noting the need

for improvement, believed they were already effective as collective bargaining bodies; they had internal administrative problems which they could overcome.

6/7 All three actors believed that there should be minimum concern, with involving both the legal (viz judicial) machinery and the police in industrial relations. Primarily employers and unions should resolve differences between them, without outsiders intervening.

8 Employers and government recognised that unions could become involved in social affairs on a national scale. The unions saw that as a - a low level of priority at that stage of development.

A further 'dimension was that of the 54 responses (employers) to the 18 questions survey, only half indicated an anti-union bias, but only marginally so. In pursuing the survey itself it was observed that there was a trend towards a scientific approach to the problems of industrial relations, perhaps sub-consciously by the actors involved. This stemmed from a need to find practical solutions. Apter (1965 : 344) has noted that 'As societies modernize, the ideologies of socialism and nationalism can be expected to give way to the generalized ideology of science, which today includes Social Science'. Perhaps practicalities force recognition of the need to subordinate emotion to more pragmatic activity.

Nevertheless, it is also to be noted that, in Swaziland in 1988, there were still the problems arising from attempts to reconcile the attitudes and beliefs of the 'Dynastic-feudal, Middle-class, and the Revolutionary-intellectual' elites (Dunlop J.T. 1958 : 318). Not as starkly categorised as indicated by Dunlop's study, but rather of the order of perceived tendencies in individual participants in the industrial relations sub-system.

It is within this environment that the process towards union recognition by the employers is documented.

4.6 CONCLUSION

It has been argued in this chapter, that a generally hostile environment towards unions existed in Swaziland on the part of employers during the period 1982/88. The measured survey indicated that hostility, however, was marginal.

The survey attempted from a participant observer (human resource management) perspective to identify the main issues and attitudes within that environment, and the extent to which the actors were concerned with those issues. More particularly, it attempted to outline the boundaries within which the major issue of union recognition by employers was constrained. It should be remembered, however, that while all of the major employers participated in the survey, only half of the delegates to the 1988 employers conference were motivated to participate and a further 100 or so employers did not even attend the conference. This might be further evidence, perhaps, that union issues were at best a nuisance and at worst dangerous. This is a subjective assessment by the observer but one based on progressive employers' views at that time.

This chapter has thus provided the overall environmental description as background and explanation as a prerequisite for following the process of union recognition in the ensuing chapters.

Institutions, government, judiciary and similar, can be studied as 'systems of related individual behaviour or systems of social action' (Merkl, P. 1973 : 24). The research reported in this chapter followed this behavioural approach in the study of the industrial relations sub-system of Swaziland.

Many of the values of a given society or sub-system of that society are reflected in the legal structure and sanctions. The values of individuals within a society may not always be identical to the legal totality however.

The research attempted to establish what elite members of the sub-system considered important values for industrial relations in Swaziland. The operationalisation of those values impacted not only upon the sub-system itself, however, but also upon the wider society. Simply expressed, it might be argued that a strike of workers within an industry arising from a difference in values between workers and management could have affected the socio-economic, socio-political structures and activities of the wider Swaziland society.

The actual impact of the values and behaviour of the actors, within the industrial relations sphere as they related to the issue of employer recognition of a major trade union will be considered in Chapter 9.

ENDNOTES

- 1 . It will be understood that in a small country such as Swaziland it is inappropriate to identify individuals or appointments.
- 2 . There were actually fourteen types of Unions included in SFTU but the remaining six were representative of teachers, broadcasters, civil servants etc. - not quite the same as 'industrial' unions. (Annual Report -- Department of Labour : 1987)
- 3 . Such 'elements in the community may be trying to establish the leadership of the revolutionary intellectual' : (Dunlop J T : 1958 : 334).
- 4 . '..... the party is the state' (Apter D - 1969 : 298).

CHAPTER 5 THE LEGAL FRAMEWORK

5.1 GOVERNMENT

Reference was made in Chapter 1 to the authoritative aspects of a societal system and to the incorporation of the industrial relations sub-system within the wider society (Chapter 1 Figure 1.1).

There is need therefore to describe the authoritative structure and implementation and in so far as the study pertains to conflict management there is also need to describe the interface between the three main actors in legal terms.

It was stated in Chapter 2 that the actors in the field are government, employers, trade unions. The approach in this chapter then, will examine the actors in their respective legal roles at the interface .

5.1.1 Department of Labour

The historical development of the Department of Labour prior to the introduction of the two main legal instruments governing employment and industrial relations (viz the Employment and Industrial Relations Acts), have no direct bearing upon the issues to be described in this narrative. What is of significance is the role of the Labour Department in the implementation of the Industrial Relations Act.

This Act emphasises clearly the conciliation and investigative duties of Labour Department Officials (Sec 23 :52 : 54 : 55 Industrial Relations Act) and in so far as the Act supersedes any other labour relations regulating instrument

(Sec 84 Industrial Relations Act 1980) it effectively establishes the umbrella position of government but provides for the ultimate arbitrator in the form of the Industrial Court, the president of which is a Judge of the High Court. He is assisted by a representative assessor from both the Swaziland Federation of Trade Unions and the Federation of Swaziland Employers' (Sec 4 Industrial Relations Act 1980).

The Act defines a 'dispute' and establishes the procedure to be followed for both individual and collective disputes (Part VII - Industrial Relations Act 1980) and authorises judgements and interpretations to be legally binding with penalties (including imprisonment) for infringements of court orders. (Sec 9 Industrial Relations Act 1980). The Act legalises the ultimate sanction which may be applied by either the employer or the collective employee, through strike or lock-out (Secs 61 - 65 Industrial Relations Act 1980) but empowers the Minister of Labour to intervene at any stage during the dispute, in the national interest (Sec 63 Industrial Relations Act 1980).

A particularly contentious issue concerns the basis for trade union recognition by an employer (Sec 36 Industrial Relations Act 1980). A union may make application to an employer for a count of union membership. Should a forty per cent count of all eligible employees result, then the employer must recognise the union as the sole collective bargaining agent for that employer or for the industry, where an industry wide union organisation and employers' organisation exists. It is the contention of unions that a favourable result should ensure immediate recognition; employers argue, (Sec 36(4) Industrial Relations Act 1980) that such recognition is meaningful only after a Recognition (or Memorandum) Agreement has been negotiated.

Herein lies a major conflict situation. However, the umbrella provided by the Labour Department, as government's executive instrument, precludes the

Labour Department from exercising any directive to the conflicting parties. But, even if such a directive could be given, the Labour Department could automatically be seen as supporting/opposing the parties dependent upon a favourable or adverse decision. It is important to note that at this early stage in the union recognition process, the executive arm of government is prevented from making a practical contribution to resolving what is likely to be the very first major conflict situation.

A second controversial issue concerns the 'Forty percent' legal requirement for union membership for a union to demand recognition. What is not clear, and again the Labour Department is unable to give direction, is whether or not the forty percent must be proved within each establishment within an industry, or simply within the industry as a whole. The practical effect of this uncertainty in the law is that the Swaziland Agricultural and Plantation Workers' Union, which claims to represent the majority of the workers within the agricultural sector in Swaziland, appears to be able to demand recognition by any employer within that industry, provided the union membership of forty percent in the industry has been obtained. Taken to the fullest extent it is possible for a union demand to be made on an industry basis, even though no union members exist in a given company within that industry. Illustrative of this was the refusal in a letter from the Sugar Manufacturing and Refining Industry Employers' Association on 14 July, 1987 to the union, to proceed with further discussions with the Swaziland Agricultural and Plantation Workers' Union, until the negotiating team put forward by the union was reconstituted. The largest constituted body of workers in Swaziland, (viz the twelve to fourteen thousand workers at the three main sugar estates), were represented by eight persons from activities other than from within the sugar sector. As indicated, the Labour Department was impotent in this situation.

A somewhat similar aspect of this phenomena concerns those undertakings (Industrial Relations Act 1980 - Definition) which may accord recognition to a

union. During 1983, the Swaziland Bank Employers' Association, as an agent of the Swaziland Financial Institutions, was prepared to accord recognition to the Swaziland Union of Financial Institutions. The union resisted the employers' interpretation of the recognition by an Employers Association, seeking to gain recognition from individual employers. After a costly and protracted argument the matter was referred to the Industrial Court with the parties being represented by Counsel and Senior Counsel (SC/QC) from the South African Bar.

The inevitable conclusion was that the union conceded that recognition should be by an Employers Association. The parties to the dispute then negotiated a Recognition Agreement, and in the event, the Industrial Court was required only to endorse that such agreement had been reached (FSE 1985 : 9).

An apparently useful attempt to influence the industrial relations situation was the establishment by the Minister of Labour (1984) of a Tripartite Labour Conciliation Council (TLCC). The Council, initially intended to be chaired by the Commissioner of Labour himself, was composed of a representative of the Federation of Swaziland Employers' and a representative of the Swaziland Federation of Trade Unions. Its major purpose was to seek to resolve disputes objectively before they reached the Industrial Court, by examining issues and persuading employer and employee to accept settlement. This could be either a financial settlement or by indicating the possible adverse outcome of a dispute, a party could be persuaded not to proceed to the Industrial Court. It seemed that a positive influence had emanated from the Labour Department, although the Council itself had no legal powers.

Other than at its first meeting, the chairmanship was delegated to, the Deputy Labour Commissioner and subsequently to more junior members of the Department. The employers were represented by the Executive Director of the Federation of Swaziland Employers (FSE) or a senior executive of an employer.

The Swaziland Federation of Trade Unions nominated one of its officials - initially a full-time employee of an employer member of FSE, but subsequently appointed a full-time official of the union movement.

Throughout its existence it was clear that the trade unions never supported the TLCC concept. On most occasions the union representative did not attend the fortnightly meetings and the proceedings of the council degenerated into a virtually meaningless activity, from which the employers eventually withdrew. At the beginning of 1990 it was the Department of Labour chairman and a revitalised union nominee, who sought to influence the issues in dispute. In practice, and inevitably, most issues reached the Industrial Court and the positive intent of the Minister for Labour and the Commissioner had been negated.

As early as September 1986, the Executive Director of FSE reported to his members (FSE 1986 : 13-14) that:-

"The future of the Council is in jeopardy. To work effectively the Council must preserve its tripartite character in accordance with the mandate of the Minister for Labour and the Public Service, who approved this creation.

Employees would not unnaturally, view with suspicion measures taken towards the settlement of their claims if those measures were solely the bipartite product of Government (Department of Labour) and the employers (Federation).

Increasingly the union representative does not attend.

The capacity of the council to conciliate effectively is also undermined by the element of speculation which pervades the proceedings [as distinct from factual report].

Further, the absence of legal powers, has resulted in the subsequent repudiation by employees of agreed settlements through the TLCC in favour of a referral to the Industrial Court, in the anticipated belief that a greater financial sum will be awarded. Were the Industrial Court to permit the Council to be used for horse-trading, to the prejudice of those who negotiate in good faith, it would

fall into disrepute, and a potentially important industrial relations function lost to Swaziland.

As indicated above, the employers withdrew from the Council (April 1988) through sheer disillusionment,. It ceased to perform any effective function.

5.1.2 The Industrial Court

Crucial to the ultimate outcome of any industrial conflict in Swaziland, either for an individual or for a collective organisation, is the functioning and powers of the Industrial Court. This body is a Court of Law in the full legal sense and the Judge-President (a judge of the High Court) was ultimately responsible to the Chief Justice for the legal functioning of the Court. (Sec. 12 - Industrial Relations Act) However, in 1990 this was changed without amending the Act, and although the President is still a High Court Judge, he now reports to the Labour Commissioner..

Two assessors, one each from employer and union nominees, assist the President in determining the issues involved in disputes. The outcome is invariably an order-of-the-Court with legal enforcement (See 7 (3) Industrial Relations Act) as in criminal or civil proceedings. The legal emphasis given to industrial relations issues has implications for the effective functioning of an industrial relations structure. Comment on this matter will be made in the final chapter.

Logically arising from the legal structure, the Judge President makes the final decision, in the event of disagreement by the members of the Court (Sec. 5 (3) Industrial Relations Act). Any matter of law is appealable to the High Court and from there to the Court of Appeal. On the application of any interested party,

the High Court may also review the proceedings of the Industrial Court 'on grounds permissible at common law' (Sec. 5 (3) - Industrial Relations Act).

Orders-of-the-Court may be made retroactive to such date as the Court deems just, but not to a date prior to the commencement of the Act (Sec. 8 - Industrial Relations Act).

To some extent, the legislators recognised the peculiar circumstances pertaining to industrial relations conflict. The court may require evidence to be given on oath or affirmation (Sec. 6 (2) (c) - Industrial Relations Act) but need not be bound by the rules of evidence or procedure which apply to civil proceedings and may disregard any 'technical irregularity' (not defined) which is not considered as impairing justice.

The court President may also admit as prima facie evidence reports filed from the Labour Commissioner or other designated Labour Department officials.

Representation of parties, by omission from the Act, enables any party to represent himself, thus obviating representation fees but Sec. 15 provides for representation by a legal practitioner or 'any other person authorised by such party'.

What does constitute perceived major restrictions on the powers of the Court, however, are:-

- the limitation to 'recommend' only and not to 'order' reinstatement of a dismissed employee in lieu of compensation (Sec. 13 (2) (b) Industrial Relations Act)
- Compensation awards shall not exceed a maximum of six months

wages. Both of these restrictions are in respect of employment/dismissal disputes rather than of concern to the union recognition process. It may be assumed, however, that before voluntary recognition of a union [Sec. 36 (3) (4)] is accorded by a small employer, one consideration might well be the maximum compensation award in the event of a subsequent dispute with the union leading to collective employee dismissals.

In so far as the recognition process itself is concerned, what is interesting is that the court has no part to play, unless there is dispute between an employer and a union over failure to grant recognition (Sec. 36 (5) (6) and 36 (6) - Industrial Relations Act).

No compulsion exists for a Recognition Agreement, (viz the 'Rules-of-the-Game') concluded without dispute to be referred to, or registered with, the Industrial Court.

Subsequent to recognition however, any Collective Agreement (Terms and Conditions of Service) concluded, must be registered and becomes legally binding on the parties to the agreement (Part VI Secs. 43 - 47 - Industrial Relations Act).

5.1.3 The Royal Swaziland Police

As might be expected, the Industrial Relations Act does not apply to police. The inference is that the Police and the Defence Force and Prison Services are precluded from collectivising for representation in terms of the Act (Sec. 83).

What is also significant is that, in terms of Sec.78 limitation on right to arrest or detain, police officers (or indeed 'any other person') may not threaten to, or arrest or detain any person for 'actual or apprehended breach of the Act' unless such breach is also a violation of any law which provides for arrest, detention,

threat, or breaches or apprehended breaches of such law. Clearly, the legislators did not intend the police to become involved in peaceful industrial relations matters. Nevertheless, the Commissioner of Police, under powers invested in his office by the King's Proclamation of 1973 (Clause 12) is required to give consent or otherwise to meetings, gatherings etc, of a political nature.

It is difficult to conceive of arrangements whereby a union can collectivise its members and pursue the recognition process without holding meetings of members. It might be proposed that by the nature of the event politics is a *sine qua non* of unionisation. However, the Swaziland Manufacturing and Allied Workers' Union challenged the interpretation of the Commissioner's powers (Industrial Court Case Number 1 - 1988). The dispute arose because of a refusal by the Commissioner of Police to permit a union meeting in the industrial town of Manzini. The Industrial Court considered the provision of the Police and Public Order Act and Sec. 73 of the Industrial Relations Act, in so far as no 'public officer' may 'impede the exercise of rights conferred or recognised by this Act' (viz Industrial Relations Act). The Court concluded:-

"I venture to state that trade unions can hold their meetings without applying to the Commissioner of Police, providing such meetings are not of a political nature".

Clearly, the onus is on the police to prove political comment after the event. And this would surely depend upon the police and the Industrial Court's agreed or different interpretation of political comment.

5.2 COLLECTIVE EMPLOYEE/EMPLOYER 'ORGANISATION'

5.2.1 Works Councils (see Appendix 13)

An institution prevalent throughout Southern Africa to which reference was made in Chapter 3 has been that of Works Councils. For many years larger employers accepted the need for some form of collective body, as a downwards communications channel between management and the labour force. It is doubtful whether they recognised the similarity with Eastern Bloc countries, however. Provision existed in the labour relations legislation of a number of Southern African countries including both South Africa and Swaziland. While this study is concerned with trade union recognition by employers it is pertinent to note the effect of works councils upon the recognition process. Swaziland's Industrial Relations Act - 1980 - Part VIII specifically recognises Swaziland's adherence to the I.L.O. conventions (U.N. 1968 : 495) concerning freedom of association and the right to organise. In pursuance of these obligations, it is compulsory for any business organisation employing more than twenty-five employees (Sec. 40) to have established a functioning works council, the constitution of which must be registered with the Labour Commissioner. Thus the point of impact, as it were, upon the process of trade union recognition, is that works councils have legal status. Where no other machinery exists for collective bargaining, for example, within a Joint Industrial Council or between a union/single employer with a recognition and collective agreement, then a works council can negotiate a collective agreement for wages and conditions of employment.

The scope and functions of a works council should reflect the industrial relations ambience within which it functions. As indicated, where no Joint Industrial Council or recognised trade union functions then the works council can negotiate with the employer. The result is that unilateral agreements, in so far as an individual company is concerned, are established.

However, where a Joint Industrial Council and/or a recognised trade union exist, then a works council cannot negotiate; it becomes a consultative body only (Industrial Relations Act : Secs 40 - 42) on purely domestic issues.

Works councils composition must reflect an equality of representation vis-a-vis employer and employees in terms of voting rights, but not necessarily in terms of equality in numbers.

The implications for trade union recognition centre therefore upon the effective negotiating capability of a works council. Historically in Southern Africa, works councils have preceded trade unions and it would seem therefore, in the absence of contrary empirical evidence, that where a council is operating effectively, viz to the satisfaction of the workers it represents, it must be more difficult for a trade union to recruit members. In terms of membership numbers alone, a lack of members can adversely affect the sufficient percentage of 40% required for a trade union to demand recognition from an employer. This problem for trade unions could become more acute if a number of works councils within an industry grouped themselves and co-operated with an Employers' Association within a Joint Industrial Council. This was exactly the situation which existed in April 1988 within the Sugar Manufacturing and Refining Industry in Swaziland. The continuing but unsuccessful attempts by a union to obtain recognition from the Employers, over the previous 5 years, resulted in a power-vacuum. At the collective workers' request, a revived Joint Industrial Council, based upon works councils representation, had reached a Collective Agreement (April 1st 1988) for the industry and 3 further annual agreements had been agreed by 1991.

The failure of the process of achieving recognition by the Swaziland Agricultural and Plantation Workers' Union forms the content of Part III, Conflict over Recognition, and will be developed in greater detail.

It has already been established that the principles of freedom of association and the right to organise form the basis for Swaziland's labour relations legislation. These principles are embodied in the law as is the right to collectivise on an industry wide basis. Only if an employee or employer does not function within the specified industry covering the association or union, can they be prohibited from joining such organisation. Only one such union or association is permitted for a given industry, however.

5.2.2 Definitions of Association

For a specific industry, therefore, the concept of industry union is enforced, as distinct from a craft (trade) union or general union. Clearly the legislators aimed at preventing/limiting inter-organisation conflict through the avoidance of union fragmentation.

Three types of associations may be formed to give purpose to the concept of collective bargaining; employers' associations, industry unions, staff associations, as stated, they are restricted to operating in one pertinent industry.

Thus employers or employees are entitled (have the right) to form an organisation collectively in order to articulate, pursue and promote their collective interests. (see Appendices 9 and 10). A constitution for such organisation must be submitted to and registered by the Labour Commissioner within three months of its formation (Sec. 17 - 20; Industrial Relations Act 1980). An employer or employee has the right not to join such organisation. The definitions of these organisations are described as follows: (Industrial Relations Act 1980 : Sec. 2)

'An Employers' Association is an association of employers which seeks to provide collective representation for employers in the negotiation and regulation of relations between employers and employees'.

‘An industry union is a combination of employees other than staff, the principal purpose of which is the regulation of relations between employees and employers in a particular industry’.

This definition indicates that industry unions should only accept as members non-staff employees normally engaged in the industry for which it has been registered, because a union cannot negotiate on behalf of staff employees

5.2.3 Staff - Anomaly

In an industrially developing country, such as Swaziland the definition of staff has considerable import for the formation and development of trade unions. It is common knowledge that staff are the more highly educated and articulate members of the employee force. An emergent union would wish to have precisely those type of individuals as its organisers and leaders.

‘Staff’ however is defined as an employee who:-

- a) ‘has authority on behalf of the employer to employ, transfer, suspend, lay-off, recall, promote, dismiss, reward or discipline other employees or deal with their grievances, or to authorise or recommend such action, when the exercise thereof is not solely of a routine or clerical nature, but requires the use of independent judgement;**
- b) participates in the making of general company policy;**
- c) works in a capacity which requires him to have full knowledge of the financial position of the employer;**
- d) has free personal access to other confidential information**

substantially affecting the conduct of the business of the employer'.
(Industrial Relations Act - Sec. 2)

It behoves any employer or employers' association to specify, in any collective or recognition agreement to which they are party, those employees who are designated staff or non-staff. The provision in the law for the formation of 'staff associations' (definition below) clearly established the opportunity for staff unionisation, but since the law made no real distinction for a cut-off level, either by salary or hierarchical position, it inadvertently posited the question of who, in a given organisation, is the employer?

In 1983, both the then executive of the Swaziland Federation of Trade Unions and the Federation of Swaziland Employers agreed, as members of the Labour Advisory Board that there was need for a more precise definition of staff. The suggested amendment was still awaiting acceptance by government in 1992. In practice, the issue had not unduly jeopardised the day-to-day operation of industrial relations matters, but it was inevitable that at some stage in an attempt to unionise and to obtain recognition, a dispute would arise over the position of staff members who wanted to join a union.

In the case of Beral Limited v Swaziland Manufacturing and Allied Workers' Union (I.C. Case No. 108 of 1987) the Court held that Section 2 of the Act required the 'aggregation' of all four parts of the definition of staff and that since this automatically excluded supervisors, then such employees were eligible for union membership. The Court observed:-

'It seems to me that even a manager of an industry would become unionisable as the law now stands; this is in my view a serious defect and calls for immediate rectification. Such rectification, as stated above, requires legislation'.

The significance of this anomaly may not be so apparent in an industrially developed country where such managerial unions exist. In a country where middle and higher level management comprises mainly expatriate staff, it could have serious consequences for the socio-economic and political stability of that country.

A 'staff association' is defined :-

Any combination of staff, the principal purpose of which is the regulation of relations between staff and employers either within one industry or with the employer by whom they are employees as may be required by the constitution' (Industrial Relations Act -Sec. 2).

A staff association may conclude a collective agreement with an employer.

However, in view of the Industrial Court judgement to which reference has been made above, a situation arose (May 1988) in which technically (legally) a staff association which might contain employees eligible for trade union membership, even if that staff association was already registered, could no longer function. A clear distinction is required to determine whether an employee may join a staff association or a union; he cannot join both. The outcome of the decision depends upon how fast government acts to regularise the situation in which in 1992 even the Chief Executive would not be excluded from membership of a Staff Association. To return to the earlier question who is the employer? It seems that in negotiations for staff salaries, managers must negotiate with themselves!

5.2.4 Joint Industrial Council

In order for collective bargaining on an industry basis to occur there is

need for a forum within which negotiation can proceed; in Swaziland such a forum is a Joint Industrial Council. Joint Industrial Councils are comprised of equal representation by both employers and employees. The constitution must be referred to the Labour Commissioner, who having satisfied himself that such a council is desirable and practicable for the industry and that the constitution is suitable recommends to the Minister that he establishes the Council via the Government Gazette.

The situation in the Sugar Manufacturing and Refining Industry was that, on the employers' association initiative, in November 1983, such a Council was established (see Appendix 12). Its constitution was amended by joint worker/employer agreement in February 1988 and formal meetings were conducted under an independent Chairman (initially Professor R.V. Sutton - Professor Extraordinaire - Organisation Behaviour and Industrial Relations - University of South Africa) and subsequently a prominent Swazi, ex-civil servant, Mr Francis Mbelu.

5.2.5 Union Meetings

In so far as all of the foregoing organisations and associations exist for the purpose of regulating the relationships between employer and employee, it is relevant to note the legal situation for employee meetings on employer premises and also entitlements for both parties to use the ultimate sanction of strikes and lock-outs.

There are nine Sections of the Act which detail the circumstances and conduct in which strikes and lock-outs may occur. - (Industrial Relations Act 1980 - Sections 59 - 67) First, some comment following on the Industrial Court judgement in the case of the Swaziland Manufacturing and Allied Workers' Union v Commissioner of Police, as it affects union meetings on employers' premises.

While the political content of unionisation is an express concern for the Police Commissioner, no such consideration is inherent in that part of the Industrial Relations Act (Sec.74) - pertaining to a union's right to seek access to an employer's premises. The employer has discretion in the matter but access cannot reasonably be withheld. The Court's assumption that union meetings are not inherently political indicates that employers have no responsibility to determine whether any particular meeting has a political content.

Nevertheless, the Act provides that an employer need grant permission for access to union officials engaged on lawful activities. A recommendation from the Federation of Swaziland Employers to its members (F.S.E. 10 - April 1988 - 4), asks that the lawful activities be defined by the union. An applicant union should be requested to provide a formal agenda for the meeting and a copy should be sent together with the employer's assent to the local Police Station Commander. It would therefore become the Police Commander's responsibility to ensure union observance of the law.

5.2.6 Strikes/Lock-outs/Picketing

The ultimate action of strike or lock-out arises from an unresolved dispute between employer(s) and workers collectively.

Little purpose would be served here to simply record the legal procedure as stated in the Act. However it is important to the main subject of this study (union recognition) to recognise the checks that exist in Swaziland on the exercise of rights arising from the principles of freedom of association and the right to organise.

The Industrial Court may rule on the nature of the dispute (viz a dispute of right or a dispute of interest) on application by either party or by the Labour

Commissioner. Thereafter a dispute of right may be referred to the Court by either party to the dispute or the Labour Commissioner for 'determination' (Sec. 58 (2 - 3) - Industrial Relations Act). In the event that the dispute remains unresolved either party may take action by way of lock-out or strike (Sec. 59 (1) -Industrial Relations Act).

The procedure means that either party has direct access to the Court concerning determination of the nature of a dispute, without recourse to the Labour Commissioner. However a dispute of interest requires that both parties agree that it be referred to the Court, otherwise if one party only could refer the matter, it would effectively deprive that party of the right to strike/lock-out.

After reference to the Labour Commissioner, (Sec. 59 (2) - Industrial Relations Act), strike action may not commence until fourteen days after the dispute has been so reported and after the further fourteen days from when the Labour Commissioner has declared the dispute as unresolved. The assumption is that the Labour Commissioner will have endeavoured to conciliate during this period. Thereafter strike action may continue indefinitely although in the economic situation of developing countries, it is doubtful whether a Swaziland trade union could financially support a long strike.

Section 77 (1-2) Industrial Relations Act expressly prohibits action to overthrow the Government, or to show violent resistance to it or designed to bring about acts of violence.

Peaceful picketing is permitted (Sec. 79 (1) Industrial Relations Act) except if:-

- a) it is intended, or may reasonably be expected, to lead to or support an unlawful strike;

- b) it involves violence or threats of violence, physical obstruction or restraint of persons or property, breach of the peace or the persistent following about or persistent harassing of a person.

A major problem in Southern Africa, including Swaziland, is the detection and apprehension of members of organisations who use intimidation (including death threats and death itself and threat of witchcraft) to ensure solidarity.

Derogatory, erroneous or deliberately misleading statements are unlawful as are acts directed at a dwelling house, unless it is also a place of business. In addition picketing is unlawful if it seeks to prejudice or influence any decision which has yet to be decided by the Industrial Court or if it seeks to influence individuals either to join or not join any organisation. Strikes and picketing are unlawful in any organisation defined as an essential service (eg Hospitals, electricity, water supplies - but not private security services).

5.3 CONCLUSION

An attempt has been made in this part of the study to show the formal points at which an interface occurs between the three actors and the formal structural and legal constraints upon their actions. It will have been noted that, although Swaziland is politically and socio-economically a 'third-world' country, its industrial relations framework and legislation, while maintaining the carry-over from earlier days (viz Works Councils), has nevertheless now become a reflection of the country's increasing industrialisation.

The question arises as to the extent to which such formal modernisation was a reflection of the reality of the environment within which the (SAPWU) unions sought to gain employers' recognition.

Earlier reference in this chapter to the dispute concerning recognition of the Swaziland Union of Financial Institutions which was referred to the Industrial Court, illustrated the only occasion up to mid-1992, other than the dispute concerning the sugar milling and refining industry, when the court was required to interpret legislation. This latter dispute over union recognition is the major conflict analysed in this study.

Throughout the ten years of its existence to 1992 the Court's primary concern was that of a legislative tribunal. Pronouncing upon individual rights pertaining to unfair dismissal from employment, it did, from time to time, direct both plaintiff and defendant in legal procedure and in following the rules prescribed in the labour legislation. However the Court frequently overlooked minor technical infringements of procedure which it did not consider would result in a miscarriage of justice; it was entitled to do so (Sec. 16 (1) - Industrial Relations Act No 4 of 1980)

Perhaps the major significance of this chapter has been that of describing what is a sophisticated legal structure for regulating industrial relations within a comparatively non-industrialised society.

Some of the impetus however stemmed from Swaziland's earlier (1962 and 1973) experience (Chapter 3) which pointed to a need to regulate industrial relations and also to the ILO Conventions which Swaziland was required to ratify. (1973)

The fact was that the ILO sent experts to draft the employment legislation with a view to modernisation. Not unexpectedly, therefore, such legislation reflects an approach more suited to industrialisation rather than embodying traditional values of a basically subsistence economy.

In the opinion of the author, the Industrial Relations Act 1980 (and Employment Act 1980) drafted by Mr K D Harrap of the ILO (FSE 1980 iii) subscribes to a system approach in which 'the industrial relations system is held together by an ideology or common set of ideas and beliefs' ... and 'defines the role and place of each actor... and the ideas which each actor holds towards the place and function of others in the system' (Jackson M 1977 : 19 commenting on Dunlop J - Industrial Relations Systems c 1958).

This study next examines whether or not such an approach was consistent with reality and assisted or retarded the management of conflict and the recognition of SAPWU by the SSMRI E/A. The analysis of the conflict over recognition is undertaken in Part III.

PART III- THE CONFLICT OVER RECOGNITION

(A Case Study)

CHAPTER 6 - THE SUGAR INDUSTRY IN SWAZILAND

It may be observed that all states have unique characteristics. What might be stated of Swaziland is that during a decade (from 1982 to 1992) of social and political violence and massive changes in states around her, this tiny country of less than one million people continued to be both politically, socially and economically stable. The minor attempt to usurp political power in 1983 was short-lived and an apparently bloodless event.

This stable situation continued in what was/is still a semi-feudal state (Chapter 3)

There were indications however, in September/October 1991, during an open canvassing of popular opinion about the Tinkundla system of parliamentary election that there was considerable dissatisfaction with the system. Opinion was that it should be an open, not a secret ballot for the election of chieftain nominees for the Electoral College. That body in secret nominates Members of Parliament from a secret list. Charges were that the Libandla (Central Committee members) which replaced the Likoqo (Council of State) in 1989 as advisers to the King, were faceless, sinister and intimidatory figures who were the real government of the country. It was suggested that a more democratic style of government might emerge eventually. (See Appendix 2)

During the period of this research project, however, Swaziland was overtly stable politically, with a gradually improving economy. That economy was dominated by the sugar industry. It is pertinent therefore to note the industry's

economic and social impact on Swaziland before giving attention to the major issue - the conflict over union recognition.

Agriculture and forestry are predominant industries in Swaziland. Statistics provided by the Government Department of Economic Planning and Statistics (1988:140) show that in 1980 these two industries provided for 75% of Swaziland's exports, 43% of GDP and 50% of paid employment. Figures established at the same date indicate (GS 1987/88 : 144) that sugar production and processing provided for 46% of the total value of exports and approximately eighteen thousand people or 14% of the population depended upon the sugar industry for employment. In effect, estimated total paid employees in all industry was 90 000 (GS 1988 : 145).

6.1 MANUFACTURING

The manufacture of sugar first commenced in Swaziland in 1958 by Ubombo Ranches (now a partly owned subsidiary of the London - based Lonrho Group). Together with the Commonwealth Development Corporation's operations at Mhlume two modern Mills came into production in 1960 with quotas of 36 000 tonnes (Simunye Sugar Estate Annual Report 1981 : 18)

Since 1981 a new third Sugar Mill at Simunye, additional to the older two at Mhlume and Big Bend, has created employment for some three thousand, five hundred persons. Sugar tonnage exported has risen from 379 000 Tons (1982) to 440 000 Tons (1987). (G.S. 1988 : 144).

In terms of the Lome Convention, Swaziland's annual supply quota to the EEC is 120 000 Tons, but the increase in production has considerably reduced the security element obtained from that quota (54 percent in 1979 to 32 percent in

1982 (GS 1988 : p144). Swaziland's former status as a small producer afforded some protection in terms of the hardship clause of the International Sugar Agreement, but this has also changed and she is now classified as a medium-size sugar producer.

This changed situation has meant that the Swaziland economy in total, and, some 24 percent of the formal sector labour force (GS 1987/88 : 80-81) or 14% of the country's population, are directly affected by increasingly volatile sugar markets (SASJ - 1988 : 2). However, Swaziland has one major advantage, compared with its South African neighbour in so far as production of sugar is concerned. Obviously, some soil variation occurs in Swaziland, but climatically the Swaziland sugar growing areas are not subject to the 'adverse climatic, topographic, soil and rainfall distribution' (SASJ 1988 : 15) as South Africa.

The cane itself is transported by road to the three Sugar Mills -Big Bend (east-central) and Mhlume and Simunye (north-east), where it is processed into raw sugar. It is then moved in bulk, by road and rail, for onward transportation to the Swaziland Sugar Terminal at Maputo for overseas shipment, mainly to the EEC, United Kingdom, Canada and some lesser amounts to the United States in terms of the International Sugar Agreement quota system,.

6.2 GOVERNMENT INTERESTS

Clearly, the dependence of the whole Swaziland economy and, by inference, its socio-political stability requires major government involvement.

The Swazi Nation is now a major shareholder in the sugar industry. While purporting to serve the national interest, it is generally considered to serve the requirements and interests of the Royal family through the participation of the

Tibiyo Taka Ngwane Fund. Tibiyo has a 40 percent interest in Ubombo Ranches Limited, the processing company which grows approximately 46 percent of the cane it processes in its Mill. The remainder of the cane is provided by 25 smaller growers of which Tibiyo is the largest contributing 14.5% of cane. (G.S. 1987/88 : 80 - 81).

In the north east Tibiyo has a 50 percent interest in the CDC Mhlume (Swaziland) Sugar Company Limited, which grows 37.5% of the cane it processes, the rest being provided by some 280 small growers, of which 270 are smallholders at Vuvulane Irrigated Farms. (G.S. 1987/88 : 80 - 81).

The new third Sugar Mill at Simunye operated by Royal Swaziland Sugar Corporation Limited, is a joint venture in which Tibiyo has a 67% interest; the remainder of equity being shared by CDC, German Development Company (DEG) and International Finance Corporation (IFC) as the other main partners. Simunye, the largest sugar estate, produces approximately 160,000 tons raw sugar. All of this is processed from cane grown at Simunye except for a small amount received from only one private grower (Tambankulu Estates).

Most of the sugar production therefore is obtained from a small number of large, modern capital-intensive estates, owned by joint venture as already stated with foreign investors and the Swaziland Government and the Swaziland National Trust Fund, known as Tibiyo Takangwane. In addition there are a few medium-sized producers together with the 270 smallholders mainly concentrated at Vuvulane in the north-east under an original Commonwealth Development Corporation Scheme.

Swaziland's vulnerability is highlighted by its terminal rail-link from Mlaula to Maputo (some 35 kms). During 1985/90, the railway over this distance in Mozambique was, disrupted for some 50% of the year, through Renamo

guerilla activity against the Frelimo Government and through operating inefficiencies both by railway and port personnel in Mozambique. This situation resulted in the industry erecting a further storage facility at Simunye (57 000 tonnes). (Simunye Sugar Estate - Annual Report : 1987 : 1 - 4)

6.3 DISTRIBUTION AND PROCEEDS

All of Swaziland's sugar export/marketing is handled by the one Swaziland Sugar Association, of which the 3 mills are members and which between them employ some 86% of the industry's labour. All of Swaziland's sugar (1987 production of Raw Sugar was 440 000 tonnes), with the exception of some 20 000 tons refined to white sugar for domestic consumption, was exported via this consortium of mills and producers (growers) established as the Swaziland Sugar Association. (SSA Report 1987 : 4)

Gross proceeds from the sales of produce for 1987, were Sugar - E226 027 710, Molasses E9 391 600 - totalling E235 419 310 (SSA report 1987 : p4). On this amount, a Sugar Export Levy was paid to the Swaziland Government, of E4 966 325. This levy is calculated on the net export sales proceeds of sugar sold and shipped during the year after the deduction of a base price, which is that distributed to the mills and growers, proportionate to the amount of raw sugar produced from the cane processed. The base export price for 1987 was E490 p/tonne. What is significant is that the levy is a direct additional cash payment to Swaziland's government revenue over and above the revenue derived from dividends paid to Tibiyo Taka Ngwane and taxes paid by the industry and by the employees.

Production of sugar is physically restricted (because of climate, soil) to the north-east and east-central of the country bordering Mozambique. As one of the world's least-cost producers, Swaziland's sugar industry is aided by good climatic

conditions and high yields are derived from the cane. Cane is grown throughout the year, under irrigation, and is normally harvested over a 33/38 weeks cycle, traditionally necessitating the employment of additional labour as cane-cutters, tractor and crane drivers and similar.

6.4 GEOGRAPHIC DATA

All three major sugar estates cover an extensive area of Swaziland's 'lowveld' - the newest, at Simunye, growing 90 percent of the cane it processes in its mill from some 9 000 hectares of land. Somewhat larger than the other two estates, it covers an area of approximately 20 miles x 20 miles (400 sq miles), but its infrastructure is similar to that of the other two estates, with one major exception.

At Simunye its labour force (+- 3 500) plus families are concentrated in two townships approximately 15 miles apart. The author estimates a total population of between 18 000 - 20 000 people, the third largest concentration of inhabitants after Mbabane, the capital, and Manzini, the mid-veld developing industrial centre. Both Mhlume and Ubombo Ranches (Big Bend) populations are largely decentralised, with employees and their families living directly in the area in which they work.

It is with this labour component that the study is concerned. Collectively, the 3 mills, together with their ongoing and original production/marketing orientated Millers' Association, formed an Employers' Association in November 1982 to deal with labour matters.

6.5 CONCLUSION

As already indicated in Chapter 3 (The Swaziland Society), the companies

provide virtually the entire infrastructure of the country, in the areas in which they are located, both physically and with services (schools, medical, recreation, social, church, police (security force). Some shopping facilities are maintained by outside interests. Perhaps a reasonable historical analogy might be that these companies are the 20th century equivalent of 'John Company' -the British East India Company (16th/19th century) - in so far as operation, if not ownership, is concerned. A more modern analogy might be that of company towns in the United States of America, especially those owned and operated by the extractive industry (e.g Anaconda Copper US, Montana).

It follows therefore, that Swaziland is economically, socially and politically highly vulnerable to any financial, material or manpower changes within the international and local sugar industry. Comment will be made at a later stage about the phenomenon that as recently as December 1991 the country's major strategic industry had not been subjected to the industrial unrest such as beset South African strategic industries; as the motor industry because of its high international publicity profile and the mining industry as the major income-earner/producer.

It is against the overall background described in Part II of this study that the industrial conflict over union recognition within the Swaziland Sugar Manufacturing and Refining Industry will be studied and analysed.

¹Footnote:-

In this chapter the statistics do not always corroborate with others reported in this research.

This is because varying sources have been used even within government departments and dates of reports do not always coincide with each other.

The aim has been to give a general indication of the economic status of the sugar industry vis-a-vis Swaziland's national economy, rather than to ensure complete statistical accuracy.

CHAPTER 7 UNION RECOGNITION

- PRELIMINARY ISSUES

7.1 OPENING MOVES

7.1.1 The Establishment of the Union

There was, in existence as early as September 1963 a Mhlume Sugar Workers Union' the executive of which sought discussion with management representatives of the Mhlume (Swaziland) Sugar Company Limited, with a view to recognition. The then President of that union, became the Commissioner of Labour, in June 1991, an appointed civil servant. The union continued to seek recognition even during the national strike (Swd Sugar Workers Union : 1963 - Sept - Letter) but without success (Mhlume (Swd) Sugar Co Ltd : 1963 - Oct - Letter).

Following this national strike in early 1963 when the striking workers 'defied the Royal directive..... an act which was viewed as an end of trade unionism in Swaziland.....' by the General Secretary of the Swaziland Federation of Trade Unions, (See appendix 4 : 15) the Registrar of Trade Unions effected a mass de-registration of unions (Chapter 2). Action was taken by the King, with assistance from the British Government and British Army to maintain law and order. The subsequent need to re-establish government control, resulted in increasing suspicion of trade unionism by resident European (Swazi) nationals and by traditionalists within the Swazi socio-political hierarchy.

Nevertheless, as a new member of the International Labour Organisation in 1975, the government ratified various ILO conventions. This required a new Employment and Labour Relations dispensation locally, and the re-activation of

the Swaziland Federation of Trade Unions. Union re-emergence was slow to start and only after assistance from the ILO and from various fraternal associates such as the Organisation of African Trade Union Unity - Nairobi, the Commonwealth Trade Union Council, the African - American Labour Centre, the International Confederation of Free Trade Unions and others, did Swaziland unions become active again from about mid 1981. The first major action was that one such union, the Swaziland Agriculture and Plantation Workers' Union was registered by the Commissioner of Labour in May 1983. The objects of the Union are listed as Rule 3 (see Appendix 9.)

7.1.2 Employers' Association and Joint Industrial Council

The second action of major consequence was that effected by the three sugar milling companies. During 1981, the then General Managers of the major sugar processing companies noting the effects of the new labour laws to commence from July 1982, jointly agreed to form an Employers' Association. This was defined in the Industrial Relations Bill, which had been given the Royal Assent in September 1980. A draft constitution was submitted to the Labour Commissioner. Following suggested amendments by the Commissioner and comments by the Executive Director of the Federation of Swaziland Employers', a Constitution was registered by the Commissioner of Labour effective 29 December 1982 (See Appendix 10). Verbal notification of this had been received in July 1982 and the Sugar Millers Association executives (29 July 1982) at once instructed their personnel executives, to proceed with drafting a constitution for a Joint Industrial Council. This was to deal with industrial workers, as distinct from the cane-growing (agricultural) work-force which was to be dealt with as a separate issue. This was occasioned by the close co-operation which existed between independent cane growers (an essentially agricultural activity) and the sugar millers. Two of the three mills were (and continue to be) heavily dependent upon cane-growers for their sugar cane supplies. The third mill grows its own

between independent cane growers (an essentially agricultural activity) and the sugar millers. Two of the three mills were (and continue to be) heavily dependent upon cane-growers for their sugar cane supplies. The third mill grows its own cane at Simunye. It was thought by the employers that, because legislation provided for an Industry Union/Staff Association (See Sec. 20 - Industrial Relations Act 1980), it would be comparatively easy to exclude agricultural workers (viz field workers) from any collective representation jointly with the industrial workers at the sugar mills.

7.1.2.1 Drafting a J.I.C. Constitution.

On the 19 August 1982, the personnel executives of the three sugar mills, met at Simunye. They particularly considered Part IV Sections 38 and 39 of the Industrial Relations Act concerning the formation of the Joint Industrial Council. In terms of instructions received by them from the Swaziland Sugar Millers' Association (viz from their own chief executives), they were required to define an 'employee', in the draft constitution for a Joint Industrial Council. Such definition would need to exclude all those employees not presently covered by the existing Wages Order for the Sugar Manufacturing and Refining Industry. The purpose for this provision was that in the subsequent event of workers unionisation or works councils type collective action, it might be possible to influence that collectivisation, so that negotiations with agricultural workers at the three main sugar estates occurred separately from other workers. This could ensure results more closely in line with those of the independent cane growers, whose operations were covered in terms of the Agricultural Industry Wages Orders. For national and individual employer economic reasons, the wages, terms and conditions of service within agriculture (See Appendix 3) have been somewhat less favourable from those which obtain in industrial - type operations.

Given the superior conditions of the sugar manufacturing and refining

industry the fear was that such conditions, if applied to SSMRI agricultural employees, could be used by the agricultural (specifically the 'cane growers') employees outside of the SSMRI, to lever upwards their own wages and conditions, to the detriment of the smaller cane growers. This was of great importance. It was primarily this concern which had earlier caused the independent cane growers to reject the option of joining with the sugar millers, in a combined Growers and Millers Employers' Association (but see Section 3 below).

It will be recalled that the personnel executives' mandate was confined to a Joint Industrial Council constitution for 'Industrial' type employees only. A reminder here, is necessary to elaborate.

There was in existence two applicable government sponsored Wages Council Orders; one for the Agricultural Industry and another Wages Order applicable only to 'industrial' type work within the sugar mills themselves as distinct from 'fields' (agriculture) work. In practice, as already indicated, the sugar milling industry paid well beyond the minimum legislated rates. At that time (1982), the sugar industry adhered to the minimum rates for industrial work as set down in the Wages Order, but paid slightly less for agricultural work, but still well in excess of the minimums specified in the Wages Order for the agricultural industry in general.

The significance of the distinction was the motivating factor underlying the general managers' instructions to establish a Joint Industrial Council for industrial workers only. The personnel executives rejected their principals' directive. Sec 38 (Industrial Relations Act -1980) provided for a Joint Industrial Council 'for that industry'. Sec 39 (a) Industrial Relations Act - 1980 specifically noted 'the class or classes of employee to be covered by the council'. It was the opinion of the personnel executives that because the industrial workers comprised no more than

one-third of all of the work-force on the three sugar estates (including mills), it was extremely unlikely that either the Labour Commissioner (Sec 38 (1) Industrial Relations Act) or the Minister (Sec 38 (2) - Industrial Relations Act) would accept a Joint Industrial Council for a minority of the total work-force. That view was upheld by the Executive Director (Mr Peter Dodds) of the Federation of Swaziland Employers, in response to a telephone call from the personnel executives during the meeting. A further meeting was arranged by the personnel executives, jointly with the Executive Director, F.S.E. for Thursday morning 26 August 1982.

7.1.2.2 Union Request for Employer's Assistance

On 24 August a letter was received by each of the three personnel executives from a works council representative from Ubombo Ranches Limited. This letter referred to correspondence during July 1982 in which workers' representatives had requested permission and assistance to facilitate the formation of trade unions. Such assistance, nationally, had been requested in speeches by the Deputy Prime Minister and the Labour Commissioner and the majority of F.S.E. Council members had given support to the requests. The 24 August letter from the worker representative stated that representatives of the Swaziland Federation of Trade Unions had been advising on a constitution for an industry union. An interim committee had been established and further assistance was requested with transport and meetings facilities for an employees' interim committee meeting at Simunye on 4 September 1982. In the event, this meeting was cancelled because of the death and subsequent funeral on that day, of His Majesty King Sobhuza II.

7.1.2.3 I.R Specialist Review

The meeting of the personnel executives of the 3 sugar mills and the Executive Director of the F.S.E. took place at Manzini on Thursday 26 August

1982, as arranged.

Discussion on the important issues was as follows:-

- The letter from employee representatives received 24 August 1982 was considered. From the letter it was clear that employees in the sugar industry, assisted and advised by officers from the Federation of Swaziland Trade Unions were seeking to establish a union which could embrace all workers employed both by millers and by growers throughout the Swaziland sugar industry.

- It was agreed that if the proposed union could obtain 40% or more paid up members of the total employees in the sugar industry they would have to be granted recognition by employers as the exclusive collective employee representative for the industry. Employers would then have to form an Employers Association embracing both millers and growers to deal with this union. Employees from some of the larger cane grower companies - (Tambankulu Estates and Big Bend Sugar Estate) were on the Steering Committee of the proposed union. It was agreed that copies of the Steering Committee letter should be sent to the General Managers of these companies.

- The Executive Director of FSE understood that the SFTU was advising unions that the monthly subscription for members should be E2.50. He seriously doubted if 40% of employees who would be prepared to pay this amount could be obtained in the foreseeable future.

- The FSE Executive Director had discussed the question of trade union representation with recent visiting overseas trade unionists and it appeared that they agreed with him that suitable potential trade union

officials were not presently available in Swaziland and that employer negotiation with grass roots works council representation should first be developed. From this might eventually emerge unions and union representation. If employers presented a JIC Constitution to the Labour Department which recommended worker representation based on the present works councils, he was sure that this would be very acceptable. This would have to be done quickly, however, if employers were to forestall the employee moves to develop an all-embracing union based upon cane-growing and milling as one industry.

- The C.E.O's instructions to confine the JIC to Industrial Daily Rated Employees only was then discussed. In the opinion of the Executive Director, F.S.E. this would be unacceptable to the Labour Commissioner and would also provoke employee opposition. In terms of the Act, the Labour Commissioner was obliged to discuss any proposed JIC Constitution with employee representatives.

- A proposal for the cane growers to form an employers association and presenting a JIC Constitution which would apply to all employees in the cane growing industry, was made. It was thought that if this was produced by the Cane Growers Association, it could probably forestall the formation of a combined industry union. At the same time this JIC could also include agricultural employees of the 3 milling companies - thus maintaining the separation of agricultural and industrial type employees.

It was concluded that this would receive very little support however and might be opposed by the cane growers themselves because of the discrepancy in wages (even for agricultural employees) and conditions of service, between them and the sugar millers. In the foreseeable future

there was not likely to be a problem of maintaining the existing concept of differential wage scales between agricultural and industrial daily rated employees all of whom could be included in one JIC for all employees of the 3 milling companies.

- The definition of a JIC was then studied. It was seen that a JIC must apply to all employees in that Industry other than 'Staff', as defined by the Act. There could be merit in claiming that in terms of the definitions of 'Industry' and 'Industry Union' contained in the Act, employees of millers and employees of cane growers were not in the same 'particular industry' and could not then be part of the same industry union.

- The possibility of doing nothing about introducing a JIC at that stage and merely proceeding with the existing Wages Council was considered. It was agreed that this was highly inadvisable. In forming a union employees were already trying to wrest the initiative from employers and should they be able to do so employers might find themselves at a very serious disadvantage.

- The matter could best be resolved at a meeting to be held as soon as possible between the General Managers, the 3 Personnel Managers and the Executive Director of the FSE. It was recommended that the Executive Director of the Cane Growers Association be requested to attend where the problems which were looming ahead could be discussed with him and a possible joint strategy planned.

- The question of the representation of employers in any action in which they might be involved in the Industrial Court was also discussed. The Executive Director FSE confirmed that it was the intention of the FSE to represent employers and that this was part of their membership benefit.

He said that this was normal practice in other parts of Africa and that he had a great deal of experience of this nature whilst he was employed by the Federation of Kenya Employers.

Following this meeting, the Ubombo Ranches representative of the Union Interim Committee was notified (27 August 1982) that the requested 4 September workers' representatives meeting had been agreed, numbering seven people. As indicated, this meeting did not actually take place owing to the King's death.

7.1.2.4 C.E.O.'s Joint Decisions on Works Councils/Joint Industrial Council Constitutions.

The General Managers, Personnel Executives and the Executive Director FSE convened on Thursday 2 September 1982, to review the situation. Worker representation was considered with two major concerns in mind:-

- Sugar Millers' Association directive to pursue Joint Industrial Council for hourly paid industrial workers only.
- Attempts by workers to organise union representation for entire industry including cane growers.

It was again emphasised to the General Managers that it was unlikely that registration would be confirmed for a JIC which was representative of such a small number of workers, (viz industrial-type workers only). Problems would arise, however, in terms of wages differentials for various categories, and in particular that of agriculture vis-a-vis industrial. It was concluded that the operating differences between the large millers and the smaller cane growers and the disparity between what cane growers paid and what mills paid, even for the same type of agricultural labour, would produce problems which would make it

undesirable to contemplate a joint organisation of millers/cane growers.

It was decided therefore that:-

- Millers' (viz refining and manufacturing) should pursue a 4 - tier JIC Constitution representative of the differing negotiable 4 categories of employees.

Categories:

- :-Daily Paid - Industrial
- :-Daily Paid - Agricultural
- :-Hourly Paid - Skilled & semi-skilled Artisan
- :-Monthly Paid - (non-supervisory) staff

- Draft Constitution for JIC be prepared and circulated to the Management of the Sugar Millers for comment (See Appx. 12).

- Personnel executives to co-ordinate for the 3 mills existing individual Works Council Constitutions and wages/salaries structure (job evaluation) in accordance with the widely recognised Paterson Job Evaluation System.

- Personnel executives should informally communicate employer views on industrial relations to own organisation representatives on interim union committee.

- C.E.O's should liaise with cane-growers and persuade them to organise in parallel with, but separate from, sugar millers.

It was noted that the:

- Reasons for pay differential of agricultural workers (working for millers) vis-a-vis industrial workers were: -
- Lack of diversification of job content
- Intensive labour requirement more costly in economic terms.
- Reason for higher wages for agricultural workers working for the millers v their cane grower counterparts was that economy of scale enabled more opportunity for reduced costs.

On Wednesday 22 September 1982 the personnel executives discussed a draft proposed Works Council Constitution which had been prepared (See Appx. 13).

The Executive Director FSE was 'unhappy' about two aspects and advised that unless these were sorted out, there was little chance of the proposals being acceptable to the Labour Commissioner. These were that:

- (i) provision should be made for negotiating wages and conditions of service and
- (ii) for settling disputes.

If the intention of the Sugar Manufacturing and Refining Industry (SSMRI) Employers Association was to exclude such machinery from the proposed works councils, some other facility would have to be provided where such matters could be dealt with. It seemed clear that this would have to be a JIC and that in such

case the works councils and the JIC would have to be introduced simultaneously or as close together as possible. It was noted that the Industrial Relations Act required works council constitutions to be submitted to the Labour Commissioner by all employers of twenty five or more employees by 31 December 1982.

It was agreed to proceed with the proposed draft Works Council Constitution based on the same four tier system of Branch Councils as proposed for the Joint Industrial Council Constitution, but also providing the means for settling disputes. Provision should also be made to ensure that employee representatives were elected by the respective works councils. A JIC Constitution along these lines should be prepared based on the SSMRI Employers Association draft previously discussed with Executive Director FSE and incorporating the alterations and amendments suggested by him.

The time span involved seemed to indicate that the Works Council Constitution and the JIC Constitution would probably be ready for submission to the Labour Commissioner by late November/early December 1982. This would probably mean that wage negotiations for industrial daily rated employees for 1983 would still take place at the government appointed Wages Council. It would also probably mean that wage increases for salaried, hourly and agricultural daily rated employees for 1983 would again be simply awarded by management without recourse to the Agricultural Industry Wages Order, because pay rates were already in excess of legislated minimums. It seemed clear however that this would almost definitely not be the case for 1984 and that increases for all 4 groups would probably be the subject of negotiation via the Branch Councils and the JIC.

Because of the obvious concern nationally with the process of labour relations within the country's largest industry, it was deemed advisable by the Chairman of the Sugar Millers' Association, as the parent body of the SSMRI Employers' Association to send a progress report, to the Labour Commissioner

(See Appx. 14). The main purpose of the communication was to indicate to government that the sugar industry (millers) were attempting to adapt to the new industrial legislation. By formulating a structure which could provide transitional facilities for the operationalisation of worker demands, in line with the legislation, it was believed by the main employer group that it would be possible to eliminate any potential for active worker militancy and thus avoid disruption of the operations of the country's largest industry.

On 22 December 1982, the Employers' Association sent to the Labour Commissioner, in accordance with the relevant sections of the Industrial Relations Act No 4 - 1980:-

- Works Councils Constitutions for the 3 Sugar Milling Companies viz a standardised version for each Company (Sec 40 - Industrial Relations Act) (See Appx. 13).
- A formal request for registration of a Joint Industrial Council (Sec 38 Industrial Relations Act) together with a copy of the proposed constitution (see Appx. 12).
- A bound copy of the Constitution for the Employers' Association (Sec 17 - 1 and 3 - Industrial Relations Act) (See Appx. 10).

Notification of registration of all three constitutions by the Labour Commissioner was received by letter via the Federation of Swaziland Employers' on 10 January 1983. Just prior to this registration, a request was made by a Secretary for the Interim Committee of the workers organisation located at Ubombo Ranches Limited to hold a further joint meeting with members of that committee. That meeting to be held at Simunye on Saturday 15 January 1983 was in lieu of the cancelled meeting of 4 September 1982. A further request was

made for the release from work of all members of the Interim Committee on 30 January 1983. This was to be held in Manzini jointly with Executive Members of the Swaziland Federation of Trade Unions to decide upon a course of action for the formation of a collective workers organisation. The employers agreed to both meetings and to assist as far as possible with the provision of transport.

7.1.3 Summary of Chapter 7(1)

By beginning of 1983, both of the major actors had, therefore, established their respective overall approaches to the new legislation, the necessary formal machinery and to their relationship vis-a-vis each other. At this stage the relationship was cautious but with no conscious attempt by the employers to develop a strategy for labour relations, nor to define as an industry any particular approach to trade unions.

What was significant was that apart from informally indicating the employers views on industrial relations to individual worker representatives, no attempt was made by employers to discover the workers' own views on the matter nor to involve them in developing an agreed industrial relations structure. Independently the workers sought to organise. Employers had complied with the law, developed their own defensive association to deal with the perceived future threats from trade unions. They failed to recognise, contrary to their own professional advisers comment, that industrial relations is a major source of potential socio-economic and political conflict. As such, it requires a rationally conceived long-term strategy as distinct from an emotionally based short-term reaction.

Subsequent actions and reactions will be described in the next section (7.2).

7.2 EMPLOYERS' STRATEGY

7.2.1 Employer's Approach

At the beginning of 1983 it seemed clear that the relationship which existed between the emerging union and the employers was a cordial arms-length situation and as indicated in the preceding section, the employers' were even prepared to assist the union in providing transport and facilitating meetings. But it would also be objective comment to state that the employers' did so with unease. A major concern was that, similar to what had occurred in Zambia and other African countries, the union was pursuing a national membership approach to embrace all agricultural workers and would claim that agriculture as such was an industry in its own right, including, forestry, pineapples, cattle and other operations, including sugar cane growing and milling.

It has already been shown in this chapter that the disparity in wages between cane growing businesses and the sugar millers was such that any national and in this case omnibus union posed a potential threat if strike action were ever to occur. This threat was not only to the sugar revenues, but also to Swaziland as a whole, in so far as most industry was agriculture related. An omnibus union is defined as a union not specifically representative of a single economic activity. This concern was codified simultaneously with the sugar millers' own concern, in a letter 11 February 1983, from the Executive Director - FSE to the sugar millers. His major comment reflected concern with the employers' stance in the event of demand for recognition from the union under Section 36 of the Industrial Relations Act.

Essentially two courses of action were available:

- grant recognition to the Union but try to perpetuate the existing (viz

newly registered) Joint Industrial Council which was confined to the activities of the three companies.

- reject the demand for recognition under Section 36(5)(b) and lodge with the Industrial Court arguments for refusing to deal with this union. There were reasonable grounds for holding that if this union also embraced industrial manufacturing (viz milling) then an omnibus union embracing all agriculture must fail to satisfy the definition of an industry union. The sugar manufacturing companies were linked by a common economic activity, (the manufacture of sugar) and obtained the principal source of income from the manufactured product. The bulk of capital investment was in premises, equipment and machinery for manufacturing and processing. The production (growing) of cane (as the only agricultural pursuit) was, in all respects, subordinate to manufacturing.

Of immediate concern and what caused the need to review the employers' approach was the fact that traditionally, wages reviews had occurred annually during March, (effective 1 April) under the old Wages Council system. Coincident with the emergence of the union was this wages review, which served to emphasise the differential in wages paid by the cane growers and sugar millers to which reference has been made. For 1983, because of the then comparatively low international sugar price and a rate of exchange of slightly more than E2 (Rand 2) =UK pound £1, the published justification was for only a 5% across-the-board increase in wages and salaries. The union development was seen as a particularly undesirable situation at that time, where adverse reaction to the low increase could be expected.

7.2.2 The Labour Commissioner's Viewpoint

A viewpoint prevalent among employers during this period, more accurately described as a hope, was that the Government, as represented by the Labour Commissioner, could provide guidance as to a future course of action. Not for the first time and certainly not for the last this was an unfulfilled hope. However, instructed by their chief executive, the personnel executives of the Sugar Millers Employers' Association sought a meeting with the Labour Commissioner on Thursday 17 March 1983, in Mbabane.

The following points were put to him:-

- The SSMRI Employers' Association had submitted a JIC constitution to the Labour Commissioner for registration in terms of the Industrial Relations Act. This JIC Constitution had been accepted and registered and all that was now required was for the Deputy Prime Minister to officially establish the JIC by notice in the Government Gazette.

- The Employers' Association felt that immediate steps were now urgently necessary to establish the machinery required for the JIC to commence functioning. The most important steps to be taken initially were the appointment of a Chairman and Deputy Chairman.

The Employers' Association had already made an initial approach to Mr Roy Damerell³, previously a Labour Advisor to CDC Head Office in London and who was now retired. It was also desirable that the Deputy Chairman be a person resident in Swaziland, preferably a Swazi citizen. A number of candidates were being considered, a choice would be made shortly and the Labour Commissioner's comments on the candidate would

be invited prior to any firm action being taken.

It was vital to the future of the JIC that the Chairman and Deputy Chairman be accepted by the employees as being completely independent. In view of this, the employers proposed that they invite Mr Damerell out to Swaziland within the next 8 to 12 weeks. The visit would be in the nature of a familiarisation trip but an initial inaugural meeting of each of the 4 Standing Committees of the JIC should be called where the Chairman and Deputy Chairman should be introduced by the Labour Commissioner. At these inaugural meetings the employees should be notified that whilst the JIC Constitution required that the running expenses of the Council be met jointly by employers and employees, the employers were aware that employees had no funds at their disposal at that time. Because of this the employers were prepared to pay certain costs, including the salaries and travelling expenses of the Chairman and Vice Chairman, until further notice.

The SSMRI Employers' Association was very worried about the Agricultural and Plantation Workers' Union which was developing and which had already applied for registration or would soon do so.

Employers felt that the establishment of this union was contrary to the provisions of the Industrial Relations act. It was not based upon the sugar manufacturing and refining industry or even upon the sugar industry in total, but appeared to be a horizontal, omnibus type union which was in danger of developing into a national union.

Employers were strongly of the opinion that not only was this contrary to the law but that it would be detrimental to the sugar industry and also to industry in Swaziland as a whole. The SSMRI Employers'

Association would find it very difficult if not impossible to co-operate with such a union. Employers did not wish to start their new industrial relations association with their employees on the wrong foot and were reluctant to go to the extent at this stage of making formal objections to the union. It was for this reason that they sought the Labour Commissioner's views on this matter.

The Labour Commissioner was quite obviously extremely reluctant to become as involved in these matters as employers recommended or requested. He declined to accept responsibility for introducing the Chairman and Deputy Chairman to each Standing Committee of the JIC. He was of the opinion that this would give rise to these officers being looked upon as government appointees and that government would then be held responsible for their actions.

The Commissioner accepted that there was an equal danger that these officers might be regarded as having been appointed by employers but as far as he was concerned, this was the lesser of the two evils. He agreed however to be present at the inaugural meetings of each Standing Committee of the JIC where the Chairman and Deputy Chairman would be introduced by employers. He felt that his mere presence would assure employees that everything was correct and above board. He would also be prepared to speak on the subject. He further recommended that an employer and an employee representative from each of the Standing Committees should then accompany the Chairman and Deputy Chairman to a meeting in Mbabane where they could be formally introduced to the Deputy Prime Minister.

The Commissioner appeared extremely reluctant to commit himself on the Agricultural and Plantation Workers' Union. He was only prepared to recommend that employers should request the Executive Director of the FSE, to set up a meeting with the Secretary General of the SFTU, and that employers' fears,

objections and any alternate proposals which they might have regarding the proposed union, should be aired at such meeting.

However he admitted that he agreed that the Constitution of the proposed union might prove to be contrary to the requirements of the law and that government was very worried about the matter and would be very relieved if the problem could be sorted out in the manner he had recommended.

7.2.3 Unilateral Employer's Action

A further discussion on 25 May, between the personnel executives considered the now confirmed registration by the Labour Commissioner of the Agricultural and Plantation Workers Trade Union. It was now a recognised employee organisation. The Labour Commissioner had indicated that the Secretary General of the Swaziland Federation of Trade Unions (SFTU) was confident that he would soon have over 40% of the SSMRI labour force as registered members. Information at Mhlume was that over 400 Daily Rated Employees (viz approx 30%) had already joined the Mhlume Branch of SAPWU.

It was reported that the establishment of the JIC of the SSMRI had been published in Swaziland Government Gazette Number 215 which had been issued early in April 1983.

The candidature of R Damerell as Chairman of the SSMRI JIC was discussed. It was agreed that the Swaziland Sugar Millers Association (SSMA) should be requested to appoint him as soon as possible. As he was not too robust, it was envisaged that after he had set the JIC on its feet he would probably hold the job for 2 years and would then hand over as Chairman to his Deputy Chairman. Mr. Damerell should make an initial trip to Swaziland in about July/August 1983 to be introduced to the DPM and Labour Commissioner and to

all 4 standing Committees of the JIC. His next visit would then be in the first quarter of 1984 when the first Collective Agreements would be negotiated in each of the Standing Committees of the JIC. The question of a local Deputy Chairman was discussed, who would eventually take over as Chairman on a permanent basis. This matter was urgent.

SAPWU was then considered. It was agreed that contact with the Secretary General of the SFTU should be made through the Executive Director of the FSE, for commencement of tripartite discussions on the JIC for the SSMRI. This would be preferable to the SFTU wresting the initiative from employers and confronting them in public with demands which might not be acceptable.

The relevant sections of the Industrial Relations Act were studied and it appeared that if the employees of any particular company did not wish to join SAPWU, they could still be represented on the JIC by representatives nominated by that particular company works council.

Union organisers were particularly active during June, July and August of 1983 and throughout the rest of the year. This included action at one of the largest of the independent cane growers' operations. This company together with other independent cane growers and the sugar millers, anticipating workers enquiries, had formulated a series of common answers (Fig 7.1). Collectively, these answers were indicative of both the cane growers' approach to unionisation, at that time, and the apparent differences amongst the two groupings and individual companies (e.g. Mhlume and Simunye) on some of the same issues.

Fig. 7.1

**DOCUMENT CIRCULATED TO SUGAR INDUSTRY PERSONNEL
MANAGERS**

- August 1983

Probable Questions and Answers When Talking to Unions

<u>Anticipated Union Questions</u>	<u>Employers' Responses</u>
Can we talk to your Works Council members?	Consensus - Yes
Can we address your workers?	Consensus - Yes (SIS Proviso - provided that you have been through the worker leadership)
Can we hold a Mass Rally?	Consensus - Yes with police permission and out of working hours.
Will you provide transport to bring the Works Council members to a central point to meet with us?	Tambankulu, SIS, and Simunye - Yes Mhlume - No
Can we use the Community Hall/Stadium/other facilities?	Mhlume and Simunye - Yes at no charge. Tambankulu and SIS - Yes at no charge initially to be reviewed later.

Will you give Works Council members transport to attend meetings at other venues in the country?	Consensus - Yes for training purposes only, not to attend mass rallies.
Will you give workers time off to attend meetings or rallies?	Consensus - No
Will you provide transport to convey workers to a central point on your estate to attend rallies?	Consensus - No
Will you allow Works Council members to attend regular meetings on Union business during working hours on full pay?	Consensus - No
Will you negotiate with us?	Consensus - Yes, when you meet the legal requirements for recognition.
Will you be prepared to collect Union dues from the members and pay them to us?	Consensus - Yes, at 5% commission.
Will you pay the Shop Stewards?	Consensus - Yes, as full time employees the Shop Stewards will be allowed to operate for specified times during working hours as negotiated in a Recognition Agreement.

Union promotional activity was supported by International Labour Organisation educational seminars during this period; for example, the ILO/SIDA African Labour Relations Project Tripartite Seminar on Labour Relations - Mbabane - 8-19 August, 22-26 August 1983. Employers continued to co-operate in releasing employees to attend, but it was apparent that the same employees were required each time for such seminars and union meetings. There had also

been a request for these employees, to pay a courtesy visit to the Prime Minister, Prince-Bhekimpi Dhlamini⁴ as part of a Swaziland Federation of Trade Unions delegation.

The employers now began to be less flexible and accommodating, which emphasised their cautious approach (see Chapter 4) and still reflected in the survey five years later. Letters to the Federation of Swaziland Employers requested that the Federation acquaint the Swaziland Federation of Trade Unions with their views, namely, that the union was apparently collecting membership fees, and should now provide for its own expenses. While unpaid leave would be granted to employees required to attend union business, transport, accommodation and similar should now be provided from union funds. While in general the co-operative state was maintained it was evident that the relationship began to deteriorate. At a later stage, contradictory opinions about co-operation with employers occurred among unionists, themselves. Such opinions began to be evident however at this time, arising from an anti-employer stance by one Mr Jamieson Dlamini, who later became chairman of the union.

7.2.4 An Industrial Relations Assessment

There was a widening of the gap between employer and union activists and a less than common purpose among the three sugar milling companies and the cane growers on a total labour relations philosophy. This situation caused the author, who was at that time Personnel Executive⁵ of the Royal Swaziland Sugar Corporation (Simunye Sugar Estate) as Secretary of the Employers Association to prepare a position paper for consideration by the Association (See Appendix 15 - June 1983). It was hoped that it would focus attention on what he perceived to be major and critical issues for long-term employer/union relationships. The paper was prompted by what seemed a less than practical sugar miller/cane grower management perspective on trade union development in Swaziland and on

government direction.

This perspective⁶ was that firstly trade unions would "go-away", at best they would struggle to become operative and viable. Secondly, Government could be expected ultimately to ban trade unions or at least to ensure that they would find it difficult to become operative in spite of legislation. At this stage, while not overtly frustrating unionisation, there was apparent a strong anti-union undercurrent by some employers which equated unions with Communism and extreme left-wing militancy.

The professional personnel executives sought to follow a somewhat indeterminate and less than unified policy from their principals and at the same time ensure that their respective employer organisations complied with the new labour legislation. Inevitably they were the scapegoats and blamed by all three actors, whenever a perceived adverse situation or decision became evident.

What had happened since 1982, when the employers had taken the early initiative in forming an Employers' Association and establishing a Joint Industrial Council, was that the trade unions (and this included SAPWU) were being publicly seen by the local workers as an alternative vehicle of expression to management dominated structures. In so doing the unions were beginning to determine the 'rules-of-the-game'. Other than reacting to worker requests for union meetings, management had not made any co-operative approach to discussion with the unions. The position paper reviewed the widening gap between SAPWU and the employers. An industrial relations strategy paper was also prepared. These documents are reproduced in full in Appendices 15/16. These papers were never considered as a collective employers study, nor was a formal strategy ever adopted. The reasons will be apparent, from the following conclusion rationale and summary.

7.3 CONCLUSION

By beginning of 1983, both of the major actors had therefore, established their respective overall approaches to the new legislation, the necessary formal machinery and to their relationship vis-a-vis each other. At that stage the relationship was cautious but with no conscious attempt by the employers to develop a strategy for labour relations nor to define as an industry any particular approach to trade unions.

What was significant was that apart from informally indicating the employers' views on industrial relations to individual worker representatives, no attempt was made by employers to discover the workers own views on the matter nor to involve them in developing an agreed industrial relations structure. Independently the workers sought to organise. Employers had complied with the law, developed their own defensive association to deal with the perceived future threats from trade unions. They failed to recognise, contrary to their own professional advisers' comment, that industrial relations is a major source of potential socio-economic and political conflict. As such it requires a rationally conceived long-term strategy as distinct from an emotionally based short-term reaction.

It will be clear from a study of the papers (See Appendices 15/16) that the industrial relations professionals (viz the personnel executives and the Executive Director of the FSE) were concerned at what they considered to be a developing confrontational stance by employers towards unions.

In 1983 industrial relations practitioners in Southern Africa as evidenced by the interaction of the author with others in his professional sphere, believed that an effective union led by educated executives rather than poorly led relatively uneducated works councils representatives, would result in a more meaningful

environment for collective bargaining.

It is interesting to observe however, that by 1992 in the Swaziland Sugar Manufacturing and Refining Industry, the works council representatives who were members of the Joint Industrial Council, had become much more skilful in their roles. Much training of these people had occurred through attendance at ILO sponsored industrial relations seminars and events and through regular contact with their management counterparts and SAPWU.

In 1983 in Swaziland, in contrast to their professional advisers, however, few if any, employers recognised the socio-political and specific industrial implications of worker collective representation. Professional advisers were not only concerned with guiding their employers and management colleagues through a rapidly changing socio-political environment resulting from the 'winds of change', but also by persuasion, example and sometimes sheer aggressiveness, to educate their superiors and colleagues. There was a need to change from autocratic paternalism to a participative management style.

The papers developed by the Secretary of SSMRI Employers' Association were intended to promote through discussion by employers two major actions.

First, through an appreciation of the existing union/employer situation, to force a more objective and less emotional view of the fact that unionisation was not a phenomena to be feared. A positive attempt by employers to establish some rapport with union leaders and at the same time maintaining some degree of status-quo while influencing the direction of affairs, might of itself, create an awareness and at least partial understanding of the respective standpoints of the parties involved. Labour legislation was new. A willingness by the employers to talk 'with' rather than 'talk to' union executive members could have assisted in promoting a more practical realistic and less ideologically based approach to

social and political change. Swaziland was, and is a sovereign independent small state. It did not have to reflect the major ideological stances emanating from other African states.

Secondly, an objective approach by the employers, which was what the professional industrial relations executives sought, could have assisted in establishing a union/employer forum. This could have led to joint sub-committees for investigating, reporting and recommending solutions to issues of welfare, housing, safety, job evaluation and grading. There could have been positive moves towards establishing a morally and practically acceptable living wage for the industry and indirectly influencing the social development of Swaziland. Such action might have reduced the issues of direct conflict between the parties by concentrating their joint efforts on mutually identifiable needs. Conflict, inherent in industrial relations situations, was accepted by the professional industrial relations executives. Attempt at conflict reduction was not part of a direct unitary approach, nor through an idealist's belief in 'one big happy family'. The aim was to establish as far as possible and to institutionalise a process for industrial relations which through a rational consideration of facts could minimise those issues of direct conflict. Given the traditional autocratic paternalist management style and an awareness of the often violent socio-political conflict which was current in sub-Sahara Africa (and even closer in South Africa), employer perceptions and attitudes caused them to concentrate on attempting to maintain the full status-quo, maximising profits and allowing economic forces rather than socio-political involvement to dictate the pace of the socio-economic development. Moreover, some employers still hoped that government would proscribe trade unions. Continuous conflict appeared inevitable.

This chapter has reviewed the respective union and employer approaches leading to conflict over the Union Recognition issue. Details of this specific conflict issues are studied in the following two chapters.

ENDNOTES

1. Comment in the foregoing chapters has been based upon data from varying sources, but specifically in Chapter 4 there was some limited co-operation from some trade union officials. Part III of the work (particularly chapters 7 - 10), however, is derived mainly from correspondence and records of proceedings between the Swaziland Agricultural and Plantation Workers' Union (SAPWU) and the Sugar Manufacturing and Refining Industry Employers' Association of Swaziland (SSMRI E/A). It also includes data from internal Employers' Association memoranda, relevant to the trade union recognition process. In these circumstances, while it may be possible, from time to time, to illuminate the employers' actions and responses with reasons, no such facility existed with regard to the trade union. This was because the author of this project was actively involved as an employer representative in the on-going relationship with the union. It must be clear therefore, that access to union thinking was severely restricted in specific matters and this narrative is essentially an employers perception of events; more precisely, perhaps a perception of 'conflict management'.
2. Part III (specifically Chapters 7, 8, 9, 10) covers the period 1982 - 1992 - from the initiation of employers' collective action to the mid 1992 relationship between SAPWU and the SSMRI E/A.
3. Mr Damerell died in the United Kingdom in early 1988
4. This person was subsequently convicted of High Treason after some 12 months detention by a special tribunal presided over by the Chief Justice and sentenced to 15 years imprisonment, in 1987. A further 'tribunal of the country's Elders' persuaded the King to pardon all of those convicted on this charge in June 1988.
5. During this early developing industrial relations situation, it became known to this executive, that certain other expatriate and European Management had reported him to Government as a Union sympathiser. The executive was under surveillance by the Royal Swaziland Police- Special Branch, for several months.
6. It was suspected by personnel executives in 1983, that Swaziland trade unions would struggle for a long time to gain employer recognition. It was not until 1992 that SAPWU achieved this aim. But neither did they 'go-away' and Government did not give any direction nor did it amend labour legislation.

CHAPTER 8 - CONFLICT APPROACH

8.1. INTRODUCTION

Reference is made in this and the following chapter to some specific concerns as they relate to employer and union representatives' attitudes and actions reflected in the industrial relations 1988 environment survey reported in chapter 4. Although that survey was initiated some four years after the first union request for recognition, the attitudes and values and the environment revealed, persisted throughout the period 1982-92 during research for this thesis. This is important for understanding the actions and reactions of the employers' managers and union representatives. The diarised account recorded in this and the following chapter, of employer (and intra-employer) and union (and intra-union) interaction should be read against the environmental background shown to exist by the survey. Thus for example, employers reaction to apparent union militancy or some unionist's pursuit of conflict generating tactics, were not single one-off situations, but were on-going manifestations of underlying ideological and values/attitudinal differences.

At the extremes these were autocratic, paternalistic colonialist management styles of capitalist enterprise, in Swaziland during the 1980's and union leaders newly embraced democratic socialist approach to industrial relations promoted by the I.L.O. architects of Swaziland's labour legislation.

Chapters 8, 9 and 10 follow the continuing conflict between the employers (in association) and the union, as it proceeded from meeting to meeting, month by month, year by year. Inevitably given the ideological differences between the participants there was constant repetition of viewpoints and approaches as issues were identified. Considerable detail of the various meetings which occurred during the first and second attempts at union recognition is reported, but the third round

of conflict discussions, although there were extensive time-gaps, from March 1986 to November 1989, tended to be repetitions of the two earlier attempts. Detailed reporting of this round has therefore been curtailed. The primary purpose in Part I and II has been the development of a scenario descriptive of the total industrial relations environment for Swaziland during the period reviewed.

Discussion in chapter 1. ntered upon conflict and values. Chapters 8, 9 and 10 report upon the results in practice of the influence of values of the participants upon the on-going conflict situation.

Fig. 8.1 at the end of this chapter is a schedule of major meetings with an attendance record, note of the major discussion topics and conclusions reached. Other meetings with and between interested parties and the employers' representatives also took place during this period. Reference will show that there are some lengthy gaps in the sequence of events; these were primarily caused by the internal affairs of SAPWU, the details of which were not available to the employers nor the author.

It will be seen that the apparent major issues focused upon:

- the procedure, overall for recognition.
- the formation and constitution of the Joint Industrial Council

A number of specific contentious matters can also be identified for each major issue and these will be examined. But first some comment upon the perception of employers and employees; particularly and directly relevant to the concept of collective bargaining as the ultimate aim and the result of union recognition. The need to obtain recognition by employers is central to the

activities of unions.

The overall aim of any business enterprise may be said to be the maintenance of profitability in order that shareholders receive an adequate return-on-investment and employees an equitable financial reward for services rendered. Given this statement, it would seem that both employers and employees have a common interest in maintaining the economic viability of the enterprises; a unitary frame of reference (Jackson MP 1977 :28). Why then the conflict situations which continue to exist in those countries which permit the operation of collective worker activities for the purposes of collective bargaining?

In the journal of the British Transport and General Workers' Union for October 1963, the then General Secretary, Frank Cousins wrote 'If we do not fulfil the purposes for which members join unions, to protect and raise their real standard of living, then the unions will wither and finally die' (Pinckott B and Cook C - 1982 :195). Employers and employees rarely share the same perception of what is equitable or what is an adequate return on investment. It can be argued within the context of industrial relations that the potential for conflict arises from two major but differing perceptions:

- the perceptions of employees as to what constitutes an equitable 'real standard of living'
- the perception of shareholders and thus employers (not always coincident with each other's views) of what is acceptable, to them, as an adequate return on investment.

It is interesting to note that universally, attitudes towards the operations of business and trade result in the use of the term 'equitable' when applied to standards of living but rarely, if ever, when applied to return on investment. It is

beyond the scope of this thesis to analyse the psychological and socio-economic and political implications of that statement. What has been established, however, is that from the onset of an industrial relations interaction there is an all pervading difference in the perceptions of the parties involved, (viz union/employers) concerning an acceptable standard for the assessment of business operations or the 'measured' good of a business enterprise.

These differences become more complex as they are seen to impact upon the wider socio-economic and political society. At the level of specific industries or individual undertakings however they are essentially reflected in the parties approach, first to the acceptance of a union as the workers' agent and second to the collective bargaining situation as the method for agreeing that workers obtain an acceptable share of the results of the measured goal.

A conflict situation has been defined as 'Any situation in which two or more social entities or parties (however defined or structured) perceive that they possess mutual incompatible goals' (Mitchell C R 1981 :17). In essence the situation of concern to unions and employers is a conflict situation involving limited resources; viz the amount of money available for adjusting the equitable level necessary to maintain Cousins' 'real standard of living'. It can be accepted that if the major objective of trade unions is to attain this standard of living, then unions must be in a situation in which they can acceptably negotiate/bargain with employers. For Swaziland as for many other countries, this involves the need to obtain recognition as bargaining agents from employers.

Once that recognition has been achieved, a legally endorsed relationship exists. This recognition, however, lies within the domain of 'social values and social structure' (Mitchell : 1981 : 17). A mis-match in this domain also produces a situation of incompatible goals - essentially the potential for conflict. But societies establish 'social mechanisms for avoiding overt violence...' (Mitchell

:1981 : 17). In the case studied a 'Union Recognition Agreement' followed by a negotiated 'Collective Agreement' for wages and conditions for employment.

This and the following two Chapters (9 and 10), report upon the specific major issues at the core of the conflict over union recognition within the Swaziland Sugar Manufacturing and Refining Industry. These issues were always in dispute and were never totally resolved. Comment will be made upon these and other specifics which from a management perspective delayed and prevented the recognition by the employers of the Swaziland Agricultural and Plantation Workers' Union during the period 1983 to mid-1992.

In the local Swaziland industrial context conflict involves misunderstanding, misrepresentation and personal in-fighting. This was the norm in collective worker representation activities from the start of the industrial legislation's effective implementation in 1982. It was particularly noticeable during the attempts to obtain employer recognition. While specific issues have been separated in this text, for study purposes, it will be understood that in practice a great deal of overlapping occurred.

8.2 RECOGNITION OF THE UNION - FIRST ATTEMPT

8.2.1 'Technical' Rejection by the employers

The Swaziland Agricultural and Plantation Workers' Union pursued union meetings at both Mhlume and Simunye with employers' approval during 1983-84. At Mhlume requests for meetings for certain departments however could only be considered once the various departments commenced work at the start of the harvesting season; field services and mechanical harvesting after 20 February and conventional harvesting, viz manual harvesting, after 16 April. Meetings were

permitted for other departments during January 1984.

The Commissioner of Police (RSP letter of 13 January 1984) addressed Mr Jamieson Dlamini at Mhlume and also approved the meetings but advised that discussions of a political nature are not allowed and, police officers will be present during your meetings. The survey in chapter 4 reports the concern by some government officials and employers at union political involvement.

A report of a meeting (TOS - 21 January 1984) stated that a union office was to be established at Simunye which would facilitate the resolution of worker grievances via the Swaziland Federation of Trade Unions which body '...will then see that some agreement is reached with the employers' failing which cases would be referred to the Industrial Court and legal costs would be incurred. The inference was that costs would be borne by the union and not the employer. The emphasis upon agreement with employers was also reflected in the 1988 survey. Three actors, union, employers and government, clearly believed in minimum involvement of the industrial court and only then as a last step if agreement could not be reached.

The union office had still not been established by February 1992 although a branch committee existed; there are no legal costs involved in appearing before the industrial court, unless legal representation is specifically sought. The foregoing meetings with misunderstanding and misinterpretations appear to have been preliminaries to the establishment of branch committees and subsequent formal requests for recognition.

Arising from the January 1984 union meetings, letters were sent to the employers from designated branch secretaries at Ubombo Ranches and Mhlume (SAPWU - 9 February 1984 and 27 February 1984). These notified the names and offices of elected branch officials, the number of employee members of the union

and sought formal recognition in terms of Sec 36 of the Industrial relations Act No.4 of 1980. After consultation with the Executive Director of the Federation of Swaziland Employers, the personnel managers [of Ubombo Ranches] replied (5 March 1984) and of Mhlume (1 March 1984)] declining recognition because at that stage no executive committee of the Swaziland Agricultural and Plantation Workers' Union had been elected. It should be noted that the 1988 survey showed that even then, some four years after this first attempt at union recognition, employers still did not believe in the effective administration of union affairs.

The February 1984 demand for recognition neither conformed to the Industrial Relations Act nor to the union's own constitution. The Executive Director of the Employers' Federation consulted with both the Labour Commissioner and the General Secretary of the Swaziland Federation of Trade Unions on this issue. Both agreed that the branches of SAPWU had acted unconstitutionally. This information was conveyed by the Director in his correspondence with the Personnel Manager of Ubombo Ranches (FSE letter - 14 February 1984). Thus a legalistic approach, exploiting a 'technical' contravention of the Act, was adopted by the employers to the first attempt by the union to gain recognition, as a means to block union activity. This action emphasised the persistently cautious approach by employers throughout the long period of negotiation.

On 17 March 1984, Simunye security officers were present at a trade union meeting at Simunye; the meeting lasted almost 6 hours. At that meeting stewards were elected for Simunye, by some 357 members who attended. The Simunye total eligible employee complement at the time was +/- 3 200. No request for recognition similar to that for the other two companies however was directed to Simunye at that time, but this appeared to be more of an oversight by the union rather than a deliberate decision.

It may be assumed that the consultation between the Employers' Federation, Labour Commissioner and SFTU, earlier in February, may have generated activity by the SFTU to spur SAPWU to regularise its committee structure. An inaugural conference on 1 April 1984 organised by SFTU and the International Confederation of Free Trade Unions (ICFTU), succeeded in establishing a constitutionally correct Executive Committee for SAPWU. In a letter (SFTU - 3 April 1984) from the SFTU General-Secretary to the Executive Director of the FSE, details of the Committee were given and it was indicated that 'The newly elected National Committee will soon be communicating direct with their employers in all union matters, including recognition'. And at the same time it was 'recommended' that the Joint Industrial Council should be suspended to 'pave the way for union collective bargaining'. This communication was released to the press (TOS - 4 April 1984). The issues and allegations concerning the "JIC" are discussed in more detail later in this chapter.

8.2.2 Independent Auditor Controversy

Dated 16 April 1984, all three sugar estates received individual requests for recognition and replied to the union stating that the matter would be referred to the Sugar Manufacturing and Refining Industry Employers' Association (SSMRI letter - 25 April 1984). A meeting of the Swaziland Sugar Millers' Association the parent body of the SSMRI E/A was convened in Mbabane on 26 April 1984 (see Appendix 18). That meeting included in attendance the personnel executives of the three estates. The Secretary of the Employers' Association was instructed to respond to the union individual recognition requests by suggesting the appointment of independent auditors (Coopers and Lybrand Associates - Chartered Accountants) to monitor union membership among employees within the industry; with suggested terms of reference for the auditor and a membership count date as 1 May 1984. The independent auditor proposal was rejected by the

union (SAPWU letter 14 May 1984) and a claim for immediate recognition was made and a counter proposal that referees be appointed from the two Federations viz SFTU and FSE, to verify the count (Section 8.5.3 below).

Simultaneously with the foregoing there was also a rejection of the JIC for wages negotiations by representatives of the union and by the categories of both of the daily paid employees.

8.2.3 Verification

8.2.3.1 Process Dispute

It had become clear to the personnel executive of the Royal Swaziland Sugar Corporation (Simunye), following discussions with his colleagues at the other estates, that the union rejection of independent auditors for the membership count could stalemate all negotiations and the recognition process. In his capacity as Secretary of the SSMRI Employers' Association, he therefore convened an informal meeting between the Association and the national executive of SAPWU in an attempt to maintain dialogue (SSMRI Minutes -16 May 1984). It should be noted that from management only Simunye and Mhlume representatives attended - not from Ubombo Ranches; for the union, only the Chairman and Assistant National secretary attended. The absence of Ubombo Ranches management suggested a lack of interest in maintaining the dialogue, by that company - a difference in approach among employers. (These differences are considered in Ch 10).

It was also now becoming clear that two distinct factions were emerging within the union (refer Ch 10). A somewhat militant group emphasising the contentious approach of some unionists (see chapter 4 survey report) was led by

the Chairman and the Assistant General secretary, both employed by Mhlume. This group opposed the more negotiating orientated group, led by the General Secretary (Mr J Sithole) who was also by now the Secretary General of the Swaziland Federation of Trade Unions. He was employed by Usutu Pulp Company Ltd but had adherents at Ubombo Ranches. Simunye employees however tended towards a neutral stance, at this time.

The SSMRI E/A secretary said he had requested this informal meeting to discuss the SSMRI E/A reply (SSMRI letter 30 April 1984) to SAPWU's applications for recognition at Simunye, Mhlume and Ubombo and also SAPWU's subsequent reply (SAPWU letter 14 May 1984). The employers could not accept SAPWU's suggestion that the verification of SAPWU membership be done by one person nominated by FSE and one person nominated by SFTU. This could easily result in dispute and SSMRI E/A did not wish to start their relationship with the union with a dispute. It was a much more orderly and acceptable solution to have the verification done by an independent firm of auditors. Their independent report would then have to be acceptable to SSMRI E/A, SAPWU, the Labour Commissioner and to any other interested body. The employers' representatives asked if it was the expense of employing an auditor or the concept of the completely independent verification of SAPWU membership at each company which was causing concern to SAPWU. There was no clear reply to this question.

Employers' representatives emphasised that employers had an obligation to all their employees to make absolutely sure that more than the legal 40% of employees wanted the union. A great deal of trouble would ensue if the union was recognised and then the majority of employees came and complained that their negotiating rights had been given away without their approval and that they had never joined the union.

Independent verification should also establish which categories of employees were members of SAPWU. It was quite possible that certain groups of employees, i.e. monthly paid or skilled, might not have wished to join SAPWU. If, however, expense was the problem then employers might agree to meet all the costs.

Union representatives then conferred in SiSwati and a remark was made that this confirmed their suspicion that employers were intent on dividing and segregating SAPWU.

SAPWU executive had called a meeting of the full national executive at Manzini on Friday 18 May 1984. The SSMRI E/A proposal would be discussed there. The executive undertook to notify the secretary of SSMRI E/A by telephone of their decision.

The Secretary of the SSMRI E/A said that as his association wished to clear up the question of SAPWU membership verification as soon as possible, he would recommend to all members of SSMRI E/A that they try by all means possible to release the union representatives for the SAPWU Manzini meeting as requested. In future however, the employers attitude would probably be that SAPWU National Executive Committee matters would not be allowed to interfere with the operations of individual companies. There were no conclusions pertaining to the auditing of the membership count pending the outcome of the meeting of the union's national executive on 18 May.

At the union executive meeting (18 May 1984) the concept of an independent audit of union members continued to be rejected by that executive, the members reiterating the proposal for joint referees. This decision was conveyed to the SSMRI E/A Secretary by telephone. SSMRI E/A management representatives responded that they were not able to amend their proposal that the

verification be carried out by an independent firm of auditors. They were still firmly of the opinion that this was in the best interests of both parties and was the best way in which to lessen any chance of a dispute over the result. They did agree however that equal number of employee nominees and employer nominees could take part in the process as observers or even to guide or assist the auditors where necessary.

If this proposal was acceptable, a meeting between the SSMRI E/A and SAPWU should be held as soon as possible to set out the procedures which would be adopted in the verification process.

The SAPWU Chairman who communicated with the Secretary of SSMRI E/A said he would have to discuss the matter with his committee and that he would notify SAPWU's reply in due course. This feature of union/negotiating and decision making via caucus or report-back, is often seen by employers as indicative of the need in Southern Africa for employee Group decision-making to avoid individual blame if the results of any decision are adverse. It might equally be argued that it arises from a local tradition of consensual decision making rather than delegated or hierarchical.

8.2.3.2 Union Response

While this series of discussions and meetings had been maintained the Chairman of SAPWU and his supporters had been pursuing their own particular tactics vis-a-vis the employers. This militant group rejected negotiation and contrary to the general view of all three actors believed that the legal action of the court was necessary to resolve employers' union differences. With no verbal indication to the employers, on 29 May 1984, a Replication was submitted to the Industrial Court. This action was against the proposed registration of the interim agreements which had been concluded by the employers' representatives with

works council representative members of the JIC, for hourly and monthly paid employees, as distinct from the union orientated daily paid workers. The representatives of the affected employees were notified and the monthly paid signatories initiated their willingness to appear in court and confirm their agreement. Information was received however, that hourly-paid employees could renege.

In pursuance of the Replication order, the Chairman and his adherents filed a report of a dispute to the Commissioner of Labour against all three sugar manufacturing and refining companies, citing each company individually for failure to recognise the union (Sec 36(5) Industrial Relations Act 1980) and for 'illegally' referring the union to an employers' association, which association also 'illegally' suggested the auditing of the union's books.

In an attempt to remove the dispute from the legal arena the Employers' Association Secretary initiated an informal meeting with the Secretary and some executive members of the union. The purpose for the meeting was given as an attempt to:

- progress the procedure for union recognition;
- obtain clarification of the 40% union membership criteria;
- ensure the withdrawal of the declared dispute over recognition;
obtain union reaction to the need to pay the current year's wages increase to daily paid workers.

At the meeting held during early June 1984, the union representatives stated that they were in a position to show a receipt book of paid-up members, including employee pay-roll number, the following conclusions were reached:-

Both union and employers' representatives attending the meeting agreed:-

- (i) Counting should be performed by a representative of the Employers' Federation and a representative of the Federation of Trade Unions; a partial concession by the employer representatives. (see Sec 3.1 of this chapter).
- (ii) Names were proposed for a referee in the event of a dispute over counting. The employers suggested Prof Magagula of the University of Swaziland or the headmaster of Salesian High School; the Union representatives would consider these but would submit names of their own, if necessary.
- (iii) Recognition would be based on a 40% across the board membership for each of the three mills.
- (iv) The declared dispute would be withdrawn from the Labour Commissioner now that the recognition issue was to be progressed.
- (v) The union representatives stated that their negotiating team (as decided by themselves) would wish to negotiate in future on behalf of all four categories of employees, but there appeared to be cognisance of the fact that separate negotiations for each category could be necessary.

No indication was given by the union representatives of their response to the question:-

"What are we to do about the wage increase for daily paid for this year?",

other than to say they would consider their answer and inform employers

accordingly.

SSMRI Employers' representatives agreed to facilitate the release of union executive members from work to attend a union meeting to discuss the arrangements mutually agreed by them and the union representatives. Mhlume management expressed concern at the fact that four of their employees would be required. However, in order to move forward and support the recognition situation, Mhlume management finally agreed.

Employer representatives made it clear to the union representatives that it was impracticable to call a union executive meeting every time some matter required decision. The union executives should consider nominating two or three people who would discuss and decide for the union in informal meetings with management, particularly since the executive involved other companies and the sugar millers were concerned only with matters pertaining to the mills. The need for urgency was stressed. This point appeared to meet with acceptance. The union representatives agreed to contact the employers Monday/Tuesday 25/26 June 1984 on the question of referees and their response to the daily paid wage increase issue.

But on 22 June the union executive notified the Employers' Association that the dispute would not be withdrawn because employers were still proceeding with the negotiations with skilled workers i.e. artisans (SAPWU letter June 1984).

A unilateral decision by the management of Ubombo Ranches Limited to prohibit union meetings because 'confusion could arise vis-a-vis works councils' and another union/employer meeting (SSMRI minutes - 26 June 1984) resulted in a further union decision to proceed with the dispute. The employers collectively decided to approach the Labour Commissioner. It was expected that he would intervene because of the unsatisfactory situation and the negative results of

protracted discussions (SSMRI E/A - letter 27 June 1984 - Appx 19). The letter referred to the issue of recognition, JIC negotiation, auditing of union membership, consequent delay in union recognition and the union executive insistence as influenced by the chairman to refer every minor issue to the Industrial Court for resolution; '.... the present impasse poses grave problems for the sugar industry and for Swaziland'. Employers' views had not changed and were substantially the same concerning the economic impact of union power in the 1988 survey (see sec 4.5. Chapter 4).

8.2.3.3 Conciliation

Towards the end of July, the Labour Commissioner called separate and jointly, meetings of the two parties involved. He urged that the parties should reconsider their respective positions in an attempt to progress their recognition negotiations.

During a tour of the Ubombo Ranches estate at Big Bend, co-incident with the Labour Commissioner's attempts to conciliate, the Minister for Labour and Public Service, Mr M Matsebula, referred to union sponsored non-negotiation with employers on wages reviews because the union had not yet attained recognition by the employers.

The Swazi Observer - (19 July 1984) reported that in an apparent reference to the Members of the executive committee of the union, whom the minister had recently met, Mr Matsebula said 'the union is suspect and the government is naturally disturbed. One wonders if the union is working for the good of its members or its own political gain'. And in a reference to the meeting he had held with both the union and the Swaziland Federation of Trade Unions, the Labour Commissioner, Mr Ralph Bhembe, himself an ex-trade union secretary, indicated that the unions and workers were 'still learning' and should ask for advice from

his department whenever in doubt. He condemned the union leaders for rejecting the Joint Industrial Council (JIC) 'which has representatives from both management and workers'. 'Go back to your federation consult with members of your executive and come to an agreement to end the deadlock with your employers'. (TOS - 19 July 1984).

But the rift within the union executive was widening; (see Ch 10 Sec 1).

Pre-empting government comment by some two weeks the Secretary of the Employers' Association for the Sugar Manufacturing and Refining Industry had circulated to his members, a summary of the options then seen as available to the employers; entitled:-

"Considerations in Present Industrial Relations Situation" (Appx 20)

The options were perceived as:

- (i) A 'laissez-faire' approach; leave the situation, unsatisfactory as it was, to develop. If the employers were seeking to delay recognition as long as possible then doing nothing might serve to prolong the delay.
- (ii) Pay an immediate (end of June) increase to workers. This would stifle any developing unrest over absence of a pay award and could buy time for further delaying recognition, and reducing union influence.
- (iii) Force negotiations via the existing Joint Industrial Council but this might be seen as exploiting differences between pro-Union and pro-Joint Industrial Council workers viz management becoming involved in workers versus worker dispute.

(iv) Simplify the recognition procedure; it might enhance management's credibility with the workforce but inaccuracies could creep into the counting of union membership and a speedy recognition take place contrary to the cautious approach which employers had so far maintained.

Following this summarised presentation, the employers decided to make an immediate unilateral pay award to all employees. No further action was taken by either the employers or the union, pending the outcome of the dispute to be considered by the Industrial Court. This dispute was before the Court in late October (1984).

8.2.3.4 Industrial Court Proceedings

At the Industrial Relations Court hearings in October, Sipho Motsa, a full-time retained member of the Federation of Trade Unions, argued for the union that it was a legally constituted and registered trade union. Because application for recognition had been made to individual employers, the union should therefore be 'recognised forthwith'. Count of membership followed recognition.

The secretary for the Employers' Association, (SSMRI E/A -P Fox) argued that, the process towards recognition was already in operation; the actual 40% criteria needed to be assessed; this could only be established by a count of union membership. Subject to a satisfactory count it was then necessary to establish the 'rules of the game' through the negotiation of a Recognition Agreement.¹ Only when the full process had been concluded, could recognition be formally accorded.

The Court ordered that the parties should proceed with the process already begun (Industrial Court Order - 18 October 1984). The case, as such, was adjourned sine die.

8.2.3.5 Recognition Agreement - Informal

Further meetings (see Fig. 8.1) then occurred between the employers and union representatives and an informal agreement (SSMRI E.A letter - 3 December 1984 - Appx 21) was achieved. Its most important terms were:-

- (i) Reference in any proceedings to the already implemented wages award for 1984 would be removed;
- (ii) Disputes and complaints against employers would be withdrawn;
- (iii) A simplified union membership counting process would commence at all three companies in early 1985.

It was expected that progress towards recognition would eventually be concluded early in 1985, such that a full Collective Agreement would be established for the 1985 wages review. That was the expectation - the reality would be different; the optimism never materialised.

8.2.3.6 'Count' - and the Employers' Response

During January 1985 the counting of union membership commenced and the checking of union registers was a joint operation by the personnel executives and local union officials at each of the three estates (see Appendix 22). This action was a considerably more flexible approach by the employers to that originally proposed in 1984 in terms of an independent audit which was rejected by the union.

Relevant to the results of this count was action taken by the employers representatives one year previously (January 1984). The personnel executives of

the sugar estates had made a courtesy visit to the Minister of Labour and Public Service. The aim had been to keep him informed of the industrial relations situation in the industry and to use the opportunity to express concern at what they perceived as the lack of meaningful progress towards recognition of the union. The Minister, during a tour of the estates and during the meeting, indicated that perhaps some amendments to the relevant legislation were necessary. He invited the executives to submit recommendations. In May 1984, these recommendations were submitted, with a copy to the Federation of Swaziland Employers for incorporation in the employers submission via the Labour Advisory Board.

The chief executives of the three major sugar estates, although frequently advised by the personnel executives against an optimistic view of government attention to amending the legislation in the first instance and certainly not in favour of employers, if it did take action, nevertheless persisted in the view that relations with the union should be on a cautious basis pending amendments. The amendments to the legislation were still 'pending' - February 1992.

The employers reaction to the membership count was that on 10 January 1985, the personnel executives jointly assessed the union count which had already taken place at Simunye and Mhlume and the procedure to be followed for the forthcoming April 1st annual wages/salary review.

Because of one of the amendment recommendations submitted to the Minister (i.e. that a 51% majority membership of employees should be a requirement for union recognition) the question arose as to whether or not the count should be recognised. The following options were considered:

- Obtain the Labour Commissioner's advice
- Union recognition to proceed on the existing basis of the law viz

40% membership requirement of total eligible employees

- ditto - but advise union that a recount would be necessary in the event the legislation was amended to the 51% requirement
- Refuse acceptance of count pending amending legislation;
- ditto - but employers to seek discussion with Minister of Labour for guidance
- ditto - but joint employer/union approach to Minister for guidance

The personnel executive of Ubombo Ranches Ltd had in any event a meeting with the Minister the following day. It was resolved that he should seek the Minister's guidance. It became apparent from the meeting with the Minister that no clear indication was to be given from government.

Nevertheless, following the results of the union membership count, (Appx 22) the employers decided, on 27 February, to take action rejecting union recognition and to consult with works councils on the options available for the April wages review. The union executive was notified (SSMRI E/A - letter 27 February 1985), that because of 'possible amendments to labour legislation' and because the Labour Advisory Board had been convened to advise the Minister 'concerning such proposals', 'the Sugar Manufacturing and Refining Industry Employers' Association consider that it would be inappropriate at this time to enter into discussion with your union regarding recognition'. It was also indicated that it was the intention to deal through works councils and JIC on the wages review issues. This was a contributing factor to the invoking of court procedures by SAPWU. Once again the employers' principal executives were hoping, contrary to the advice of the Secretary of the Employers' Association

(SSMRI), that government would act in their interests in approving their somewhat restrictive amendments on the power of the trade union. Government, after obtaining proposals from the Labour Advisory Board, modified by the employers' recommendations and by joint consideration by employer and SFTU LAB members, still did not respond! Employers continued to believe, based on rumours circulating in the capital, Mbabane, that government would eventually ban or severely restrict the activities of trade unions - which was essentially what appeared to be Ubombo Ranches and Mhlume requirement at that time, perceiving union activists as agents of extremist left-wing ideology. Employers' responses reported in the 1988 survey (see Chapter 4) indicated that their concern at possible union political power had changed little since the first attempt (1984) by the union to gain recognition.

Formal recognition was sought on the basis of the membership count, in writing, by the union from Simunye and Mhlume individually in a letter dated 26 February (but not received by the employers for several days). The employers' action jointly through their association had preempted receipt of the Union requests for recognition by their letter of 27 February. While rejecting recognition on the issue of proposed pending amendments to legislation, the employers had noted to themselves, an additional and even more contentious reason for rejection i.e. that the Industry, as a total, showed less than the legal standard of 40% (32,77%) (Appx 22) overall throughout the industry, as distinct from the numbers for individuals categories and individual employers.

The first attempt at recognition had failed.

ENDNOTES

1. It is of interest to note that the South African Administrator of SWA\Namibia made the same comment, in retrospect, concerning the fact that a constitution ('rules of the game') should have been agreed before SWAPO recognition of political power in the independence general election. ('Natal Witness' - 12 March 1990). The theme of general principles for a constitution as a prerequisite for multi-party discussions on a transitional government, was of paramount concern in South Africa in February 1993.

Agree the 'rules' before establishing the extent of the power-base!

JOINT INDUSTRIAL COUNCIL AND TRADE UNION RECOGNITION ISSUES

MEETINGS SCHEDULE 1983 - 1992

<u>DATE</u>		<u>PURPOSE</u>	<u>CONCLUSION</u>
<u>1JIC Issue</u>			
March 1983	Simunye/Mhlume Works Council Representatives Employer Manager Reps.	Management explanation of Joint industrial Council	Rejection of JIC by potential Union officials.
December 1983	Simunye - Union Officials/ Members	Discuss JIC Concept	JIC rejected by Union
June 1984	Manzini - Union National Executive	Discuss JIC Concept by Rejection of JIC concept	Union
June 1984	Mbabane - Union Executive/ Employer Management Reps	Discuss JIC Constitution	Rejection by Union appointment of an 'independent' by Chairman of JIC
April 1985	Mbabane - Union Executive Employer Management Reps.	1985 Wages 'Negotiation' process and need to regularise JIC.	Rejection by Union of JIC and refusal to discuss amending existing JIC
<u>2Union Recognition</u> January 1984	Mhlume - Union Executive and public	Union membership recruitment	Restriction by Employer on employees attendance from Field (Agricultural) Departments. Establish Union office at Simunye (never implemented)
January 1984	Simunye Union officials and Public.	Union membership recruitment	
March 1984	Mbabane - Employer Management Reps and Director FSE	Union request for recognition at Mhlume and ubombo Ranches from local Branch (Union) Committees	Recognition rejected by Employers - request should be made by National (Union) Executive which had not been elected

<u>DATE</u>		<u>PURPOSE</u>	<u>CONCLUSION</u>
March 1984	Simunye - Union Officials and public	Union membership recruitment	Union Stewards elected for Simunye
April 1984	Mbabane Conference of Union officials and representatives of International Confederation of Free Trade Unions	Regularise establishment of Swaziland Federation of Trade Unions	National Executive Committee for SFTU elected in accordance with legal Constitution
April 1984	Mbabane - Employer Management Reps of Sugar Millers' Association	Consider request by Union to all 3 Millers' Estates for Recognition	Union notified of 'necessity' for independent audit of Union membership - rejected by Union (14 May 1984)
April 1984	Mbabane - Millers' Estates CEO's and Personnel Executives and non-Executive Chairman of Simunye	Consider Common policy towards Union Recognition issue and potential industrial action by Union.	Pursue the 'independent' audited approach with Union.
May 1984	Mhlume - Chairman/Asst National Secretary - SAPWU Employer Management Reps from Simunye/Mhlume	Consider appointment of independent auditor to verify Union membership	Union officials to consult Union National Executive
May 1984	Manzini - Union National Executive	Consider appointment of independent auditor	Rejection and counter-suggestion of joint referees
23 May 1984	Manzini - Labour Advisory Board SFTU and FSE Reps Chairman - Labour Commissioner	Consider amendments to Labour Legislation - Employers' reps to pursue the issue of definition of 'industry' and to suggest suspension of amendments	Amendments to be studied by Cabinet - but existing laws to remain valid pending outcome. (February 1991 - still awaiting Cabinet consideration)

<u>DATE</u>	<u>PURPOSE</u>	<u>CONCLUSION</u>
June 1984	Mbabane - Employers' Management Representatives/ Secretary-General of SAPWU plus four 'negotiating' team members	SAPWU refused to withdraw dispute (22 June 1984) (26 June 1984)
July 1984	Mbabane - Labour Commissioner - Employers' Management Reps and SAPWU Executive (Separately and jointly)	No action pending outcome of Industrial Court dispute. Case adjourned sine die (18 Oct '84)
November 1984	Mbabane - Employers' Management Reps Union Executive (less Chairman)	Informal agreement (30 Nov '84)
February 1985	Big Bend - Employers' CEO's and Personnel Executives	Reject Union recognition pending 'amendments' to Labour legislation
May 1985	Mbabane - Employers' Management Reps Unions Executive	Agreed to exchange and study Draft Recognition Agreements
August 1985	Mbabane - Employers' Management Reps Union Executive less Chairman	Employers Management Reps to finalise Draft Recognition Agreement (18 October 1985)
November 1985	Mbabane - Employers' Management Reps Union Executive (including Chairman)	Rejection by Union Executive of Recognition Agreement negotiations prior to accordance of Formal Recognition

<u>DATE</u>	<u>PURPOSE</u>	<u>CONCLUSION</u>
December 1985	Mbabane - Labour Commissioner Employers Management Reps Union Executive (less Chairman)	Re-negotiation accepted. (SAPWU letter 27 December 1985)
March 1986 to July 1987	Mbabane - Employer Management Reps Union Executive (eight meetings)	Ongoing negotiations Conclude a Recognition detailed discussion on :- Sugar Industry Representation :- Secret Union Ballots :- Union legality :- Picketing :- Essential Services :- Negotiable matters
July 1987	Mbabane - Employer Management Reps SAPWU - Secretary-General and reduced 'Negotiating-Team'	Agreement finalised subject to: - re-establishment of SAPWU Branch Committees at Simunye and Mhlume - Re-count of Union Members
August 1988	Mhlume : Simunye Union meetings	No formal establishment of such committees
November 1989	Mbabane - Industrial Court SAPWU Representative Ubombo Ranches legal Representative	Case dismissed Union failed to register dispute in accordance with law (Technical dismissal) Re-application by SAPWU - Feb 1990
April 1992	Management (IR Consultant) and union executive - Simunye Labour Dept. Official	Agreed to await outcome of industrial court case SAPWO/Ubombo Ranches.
May 1992 (17 to 13 May)	Management (IR Consultant) SAPWU executive and Simunye union representatives - labour official : at Simunye	- Simunye recognised union subject to satisfactory (40%) count - Simunye withdrew recognition (17:30hrs) but it was agreed to consider the situation at 08:30hrs 14 May 1992 - Unions served strike notice (23:00hrs 13 May) effective 06:00hrs 14 May.

<u>DATE</u>	<u>PURPOSE</u>	<u>CONCLUSION</u>
May 1992	Management - Ubombo Ranches SAPWU executive - Big Bend	95% union membership at Ubombo Ranches. Company recognised union for Ubombo Ranches only.
May 19th 1992		Strike terminated - 'no work - no pay' Recount of membership - showed 43% union recognition for RSSC - Simunye only
		Simunye agreed recount of amended categories of employees, subject to termination of strike.

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CHAPTER 9 AGREEMENT AND DISAGREEMENT

9.1 RECOGNITION AGREEMENT - SECOND ATTEMPT

9.1.1 Preliminary Discussion

A series of informal meetings took place in an attempt to maintain contact between the Employers' Association and SAPWU, following the rejection of recognition by the employers on 27 February. A joint Employers' Association/SAPWU executive meeting was convened on 2 April in Mbabane.

A second count of union membership jointly monitored by management and union officials had also been carried out at Ubombo Ranches; this improved upon the first and revealed an overall 51,99% membership. The employers, cognisant of workers' feelings decided to reopen discussions, but still to proceed with caution. Employers, while not wishing to recognise SAPWU did not want to be seen as anti-union; they hoped that eventually government would ban unions and 'take the blame'.

The first stage which was agreed between the parties on 30 November 1984 had been completed. The union count had been done in all three companies. The second stage as explained by employer representatives was to talk to each other about a recognition agreement. This process would take some time as each party would be expected to prepare and submit a draft which would need to be agreed by both parties. Once draft agreements had been exchanged, further discussions between the two parties could then continue. The union officials had been very much concerned about accomplishing step one which dealt with the union count. Neither party was ready to present a draft agreement immediately. The employers suggested that a future date be agreed upon on which to discuss and consider the draft agreements and suggested that a further meeting be held in the middle of May, 1985. Documentation should be exchanged before the next meeting.

After an adjournment the opinion of the union officials was that the count had been completed and it had been found that the union had got the necessary membership in all three mills. The union should now receive a letter from employers granting recognition in all three companies. Only after this should recognition agreements be discussed. The employers verbally disagreed stating that there was a need to establish the terms and conditions of the recognition agreement before recognition could be granted. The union officials stated that their understanding of the Industrial Relations Act was that a letter should be written confirming that the union had achieved the necessary membership. A letter confirming the count, in fact had been written but had nothing to do with the Recognition Agreement, itself (SSMRI E/A letter - February 1985).

The employers' representatives stated that recognition could only be granted together with the recognition agreement. They explained that a recognition agreement is a comprehensive document which contains the rules for the relationship between both parties. Employers could not grant recognition with no rules and these should be contained in an agreed document. While believing that judicial involvement should be limited (see Chapter 4 1988 survey results), the employers were insisting as early as 1985 that the 'rules of the game' be clearly established before collective bargaining could be seriously accepted as an on-going feature of industrial relations.

It was finally agreed that the union would submit a draft agreement together with a letter applying for recognition. SAPWU national executive asked that the union be given an opportunity to meet on 10 April, 1985 in order to amend their document and submit it by the next week. Employers would finalise their own draft document for discussion at the next meeting in mid May, 1985.

9.1.2 The Agreement Discussions

9.1.2.1 10 May 1985

The employers representative opened the meeting in mid-May by proposing that the draft recognition agreement which SAPWU had supplied to SSMRI E/A on 16 April 1985 should be discussed. It was an important first step in the recognition process. They had carefully studied the document and had the following reservations about it:

- (i) It was not detailed enough. It could therefore be open to disputes on interpretation. It was also silent on a number of important issues:-

It did not distinguish between company-based and industry-based negotiations and discussions. It made no provision for informal contacts. In many ways it ignored important provisions in the Industrial Relations Act.

- (ii) It required negotiations to be conducted without any properly established framework (i.e. the JIC).
- (iii) The proposed grievance procedure did not provide for industry-based resolution of problems.
- (iv) Clauses which were not acceptable to SSMRI E/A, were those which required the employers to accept grievances against management appointments and to disclose possible confidential information.

SSMRI E/A representatives had prepared their own draft recognition agreement which contained many of the points contained in the SAPWU proposed agreement but which also provided solutions to the points already noted. SAPWU members were recommended to take it away, study it

carefully and discuss it amongst themselves. SSMRI E/A representatives said that this was a more precise and detailed document than the union draft.

Employer representatives stated that a lengthy process of negotiations was necessary. Before the final recognition agreement was signed, there would probably need to be a further recount of SAPWU membership at each company because of the time period since the original count. It was requested that SAPWU officials be given time off the following Friday, 17 May 1985, so that they could meet to discuss the SSMRI E/A document. Assistance with transport was also sought by the union. This request was discussed. SSMRI E/A representatives pointed out that it was universally accepted that union officials were expected to conduct union business in their own time and that they were also expected to use their own funds and their own transport when doing so. SAPWU representatives pointed out the difficulties of meeting over weekends because of transport and communication problems in Swaziland and because some of their members were employed on continuous shift and others were required to turn out for weekend maintenance duties.

Eventually employer representatives agreed that they would provide a meeting place for SAPWU NEC to meet at Simunye but that individual members would have to apply to their own heads of department at work to be released on leave or unpaid leave. SAPWU would have to make their own arrangements for transport. The companies concerned might be able to hire them transport if necessary. SAPWU NEC would have to seek the required police permission to hold the meeting.

SSMR E/A representatives pointed out that their proposed recognition agreement would provide for matters of this nature once the agreement had been signed. It was agreed that SAPWU NEC would notify SSMRI E/A when the union representatives were ready to proceed with further discussions. The employer representatives had two further points for discussion.

- (i) Pressing problems still existed over 1985 wage increases for the

majority of employees in the three sugar milling companies. Employers wished to keep SAPWU informed that discussions were proceeding with industry-based branch works councils and JIC. These would continue until the matter had been resolved.

- (ii) Disturbing reports had been received about statements which were alleged to have been made by certain SAPWU officials at recent industry-based meetings of the branch works councils. Whilst employers could not, or did not wish to try to dictate to SAPWU what their officials said and did, the matter was causing concern and could well damage further relationships. Employees were openly discussing allegations that certain SAPWU officials were threatening employees, who were not SAPWU members or who refused to agree with SAPWU ideas, that they would lose their jobs after SAPWU had been recognised. If these allegations were correct it was not in the interests of further good relations between SSMRI E/A and SAPWU nor was it in the interests of good industrial relations at the sugar milling companies involved. It was realised that the two parties would have their differences. Employers were proceeding with discussions on recognition in good faith and sincerely hoped that they could continue to do so but if employees were being threatened as was alleged further negotiations could be seriously jeopardised.

J Dlamini (Chairman of SAPWU) said he would reply as he could see this referred to SAPWU officials at Mhlume. The Commissioner of Police had called him to Mbabane. He had assured the Commissioner of Police that there would be no strikes or threats or intimidation. He had assured him that it was his business as Chairman of SAPWU to ensure peace in the industry. He had subsequently also told this to the chief executive of Mhlume. He then went on to say that the allegations were completely untrue and unfounded. Persons who made such allegations were merely seeking to curry favour with their own employers. The employers within the SSMRI E/A differed with regard to their attitude to SAPWU. Certain employers got pleasure when people reported lies

about SAPWU to them.

At Mhlume the employers hated him personally and liked to hear 'bad allegations' against him. This is why they believed these allegations. He said that he had never made any threats against any employee. He remembered well the advice that His Majesty the King had given to employers and employees after the strikes and troubles at Big Bend in 1963. He was grateful that employers representatives had mentioned this matter in the presence of his colleagues. They could now go back and assure employees that SAPWU does not threaten employees. He said he was glad that this matter had been brought into the open.

The employer representatives stated that it was good that an opportunity had been taken by both sides to 'clear the air'. No further comments were made nor conclusions reached at the meeting.

9.1.2.2 22 August 1985

A further meeting took place between the union and the employers on 22 August 1985 to pursue the recognition agreement.

The meeting clarified certain matters pertaining to the recognition agreement and to the proposed amendments to the constitution of the Joint Industrial Council particularly to that concerning those types of workers to be excluded from union membership, e.g. security force. A revised recognition agreement (see Appendix 23) was to be sent to SAPWU for the union to study and a request for a further meeting when convenient. The Employers Association notified the union in September that the further draft recognition agreement proposals would be sent when the employers had received legal advice (see Appendix 24). It was not apparent whether the union was also obtaining legal opinion.

Agreement was given by Simunye management to a request by union representatives for a rally meeting to be held at Simunye in order to pursue the establishment of a union branch. Draft copies of the proposed recognition agreement were sent to the General-Secretary SAPWU on 18 October 1985 and another meeting was proposed for November. At this stage, there was reason to believe that considerable progress had been made towards establishing an acceptable recognition agreement.

9.1.2.3 20 November 1985

The next meeting took place in Mbabane on 20 November. At this meeting J Dlamini (to whom reference has been previously made) was present as were also two Special Branch police officers. Presumably to report on any possible political comment. After a delayed start, it was established that neither party had informed the police that a meeting had been convened; neither party had thought it necessary because it was a private not a public meeting.

The General Secretary of SAPWU (J Sithole) confirmed that the executive members present were the authorised representatives of the union and could conduct business on behalf of the union. The SSMRI Employers' Association representatives stated the purpose of the meeting to be discussion of the Employers' Draft Recognition Agreement¹ and Annexures. The union representatives charged, however, that:-

- (i) the draft Recognition Agreement available from the employers differed from that presented at the previous meeting;
- (ii) the employers had deliberately delayed recognition, by claiming absence of employer executives and by reference to lawyers;
- (iii) after the count had been finalised, the union should have been

accorded recognition and the Agreement negotiated afterwards;

- (iv) employers had not studied nor replied to the earlier union draft proposals. The union representatives were of the opinion that further discussions would be of no use and that the matter should be referred to the Industrial Court.

The employer representatives concluded, privately, that the presence and influence of the Chairman of SAPWU, J Dlamini, caused the situation to deteriorate.

In response to the employers' question as to whether or not the union were now refusing to discuss the employers' draft agreement, it was stated that the union should be recognised immediately and thereafter discussions on an agreement should take place. Employers' representatives pointed out that recognition was meaningless until the terms and conditions of recognition had been formally agreed. The union representatives stated that the pace of discussions was too slow and this was the fault of the employers, who had engaged in delaying tactics and had not amended the union draft as agreed. Employers' representatives replied that the best way to avoid delay was to pursue discussion on the draft employers' agreement which was based on previous discussions.

The charge that the employers had not studied the union draft, was refuted. During discussion at the 22 August joint meeting, SAPWU objections to various clauses had been carefully noted and these had been incorporated in the employers' draft, where acceptable to employers. It had also been agreed on 22 August that the next meeting was for the purpose of considering the employers' amended draft. Further negotiation was now required to eliminate the matters of disagreement. Exclusions from union-membership were then raised by the union representatives who claimed that certain individuals who could be defined as 'staff' and whom they had included in the original count were now to be excluded. This would affect the union

percentage, and also deprive the union of the leadership element necessary for its development. Employers' representatives stated that a reduction through exclusions would mean a reduction in eligible total labour complements. The one cancelled the other and it was considered that as exclusions could be contained in an annexure, progress could be made if discussion on the main agreement could be started.

The union representatives stated that the prerequisites for a recount of union membership, before the signing of a recognition agreement was not acceptable to the union. Employers referred to the '3 month clause' and said that because of the long period which had elapsed since the last count, it was essential to establish the present level of union membership. The union officials contended that the required level of membership had already been established and repeated the viewpoint that recognition should have been granted at that time. Employers' representatives maintained that the simple fact that discussions were in progress meant that de facto recognition had been accorded; de jure could not be established until the agreement had been signed and a letter confirming the membership count at each company had been sent to SAPWU by SSMRI E/A. The negotiation on the Recognition Agreement itself had already taken 11 months; the reply by SAPWU representatives was that this type of delay was not a good way to commence the desired relationship between the two parties.

After two adjournments for caucus discussion, the union representatives clearly stated that they saw no point in further discussion and that the matter would now be referred to the Industrial Court. SSMRI E/A representatives voiced regret at the union decision to refer to the Industrial Court. After a further adjournment at the union's request, the union representatives reaffirmed their decision to refer to the Industrial Court. And a second attempt to obtain recognition had failed!

9.1.2.4 Mediation

On 10 December at the Labour Dept in Mbabane, the Labour Commissioner himself attempted to resolve the impasse which had arisen. There was charge and counter-charge, particularly concerning what employers perceived as the disruptive influence at the last joint meeting on 20 November, of the SAPWU Chairman. The Labour Commissioner finally obtained agreement that the union would respond in writing to an employers' letter of 27 November, which followed the 20 November meeting (see Appexdix 25), which challenged the union legality. The union would confirm acceptance that:-

- negotiators would in future have a mandate to negotiate;
- the union executive would examine its constitution and ascertain whether it could be modified to satisfy the employers' reservations concerning sugar industry representation (viz Industry definition); a matter which the employers had considered and had obtained South African legal opinion upon it in May 1984 (see Appendix 24).
- a recount of union membership would take place before a recognition agreement was actually signed;
- the union would be prepared to negotiate in a spirit of reasonableness.

The employer representatives confirmed that on receipt of a reply to their letter, the chief executives would decide whether or not to reopen negotiations towards the settling of a recognition agreement. This letter was sent by the Union on 27 December 1985 (see Appendix 26). (see also Appendix 27).

9.2 JOINT INDUSTRIAL COUNCIL

From March 1983 discussion during the entire period of employer/union meetings (viz. almost 9 years) focused upon the JIC as a major contentious factor. At Simunye, management representatives spent one day during March 1983 explaining the proposed formation of the Joint Industrial Council and the required constitution to a combined meeting of all 63 works council representatives. It was emphasised many times by management representatives that whether works council representatives or trade union representatives acted on behalf of their colleagues, any negotiation would need to be on a formal basis within a formally constituted forum. That forum, by whatever name it was known, would effectively be a Joint Industrial Council. 3 years later it was doubted that a similar consultation had taken place with works council representatives at Ubombo Ranches Limited. That is to say that either deliberately or by default, management there had failed to consult with workers - a prerequisite if the Council was to become effective.

In spite of the fact that at Simunye and Mhlume such consultative meetings certainly did take place, the trade union officials continued to claim that no such consultations occurred and that the Joint Industrial Council - 'JIC' - was an employer body which was aimed at replacing a trade union and to frustrate the formation of a trade union.

During the last month of 1983 a trade union meeting was held at Simunye, with the employers' permission on company premises. At that meeting the allegations against the employers were again voiced. Reference to a report (TOS - 6 December 1983) shows that there was dissatisfaction over the appointment of the management financed Chairman who, because 'he is not fully conversant with our problems cannot successfully [negotiate] any of our demands'. This was a misunderstanding and/or misrepresentation of the role of the Chairman, to illustrate the ineffectiveness and/or to discredit the establishment of a Joint Industrial Council.

Allegations were made that employees were threatened by management if they joined the Union, rather than support the Joint Industrial Council concept. No such allegation was ever pursued through the grievance procedures to the Industrial Court at any one of the three estates. An allegation was also made that the company at Simunye had imposed a further condition in addition to the legally required 40% of all employees as union members, to support the legal demand for recognition. This further condition [misunderstood or misrepresented] was seen as forcing a three months waiting period before any amendments to the JIC Constitution could be considered. This issue seems to have arisen from the fact that legally the 40% membership for recognition should be maintained. An employer can apply to the Court for withdrawal of recognition if the number of union members is less than 40% of the categorised labour force for three consecutive months (See 36(7) Industrial Relations Act).

Objections were again raised by the Union (SAPWU - Letter 22 June 1984) to the pursuance by employers with certain categories of workers within the JIC of negotiations for wages increases. It was understood that 'no negotiations will be carried on while the recognition matter is not through'.

Negotiation within the Joint Industrial Council was rejected; 'all negotiation should be with the union, which should be recognised'.

And a report in the press (TOS 25 June 1984) quoted remarks made at a union National Executive Meeting. Employers did not want to recognise the union. They had engaged in divide and rule tactics by seeking to promote a four worker category Joint Industrial Council and were playing for time. Reference was made to the Joint Industrial Council as an employer promoted body (SSMRI - Minutes 26 June 1984) during a joint employer/union meeting. The proposed appointment of an independent arbitrator, in the event of dispute was also rejected by the Union, as a further attempt by employers to maintain the council concept of an independent chairman.

The union could not accept the proposal 'because there was no

provision for such an appointment in terms of the Industrial Relations Act'. The Act, however, does not prevent such an appointment. While the Code of Practice as such, is not mandatory, Sec 25 of the Code - (Industrial Relations Act) does provide for voluntary agreement based on mutual trust; it was that form of agreement which the employers (cynically) sought in the proposed appointment of an arbitrator.

Almost one year later union rejection of the Joint Industrial Council was again a subject of disagreement (SSMRI Minutes - meeting 2 April 1985). While discussing the process of wages negotiations, employer representatives emphasised that the only forum for negotiations on wages, conditions of service and industry regulated attempts to resolve disputes was a Joint Industrial Council (JIC) Employers were aware that there had always been some opposition to the existing JIC and its constitution. There was need for reaching agreement on a new constitution before any wages negotiations could take place but only after union recognition. The union chairman restated that his executive would never accept the existing JIC and they would propose their own negotiating constitution because the union had never been consulted on the establishment of the JIC.

As explained in Chapters 5 (see 2.4 Collective Organisations) and Chapter 7 (Section 1.2), employers had initiated a Joint Industrial Council to forward the implementation of the newly introduced industrial relations legislation. Initially based upon the existing works council structure, the constitution provided for amendment and adaptation in the event of unionisation. The JIC constitution was registered by the Labour Commissioner on 10 January 1983, almost five months before the union was registered. Tactical use of the existence of legal machinery by the employers was certainly envisaged in dealing with the union, but the introduction of a Joint Industrial Council was a logical development, in itself. At no time did the union executive accept this argument. The forum for negotiation had still to be decided in mid - 1993.

Employers were concerned that individual employer recognition would suggest negotiation on an individual basis. The employers' association would become defunct as a negotiation body; the union would have, to a great extent, destroyed the employers' solidarity. It follows that there would be no reason for the existence of a Joint Industrial Council as a negotiating forum. Unions could engage in leapfrogging strategies designed to establish a competitive situation between employers in wages bargaining.

SAPWU strategy of attacking the employers to force recognition involved the tactical discrediting of the Joint Industrial Council. Specifically those tactics may be summarised as allegations that:

- there was no consultation with union officials as distinct from works council representatives. Union officials claimed the exclusive right to represent workers.
- the structure of the JIC was specifically designed to promote divide and rule tactics by employers.
- an independent chairman could not/would not understand the problems of workers in the industry.
- there was no provision made in a JIC constitution for union participation in the deliberations and proceedings of such a council.

These allegations have been separated for study purposes, as specific to the JIC, but it should be understood that frequent reference was made to them during the discussions between union and employer representatives concerning the recognition issue.

9.3 DISPUTE SUMMARY - 1984-1985.

After two attempts to gain recognition from the employers, the SAPWU Executive had been unsuccessful. Although the Labour Commissioner in person had become involved in efforts to resolve the dispute and there was an ultimate referral of the dispute by union officials to the Industrial Court, at the end of 1985 no recognition agreement had been endorsed.

The main matters of dispute remained, namely that the Recognition Process was jeopardised by the following sub-issues:-

- J I C - an employer promoted forum, perceived by union representatives as designed to replace the union, prevent union activity and part of divide and rule tactics to frustrate the solidarity of worker collectivisation,
- Unconstitutional action by SAPWU, initially, through recognition demands from Branch instead of Executive Committee via the Union General Secretary.
- Verification of membership 'count' - rejection by SAPWU representatives of an FSE involvement in verification.
- Employers concern at the small number of sugar industry representatives in the SAPWU negotiating team.
- Independent Audit. Union rejection because such auditor(s) were not members of the industry and such an audit was unnecessary if both parties acted in good faith.
- Recognition on demand. Rejected by employers; the rules-of-the-game (Recognition Agreement) needed to be negotiated before according recognition.

Union representatives were of the opinion that once registered

by the Labour Commissioner, a union could demand recognition before any further procedural action.

- Definition of Industry (see Appx 28) and consequently the legality of an industry union. Employers were of the opinion, rejected by union representatives, that the existing legislation was deficient in its broad definition of industry and thus enabled SAPWU to claim representation for other activities in addition to sugar manufacturing and refining.

It should be noted however, that 1985 closed with both sides, once again, prepared to talk. The union continued with the employers' permission, to conduct educational training sessions for its officials on the employers' estates. There was no undertaking by either to refrain from pursuing legal action against the other however and the recognition dispute remained.

9.4 JOINT DISCUSSION - (THIRD ROUND - MARCH 1986 - NOVEMBER 1989)

Between 7 March 1986 and 14 July 1987 eight further meetings occurred. Major specifics discussed were the employers' insistence on the change of the union constitution to reflect a sugar industry union - ultimately resolved through a clause in the Recognition Agreement itself endorsing the point, but without the need to alter the constitution. Employers were accused of attempting to fragment the union movement (SSMRI/SAPWU Minutes - 19 March 1986). The union rejected an attempt by employers to insist on secret ballots at union meetings as interference in union affairs (Minutes SSMRI.SAPWU - 18 April 1986). The discussions became deadlocked over the legality of the union; (see Appendices. 24/28). Talks were revived through informal discussions between the respective parties' secretaries and the issue was shelved in order not to further delay the process of recognition. Concern was expressed by both management and union representatives over picketing,

exclusion of essential services employees, in particular security personnel, negotiable as distinct from non-negotiable matters (e.g. medical, safety, training) and union representatives continued to reject the Joint Industrial Council.

However, between mid-1986 and December of that year, the disagreement within the union manifested itself further. In November, the SFTU suspended the union (SAPWU) for non-payment of dues (SFTU letter - 17 November 1986). While SAPWU continued to function, attempts to remove the militant Chairman, Mr J Dlamini, finally succeeded in May 1987. On 14 July 1987 (SSMRI minutes) the Secretary-General of the union, Mr J Sithole, with a small negotiating team and the employers' representatives, finalised a Recognition Agreement based on the employers' revised draft (Appendix 23) subject to the re-establishment of effective union branch committees at Mhlume and Simunye and a recount of union members.

On 3 November 1987, at the verbal request of existing works councils, the Joint Industrial Council was revived and 1988, 1989, 1990 and 1991 Wages Reviews were subsequently successfully negotiated.

No further formal communication was received by the employers from the union until August 1988, when notification was given of attempts to comply with the undertakings given in July 1987. Again, no further communication was made until November 1989.

In November 1989, SAPWU instituted a dispute against Ubombo Ranches for failure to recognise the Union. This dispute rejected initially (for a technical documentation infringement), by the Industrial Court, was reported again in January 1991. This case was finally heard and judgement given at the beginning of May 1992.

In the meantime the JIC continued to function and negotiations for annual wages reviews pursued. It is of note, however, that the Labour

Commissioner, in a rare attempt to give direction to the parties, rebuked the employers as early as 1986 (Labour Commissioner letter 10 July 1986) for their failure to recognise SAPWU. The employers rejected the argument on the grounds that the process of recognition sought to resolve outstanding issues (SSMRI - letter 30 July 1986). Once these issues were finalised, recognition would be established.

From November 1989 until November 1991 no formal employer/union contact occurred.

9.5 STRIKE ACTION - RSSC - SIMUNYE STRIKE REPORT

9.5.1 Strike Summary

(i) On 28 November 1991 the Royal Swaziland Sugar Corporation - Simunye Estate received a new application from the Swaziland Agriculture and Plantations Workers' Union requesting Simunye to recognise this union as an exclusive collective bargaining body representing all employees excluding Staff as defined by the Industrial Relations Act of 1980. The SSMRI Employers' Association, on behalf of RSSC Simunye, invited the union executive to a meeting. The union did not respond to the association, but declared a dispute to the Labour Commissioner on the grounds that the employer (as distinct from the SSMRI Employers' Association) had failed to respond to the union. On 25 April 1992 the Union served the Corporation at Simunye with notice of a strike which was to commence on 12 May 1992.

(ii) At a conciliation meeting on 27 April 1992 it was agreed by both parties (the Union and Employer) that Simunye would respond after the Industrial Court judgement of the case concerning union recognition between Ubombo Ranches and Swaziland Agriculture and Plantations Workers' Union which had been pending since January 1991. This was to have been done on 5 May 1992.

The court judgement in this case gave guidelines on the issues of recognition and stated that an application for union recognition must specify exactly those categories of employees which a union wished to represent. Simunye management asked SAPWU to submit a new application detailing the categories it wanted to represent; the original application did not specify any categories. The union did so on 6 May 1992 and specified the following categories of employee.

- Agricultural Daily Paid
- Industrial Hourly Paid
- Hourly Paid Artisans
- Seasonal Workers
- Monthly Paid excluding "staff"
- Casuals

(iii) The two parties entered into negotiations on 11 May 1992 and the company granted SAPWU recognition in principle, on condition that it obtained an overall 40% paid-up membership in respect of the categories of the employees specified in the amended application of 6 May 1992 (40% is stipulated by the Industrial Relations Act as the minimum required for a union to demand recognition). The initial strike notice (25 April 1992) was then verbally withdrawn by the union. Both the Union executive and the Corporation management started the count of membership together on 12 May 1992 and completed it at 1300 hours on 13 May 1992. The count revealed that the union had only 35.4% paid-up membership for the categories it claimed to represent as at end of February 1992. As a result of the 35.4% count the Corporation management withdrew recognition which was granted in principle on 11 May 1992. The Union representatives then demanded that 'seasonal workers' be excluded from the count and again demanded recognition.

(iv) At this stage, 13 May 1992 at about 17.30 hours, it was agreed to resume negotiations at 08.30 hours on 14 May 1992 when an answer

to the above demand would be given by management. While he did not disclose the fact to the union representatives the management negotiator (the author) had previously recommended to management that recognition should be granted on the basis of 33⅓. He did not have an authorization to grant this but felt sure that overnight he could persuade Simunye management to agree.

At the same time the Union served the company with verbal notice as a continuation of the original strike notice of 25 April, to commence noon on 14 May 1992 if management's response was negative. However during the evening of 13 May 1992, at 2300 hours, the Union served the General Manager with yet another continuation notice of strike to commence at 0600 hours on 14 May 1992. This notice was contrary to the verbal agreement reached by both parties at 17.30 hours - 13 May. A strike of virtually all employees did then actually commence at 0600 hours on 14 May 1992. Even though the strike was in progress (14 May 1992) the Company management responded to the Union and expressed its desire to continue negotiations provided the Union executive cancelled the strike and submitted a new application detailing the amended categories of employees the Union really sought to represent.

The strike extended from 0600 hours 14 May until 1800 hours 19 May.

- (v) By the fifth day intelligence reports indicated that a highly volatile and potentially violent situation was developing among striking workers. It was essential if danger was to be avoided that the strike should be terminated. The strike termination was secured through private prayer and a proposal by the author (at that time employed as I.R. Consultant/management negotiator) that because it was important for future relations for both parties to maintain their credibility then:-

- the strike notice should be withdrawn simultaneously with the commencement of a recount of union membership, extracting seasonal workers.

In practice, only a count of seasonal workers was done, as at 19 May, thus excluding a sufficient number to adjust totals so that the membership number of the legal 40% was achieved. A double check ensured 'fully paid-up' membership for categories included in the count - in many cases several months in advance.

(vi) Although the strike occurred before a full contingency plan was available, management:

- maintained contact with the union via the management negotiator.

- conducted an information/briefing session each morning.

Those attending were:-

General Manager, I R Staff, Communications Officer, Divisional and Departmental Managers as available.

- maintained contact with each other, particularly the General Manager, I R Consultant and Divisional/Departmental Managers and Communications Officer.

- regularly issued management briefs on the situation via radio, press, television and on the first day an air-drop on the company townships of a management explanatory pamphlet.

(vii) The I R Consultant (management negotiator), General Manager and Communications officer (a Swazi national) received telephone death threats at home frequently and two other managers received one phone call each towards the end and after the strike. Telephones of

those affected were 'unplugged' during the late night hours. Written abusive, anonymous letters and telephone death threats were received at work by the Communications Officer.

Intelligence sources reported a heavy degree of intimidation during the strike period for seasonal workers to join the Union. Although excluded from the strike notice (and the amended membership count), seasonal workers did participate in the strike. Verbal abuse and indirect intimidation was also directed at those very few Swazi nationals employed who did report for work. Essential services continued to operate during the strike, as required by law.

There was no actual violence. At management's request the Royal Swaziland Police, while on standby in force, kept at a distance with a low profile and operated plain clothes patrols except for a uniformed officer during the night both at the IR consultant and General Manager's houses. A mobile patrol toured the manager housing areas during the night, about every two hours.

Although Labour Department officials were present from the start of the strike, one clearly identified with the Union; the other more senior, who attended meetings from the fifth day, made little or no contribution to mediation and served only to endorse the final count.

9.5.2 Strike Analysis

- (i) The author of this thesis, as Industrial Relations Consultant, had anticipated the 'new' request for union recognition some months before it was received. Given that categorization of employees was clear, he was sure that the required 40% membership would be achieved. But recommended recognition be granted on the basis of 33⅓, if that was the level of union membership.

He identified potential problems as indicators and triggers of strike action as the productivity improvement programme currently being pursued in the company, and designation of junior management as 'staff' during negotiations for a recognition agreement. Both items were seen as potential strike issues following on a recognition count - it was NOT anticipated that a strike would occur over recognition itself, because management was receptive to unionisation provided the required membership was adequate.

- (ii) Consideration of an 'Industrial Action Contingency Plan' as part of overall Industrial Relations strategy was already in preparation by the company managers. The miscalculation of the timing of a strike meant that the company's plan was NOT ready and thus a reactive approach to events as they occurred became necessary.

The author had informed management that he was aware that the union was seeking to increase its power-base at Simunye and also wished to enhance the public profile of the Union Executive via the strike action prior to the ILO Conference in Geneva in June 1992. The certainty of a strike had been anticipated - the timing was misjudged. It was seen as a strategic strike by management, in so far as the Union Executive wished to publicly demonstrate its worker control and power. This was confirmed to the author by a member of the Union Executive after the strike. This person stated that the Union Executive in 1992 first sought recognition from RSSC Simunye. It was seen as having a progressive and liberal management which would grant recognition immediately or would quickly 'cave-in' under threat of a strike. Either situation would have scored a plus, for the Union Executive.

In the event, the executive did not expect that Simunye management would accept a strike situation at the commencement of the sugar harvesting season, if at all, and thus underestimated the negotiating strength of will of the IR consultant and the management.

(iii) The following important considerations arose:-

- Public Relations - it was necessary to have available a PR specialist with access to press, radio, TV contacts. In fact Simunye already had a Communications Officer whose appointment was more than justified by the actions taken to keep the public informed.

- Communications - a major problem was to get management's perspective across. An 'air-drop' of pamphlets was done on the township but the use of posted letters was not practicable in rural circumstances. A loud-hailer - or more than one might have been used.

Attempts were made by union activists to inveigle management into addressing mass meetings. In the circumstances it would have been totally useless. Management would have been vilified and it was highly dangerous to managers' personal safety.

The local estate security force was of little use in either communicating or disseminating information. The information network established by the author during the mid 1980's had become non-existent, with the change to local (Swazi) management at the end of 1989. Regular daily information meetings were held among senior managers.

(iv) - Negotiations with the union. For the first 3 days of the strike, negotiation was left to the IR Consultant and his assistants. This action resulted in a dangerous situation for these officials and their families, as being isolated as the enemies of the union and work-force.

The IR Consultant was targeted. It should be remembered that violence was common-place in Southern Africa at this time.

A second issue was the possible erosion of the line management power-base, when work resumed.

This second situation was corrected during the last two days of the strike, by including a senior manager in the management negotiation team.

- (v) - Payment during strike 'No work - no pay' was strictly enforced and as far as was possible this was regularly announced. Attempts were made by union representatives to negotiate payment as part of the strike settlement but they were unsuccessful. By adhering to the no work - no pay tactic, management ensured that the costs of loss of sugar production, due to the strike, were largely off-set by the savings from labour-costs (wages).

Rations were issued, but a management decision was taken to discontinue if the strike extended into the seventh day. Two reasons determined this action:-

- a) Humanitarian - worker families were resident at Simunye.
- b) Administrative procedures would take time to change.

Simultaneously with the Simunye strike situation, SAPWU Executive again sought recognition from the management of Ubombo

Ranches Ltd following the industrial court judgement referred to in Para. 3.1.2 above. This company management, cognisant of the possibility of a strike, quickly organised a count of union membership. As was expected by IR observers, an extremely high membership was recorded (95% of the work force). Recognition of the union was accepted. Shortly afterwards, recognition was also accorded by Mhlume Sugar Company Ltd.

The Union Executive then proceeded with negotiations for individual company recognition and collective agreements. An issue which had worried the employers as far back as the beginning of 1983 and which was considered in comment upon the Joint Industrial Council (see this chapter sec. 4). As at mid - 1993 not one agreement had been finalised.

9.6 RECOMMENDATIONS OF GENERAL INTEREST TO EMPLOYERS IN DEVELOPING COUNTRIES - STRIKE CONSIDERATIONS

- (i) Appoint a Strike Action Team (SAT) to implement a strike contingency plan arising from a properly conceived industrial relations strategy. Ensure that a labour lawyer or IR consultant is quickly available. It is necessary to distinguish between legal and illegal actions by workforce and management. At Simunye, the union's actions were recognised as legal by the IR consultant and confirmation was obtained from the company's attorneys.
- (ii) Appoint a management negotiating team for on-going union/management relationships, where a union has, or is about to be recognised. This team could be two or three people from SAT.
- (iii) Do not rely on verbal agreements with a union particularly during a strike - get any agreed action in writing and signed.

- (iv) Develop, as part of a Corporate Strategic Plan, for all aspects of long-term viability, a Human Resources Strategy, and avoid the common idealist (viz. 'unitarist') approach to industrial relations; that of 'why can't we all be one big happy family because we all work for the same company'!
- (v) Recognise that industrial relations conflict <-> power <-> manipulation. What is required is a specific strategy developed for a specific organisation to minimise conflict-generating situations and maximise (for management) power manipulation. It is also necessary to ensure management development and training in the tactical skills necessary to implement strategy.

9.7 CONCLUSION

Government sought to modernise labour legislation in Swaziland by enacting I.L.O. drafted law operative from mid - 1982. The first attempt to obtain recognition from employers as the collective bargaining agent for workers in Swaziland's major industry was made by union representatives of SAPWU in March 1984. Ten years after the legislation became available and eight years after the first attempt, the union executive finally succeeded. An outcome which was inevitable from the start.

Chapters 8 and 9 have recorded the constant argument and counter argument over major issues, which occurred between the major protagonists. The question may be asked as to why it took so long to formally establish a relationship which is essential to the continuing orderly processing of conflict generating issues between employers and workers. This and other relevant issues pertaining to industrial conflict situations are explored in the concluding chapter.

Division and conflict, however, were not only between union and

employers, but also intra-union and intra-employers. Both aspects are considered in the next chapter.

ENDNOTES

1. See letter - Executive Director - FSE to SSMRI EVA (4 November 1985 - commenting on the Draft - Appx 6)

CHAPTER 10 CONTINUING DIVISION AND CONFLICT

10.1 INTER-UNION CONFLICT

It is important for an understanding of what follows to have studied the Union's own version of Swaziland trade union development and to have recognised Union commitment to the paramount concept of unity (see Appendix 4). Disagreement in caucus is inevitable from time to time. Disunity in public negates the basic philosophy of trade unionism.

The revival of the trade union movement in Swaziland, following the King's suspension of the Westminster type constitution (1973), was slow to develop. It will be recalled from Part II that effective labour legislation to promote trade unions was not promulgated until 1980 and did not become operative until the latter part of 1982. Nevertheless, the protracted negotiations between the Sugar Manufacturing and Refining Industry Employers' Association and the Swaziland Agricultural and Plantation Workers' Union commenced as early as 1983. The apparent speed with which the Union established itself so soon after the legal right to do so augured well for an effective relationship with employers. This did not happen.

During 1984 and 1985 the employers became aware via their own intelligence activities and also via common knowledge that differences between the Chairman of the Union and the General Secretary were affecting negotiations. The employers did not know which union officials had a mandate to negotiate. On 27 November 1985 (SSMRI Letter) clarification was sought. The Union confirmed (SAPWU Letter) a month later that the National Executive committee would negotiate in total and had a mandate from the union members to pursue the recognition issue to the Industrial Court, if necessary. In January 1986 the Union decided (SAPWU letter) that its full national executive was too large a body for negotiating and reduced its negotiators to four people. The Vice-Chairman and General Secretary were included in the team: the Chairman was not. While the General Secretary of

the Union was out of Swaziland on union business the Chairman initiated the establishment of a branch committee at the Simunye Sugar Estate (July 1986) to which were elected his brother and a number of his own adherents (SAPWU letter). In November 1986 the union (SAPWU) was suspended from the Swaziland Federation of Trade Unions for failure to pay subscriptions (SFTU letter)¹. By January 1987 the intra-union disagreement had become public. The Chairman, Mr J Dlamini, complained in an interview that union members were 'losing hope' that the recognition would ever be obtained. '.....the problems are within the union itself: and the employers have effectively utilised the union's internal problems....' (Swaziland Herald: January 9 : 1987)

The problems were with the leaders of the union who were not 'honest enough' to gain the confidence and support of the members and some of whom 'misuse funds and others do not behave well'. Mr Dlamini also condemned a joint statement of intent issued by the Swaziland Federation of Trade Unions and signed by its Secretary-General and the Federation of Employers, claiming that the Trade Union Federation had no mandate to agree to such action.

The seriousness of union disunity caused the Labour Commissioner to question both the administration and electoral procedures of trade unions and in particular the Agricultural and Plantation Workers Union (Labour Commissioner minutes : 3 March 1987). He noted that among the national executive of the union recently re-elected, were two people, one of whom was Mr J. Dlamini, the Chairman, who were no longer employed in the industry. He rejected the union's contention that this was legal and was 'disappointed' that the union had said it would contest the issue, if necessary, in the Industrial Court. The union General-Secretary agreed that the Commissioner was correct.

Referring to annual returns to his department by unions, the Commissioner was of the opinion that 'Unions were making a mockery of the

law' and he had instructed the Senior Labour Officer to seek deregistration, through the Industrial Court of those unions which failed to comply. The Agricultural and Plantation Workers' Union was thus affected by the Commissioner's directive.

Continuing to maintain his position as Chairman of the union, Mr Dlamini responded to an official request to the union, by the employers (SSMRI 9 Feb 1987) seeking clarification, once again, of the names of the union officials who could negotiate with employers, by naming himself as 'Chairman-General' and indicating the names of his close adherents as executive members at the three sugar estates (SAPWU 16 March 1987). This information was refuted by Mr Sithole, the Secretary-General as 'it has and had no blessing of executive' (letter SAPWU 21 March 1987). Mr Sithole however confirmed all of the names one week later (SAPWU letter 27 March 1987). This letter was not on the official union letterhead and the Employers' Association suspected that the Secretary-General's signature might not be genuine.

At the end of 1987, with the employers still unaware of who were official union leaders and still concerned at the internal union strife, the 'illegal' chairman accused the Labour Commissioner of conniving with management at the sugar estates to frustrate union recognition (Swazi Observer - 19 December 1987). Mr Bhembe (Labour Commissioner) in a press statement (TOS 30 March 1988) castigated Dlamini for his incompetence and intimidatory actions during the period 1983-87; 'if he had been intelligent enough, he would have realised that the task was far beyond reach of his intellectual capacity' and would have given way 'to those capable'. Mr Bhembe was clearly of the opinion that it was mainly Mr Dlamini's ineffectiveness and the internal union disagreements, which had prevented the Swaziland Agricultural and Plantation Workers' Union from obtaining recognition from the Sugar Manufacturing and Refining Industry Employers Association.

In August 1987 (TOS August 28), the Labour Commissioner had already warned all union executives and rank and file members to refrain from the practice of engaging in a scramble for power. Changes should be sought through constitutional means; intimidatory tactics should never be used. During 1988, Mr Dlamini was removed from his appointment by the union. SAPWU had still not been recognised by SSMRI by January 1992 and had still not complied with a 1987 Industrial Court Order to report satisfactorily on its financial affairs. The Court had however, taken no action to enforce the order.

An independent industrial relations observer in Swaziland in February 1988 pointed out that the unsatisfactory answers given to questions on union administration and the misuse of union monies 'did nothing to promote confidence in the concept of trade unionism; workers could become disenchanted; trade unions are a relatively new concept in Swaziland; they cannot afford these sort of goings-on before they have firmly established themselves'. (TOS, 19 February 1988).

10.2 INTER-EMPLOYER CONFLICT

Throughout the protracted negotiations between the employers and the union, there had been considerable disagreement both within the management hierarchy of the individual companies and between the companies themselves over the approach to the recognition of trade unions. At the end of 1985, employer representatives were resigned to a lengthy attempt to persuade union officials that an agreement specific to the Sugar Manufacturing and Refining Industry itself was desirable. The employers' principals, mainly concerned with employer unity, were prone to follow the lead of Ubombo Ranches Ltd management which perceived unions as disruptive in essence and the longer recognition could be delayed the more chance that lobbying might result in unions being banned. Failing this, prolonged discussions might cause disaffection among union members and the union disintegrate for lack of

support!

From the workers' viewpoint, there were certainly verbal indications of dissatisfaction with the lack of union success in obtaining recognition but it did not manifest itself as anti-SAPWU at that stage. It had not yet assumed sufficient shape for a wish to negotiate outside of union ranks. That came two years later. During this period further joint discussions took place specific to the recognition agreement itself and to the attempt to establish a union exclusively for the industry.

It will have become apparent from the preceding chapter that even allowing for the degree of unity shown by employers when meeting with the union, differences existed within the Employers' Association relating to union recognition and to employer/collective employee relationships. These differences described in this chapter arose from a fundamental difference in philosophy. Some consideration of the theories is appropriate at this point.

10.2.1 Philosophy

Industrial Relations may be viewed as a variable in the socio political system, e.g. as a dynamic component of a political conflict system or as a 'broad area of contemporary study in industrial sociology. the nature of conflict and bargaining procedures and the growth of trade unions'. The approaches of the classical theorists (Marx, Weber and Durkheim) focus upon the impact of 'industrial structures and processes' in the development and form of society in total (Parker 1975 : 17).

Marx saw the crucial issues as centering upon the ownership of the means of production. The differentiation of societal classes according to property ownership giving rise to the opportunity for the exploitation of the lesser advantaged by the more advantaged and resulting in perpetual conflict which could only be resolved through revolution.

Weber interpreted society on a somewhat wider basis. Interest groups developed for other reasons in addition to property ownership. He also saw industrial society as more than typifying 'the history of all societies' (Parker et al 1975 : 16). Capitalism, the basis for an industrial society was a different society from those of the past. The uniqueness of capitalism lies in the development of ; science-rational thought and in bureaucracy - rational organisational; which could lead to loss of personal freedom and to disenchantment.

Durkheim's analysis considered that as society (population) increase in numbers and density then the sources of consensus are important. These sources are legal and moral frameworks and differing reference groups resulting in anomie and societal disorganisation because of an abnormal form of the division of labour.

In establishing an organisation industrial relations philosophy, there is need to recognise the concerns of these classicists and consider what Burns (Parker 1975 : 17) outlines as:-

- (i) The impact on professional and black-coated workers of bureaucratization.
- (ii) The complexity of the work place as a socio-technical system.
- (iii) The contrast between the mainly informal work groups and management.
- (iv) Trade Unions and the nature of conflict and bargaining procedures.
- (v) The impact of industrialisation on the individual.

Such concerns are important in a developed industrial society but in a

developing society items (ii) to (v) are particularly important and require in-depth study of their impact. Noting that 'The power context is set early in economic..development and is much influenced by the industrialising elite', it becomes clear that 'an industrial relations system creates an ideology (philosophy) or a commonly shared body of ideas and beliefs regarding the interaction and roles of the actors.....' (Dunlop John 1958 : 383). And it is within this area of inter-management, inter-company interaction that difficulties are experienced. It is essential that collective employer (and employee) organisations are clear what that 'commonly shared body of ideas and beliefs' really is. Are their individual 'ideas and beliefs' commonly shared?

10.2.2 SSMRI E.A. Approach

In the case of Simunye there was the need to ensure that industrial relations philosophy was consistent with and supportive of the corporate aim as outlined in the corporation's annually reviewed and produced corporate plan.

'the image of the undertaking is maintained as a progressive and caring employer' and in line with the corporate objective for industrial relations:

'To achieve stable industrial relations within the Corporation by:

- pursuing a policy of constructive negotiation for labour relations within the Corporation, industry and national industrial relations structures;
- upgrading the industrial relations skills of staff'.

Simplistically (but practically) the theorists' concepts pose alternative assessments of what labour relations is all about. Burns synthesis of classicist thought suggests two major concerns:

- the impact of industrialisation with its attendant bureaucracy and hierarchical organisation structures;
- the nature of conflict, formal versus informal groups and the dichotomy between collective employer and employee perceptions. (Parker 1975 : 17)

Both concerns exist within a technical/social dichotomy itself - the socio-technical sub-system

The point for discussion is that the whole industrial/labour relations system is one of constant contradictions viz:-

Organisation v Individual freedom,
 Regimented Groups v Personal Choice Groups
 Relatively - affluent v Relatively less affluent group perceptions
 Numerate logic v Emotional needs satisfaction.
 Technical requirement v Social demands

These contradictions become acute in developing countries where there is expatriate employer management and indigenous worker-collectives. The difficulty for the maintenance of stable industrial relations is that of developing continuing collaborative processes and that establishes the first major consideration for industrial relations in Swaziland. Were the employers prepared to collaborate with the union, which is not the same as accepting compromise when forced to do so. That inevitably leads to a fighting retreat and that is what they had been doing as an employers association in all of their dealings with the work force. They were 'forced' to accept-

- worker collective representation
- negotiation and collective bargaining
- industrial relations legislation
- an Industrial Court, and

- increasingly more onerous wages demands.

As employers they did not consciously and willingly develop their own collaborative situation between the technical requirements of business and the human desire for personal choice. In difficult situations they used the tools of technocracy to defend themselves against the demands of popular democracy.

In industrial relations terminology, the employers followed a unitarist rather than a pluralist approach, still thinking that employers/managers should make all the decisions and make continuing last-ditch stands to defend this position rather than a more positive collaborative style.

If Simunye was to be in accord with its corporate aims and objectives it needed to develop meaningful participative management. Conflict is inherent in the industrial relations sub-system. The need is to minimise and deal collaboratively with conflict situations.

10.2.3 The Practical Issues

Since December 1982 and the formation of a Joint Industrial Council a series of issues illustrated the basic differences in industrial relations philosophy among the employers. The first major difference was in terms of the Constitution for the Joint Industrial Council. It was the Simunye management viewpoint that the real purpose of a Joint Industrial Council was to regulate the industrial relations within an industry itself. Thus to avoid as much as possible the need to involve government officials and recourse to legal machinery and the Industrial Court, to resolve individual and collective disputes. Those who work within an industry are best able to understand the problems and peculiarities of that industry. Although the definition of a Joint Industrial Council (Industrial Relations Act (1980) of Swaziland) refers to negotiation of wages and conditions of service, the Code of Practice which is an Appendix to the Act (Sec, 42 (e)) refers to 'independent conciliation' if necessary to resolve a dispute.

Ubombo Ranches Limited management, in particular and Mhlume management, only to a slightly lesser extent, believed (and still did in 1992) that joint employer and employee representatives from two of the companies should not be permitted to recommend action to resolve an individual disciplinary dispute from the third company once the Chief Executive of that company had made a decision. In 1982 Simunye management reluctantly agreed to this condition in order to promote the formation of the Joint Industrial Council. The belief of Simunye executive was that, given an effective council, then in the event that a dispute was reported to the Labour Commissioner and reached the Industrial Court as unresolved, it would automatically be referred back by the court to the Joint Industrial Council because it had not already been actioned by that body (Industrial Relations Act Sec 52 (c)).

Much of this was again emphasised by the Simunye personnel executive in an aide-memoir to his own Chief Executive, in June 1985. At that stage it had become apparent that if a union recognition agreement was to be finalised then some amendments would become necessary to the existing employer formulated and promoted Joint Industrial Council Constitution. In practice, Simunye management subscribed to the interpretation of an industrial council's functions, not only for negotiating wages and conditions of service but also institutionalizing a body for regulating all labour/management affairs. Management of the other two member companies reluctantly accepted the legal requirement for wages and conditions of service negotiation but adhered only to the discussion concept for other labour relations matters. This represented a fundamental difference in labour relations philosophy. This difference had continuously emerged since 1982 such that the co-operative attempt by the Employers Association to maintain dialogue with a union had frequently been jeopardised.

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In January 1983, in discussions with the Labour Commissioner, Ubombo Ranches management insisted upon the legal requirements and interpretation for a sugar industry union as compared with the national

Agricultural and Plantation Workers' Union. At that time also the same management, (claiming high-level confidential information) urged a policy of blocking unions because 'they were about to be banned anyway'. During the early part of 1983, there appeared to be little attempt at Ubombo Ranches to communicate with the work force concerning the need for, and formation of a Joint Industrial Council.

In response to a union questionnaire on whether employers would provide transport on the estates for workers to attend a mass union meeting, Mhlume management refused to assist. And in June 1983 discussions within the Employers' Association revealed that there still existed among senior managers at Mhlume and Ubombo Ranches Limited, a belief that unions would be banned or they would collapse and that in any event they were led by Communist orientated and militant officials. While the personnel executive at Simunye in his capacity as Secretary of the Employers' Association urged the need to maintain union/management dialogue, a position paper on this subject was never considered by the Association. This indicated a lack of interest (by two of the 3 member companies) in any collaboration with the union. Certainly at policy and interpretation levels, Simunye management actively issued instructions to facilitate the release from work of union officials, to attend meetings, but there was insistence at both other companies on the formal need for departmental managers' permission, which was frequently refused by anti-union line managers. In any attempt to formalise a union recognition agreement the Ubombo Ranches management insisted upon the use of the term 'Union Representatives' in place of the universally accepted 'Shop Steward'. That term implied 'traditional' unions' which were not required in Swaziland!

In June 1984, a request at Ubombo Ranches Limited for union meetings on the company estate was refused, for the somewhat transparent excuse, that because the union had not yet been recognised, such meetings would cause confusion among workers vis-a-vis the existing works councils role. A cautious approach was again urged in October of the same year

towards union relationships because there was the possibility, (according to Ubombo Ranches intelligence) that pending legislative changes could result in the banning of trade unions. This comment was followed in January 1985 by a meeting (at Ubombo Ranches management request) between the personnel executive of that company and the Labour Commissioner. The purpose was never revealed to the other members of the Employers' Association. A month later, at the insistence of Ubombo Ranches management a union demand for recognition was rejected because of pending legislative changes rather than for the obvious reason that the union had not met the legal requirement to demand recognition by achieving the 40% employee membership.

It was Ubombo Ranches Limited management which wished to pursue the attempt to establish the 'illegality' of the union because of the questionable industry definition in the Industrial Relations Act. The same company management in November 1985 insisted that recognition at each company was the prerogative of the Chief Executive of that company and was not a case for recognition through the Joint Industrial Council.

During 1986, the management of Ubombo Ranches Limited continued to indicate that Government should act against unions. Through a last-minute attempt to introduce a highly contentious merit-rating requirement, it was this (Lonrho) company which almost destroyed the 1987 Wages Agreement with the existing workers representatives at the Joint Industrial Council. In 1988, during that year's wages negotiations the introduction of a contentious last minute attempt to separate agreements for Daily Rated employees from other categories almost caused a workers' representatives walk-out.

In March 1989, the newly established Joint Executive Committee of the Joint Industrial Council recommended that Ubombo Ranches resolve a collective dispute on hours of work. Management refused initially to accept the Committee's findings, thus undermining the credibility of the council. At the end of 1989, both Ubombo Ranches Limited and Mhlume management representatives refused to consider disciplinary cases referred to the Joint

Industrial Council by the General Manager of Simunye.

It appeared throughout the long negotiating period that the Ubombo Ranches Ltd. industrial relations management policy (Lonrho) was anti-union. This policy however appears to have been in conflict with the Lonrho group reported financial support for the establishment of an ANC/Congress of South African Trade Unions (COSATU) daily newspaper in South Africa (Sunday Times, Johannesburg, 31 January 1993).

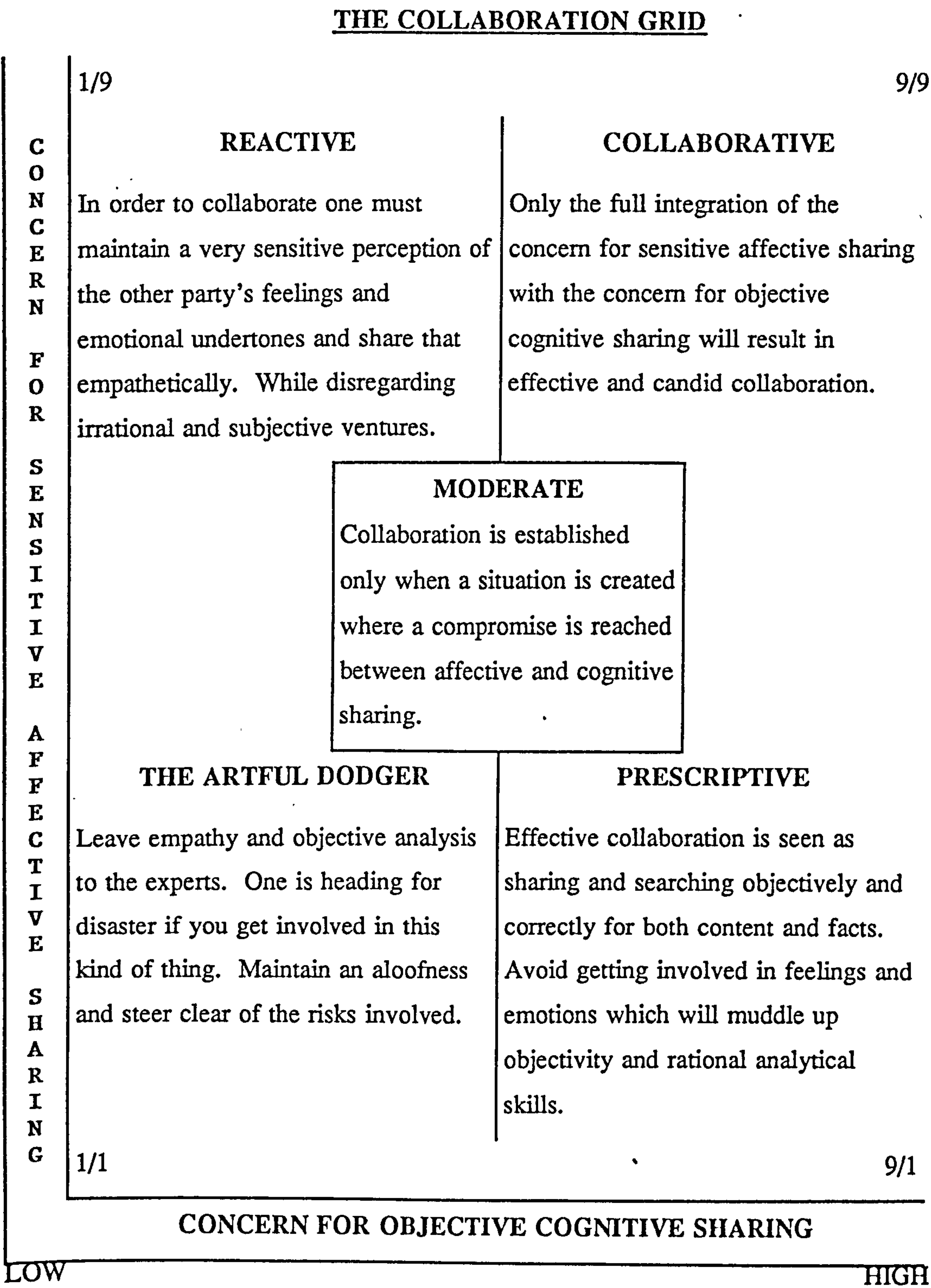
10.2.4 The Need to Re-asses the 'Approach'

Simunye management reluctantly associated itself with a constantly confrontational style of labour relations which resulted in forced compromise. Because of a renewed and more professional approach to the development of trade union activity during 1989 at Ubombo Ranches and a failure to observe the rules by one militant unionist at Mhlume, the Employers' Association could have found itself challenging the legality of the Swaziland Agricultural and Plantation Workers Union in the Industrial Court. A decision which it did not follow through in January 1989, because it concerned what was essentially an internal Union matter - 'Books of Account'. Strong arm action and the detention in 1989 of the General Secretary of the Bank Union, by the then Prime Minister, appeared to indicate possible anti-union moves by government. This seemed not to have been supported by the monarch. Whether the detention order was based upon sound intelligence is a matter of debate. Certainly, the overall impression was that the King acted to defuse what appeared to be escalating union confrontation with Government.

However, after years of expecting government to deal decisively with the union movement (including rumours that unions would be banned), it became apparent that a government moderate climate would prevail certainly in the immediate future. In these changed circumstances there was need to rethink the Association's approach. The changes in employer strategy can be illustrated by using a matrix Fig. 10.1 based upon a 'Managerial Grid'

concept. This indicates that up to 1989 as an Employers' Association management had moved from 1/1 to 9/1 and maintained a 9/1 stance moving to 5/5 compromise only when forced to do so (e.g. Collective Agreements, draft Union Recognition Agreement). There should have been a developing strategy to get nearer to 9/9. It is based upon 'power sharing', not 'power surrender/power abdication' - Collaboration does not mean surrendering sovereignty.

Fig. 10.1



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10.3 SUMMARY

The results of the 1988 survey of the actors attitudes towards trade unionism was reported in Chapter 4. It will be recalled that the union representatives were of the opinion that union organisation was effective. This chapter has shown that there was serious disunity within the union executive itself. That disunity was manifested publicly. There was a power struggle between the supporters of the Chairman and those of the General Secretary during 1986/87. No satisfactory answers were ever provided to questions pertaining to the misuse of union funds. Certainly during the first six years of union activity there was little effective action to demonstrate strong and united leadership.

Among the employers, disunity arose from the difference in basic approach to industrial relations and indeed to the differences in overall management style ranging from autocratic to laissez-faire to collaborative. The fact was that the introduction of the Industrial Relations and Employment Acts, effective 1982, gave initial impetus to cause some consideration of the human resources function in all three companies. Practically, the Royal Swaziland Sugar Corporation management moved rather more quickly than their counterparts in the other companies towards a collaborative management style.

Inevitably therefore, what might have been a professionally conducted negotiating approach by both union representatives and managers to union recognition, became a protracted frustrating exercise in repetitive conflict tactics without attaining tangible results. That is certainly one perception. The union representatives achieved little other than gradually developing mass worker support for the view that employers exploited the talents and labour of the work force. This support finally reached proportions early in 1992 sufficient for openly challenging management.

More cynically it might be argued that the employer associations

achieved exactly what the more autocratic of its members desired. Simply to frustrate and delay the exercise of mobilised worker economic and possible political power for as long as possible. What can be stated is that the whole prolonged activity did nothing to enhance an effective negotiating structure for future industrial relations.

There was much misunderstanding arising from values conflict and resultant attitudes. The approach to collective bargaining influenced both inter(and intra)-union and inter-employer disunity and served only to perpetuate covert if not overt industrial conflict. The failure for nine years of the employers conflict management approach towards achieving an effective industrial relations structure for the industry is analysed further in the next chapter.

10.4 CONCLUSIONS

Ten years (by 1992) after the introduction of legislation in Swaziland to promote effective industrial relations and the recognition of trade unionism as a major force in an industrial environment, employers continued to differ on basic philosophy and their approach to the union phenomena. For many years union officials were unable to subordinate personal power ambitions to the promotion of the common good. This is necessary in order to identify with the concept of unity as a basic requirement for union strength and also to ensure ethical and legitimate use of members subscriptions which form the largest portion of union funds.

While access to union membership figures was not possible, press reports continued to promote union publicity and the comments of union leaders. There was some evidence (ILO - PSLRA 1991 : 33) that membership was increasing overall in 1991 and the activity of SAPWU officials within the Sugar Manufacturing and Refining Industry gave some indication that support

for SAPWU within the industry was developing. The unity and support was finally demonstrated by union members during May 1992. The demand for a specific sugar industry (SSMRI) union was not progressing, however.

A fourth Collective Agreement by works council and employer representatives was concluded in December 1991, within the JIC. Whether or not, with differing management styles and philosophy, the employers could maintain a united force for a fifth agreement was open to speculation, at that time. The strike events of May 1992 showed otherwise (see chapter 9).

END NOTES

1. The Secretary-General of the Trade Union Federation was also General Secretary of SAPWU. He wrote the letter of suspension to himself. Who had the funds?

PART IV - ANALYSIS AND CONCLUSIONS

CHAPTER 11 THE FAILURE OF CONFLICT MANAGEMENT IN THE SWAZILAND SUGAR MANUFACTURING AND REFINING INDUSTRY.

11.1 CONFLICT BEHAVIOUR (1982-1992)

Merkel (1972:477) has identified the results of the impact of the modernisation process relative to international stability, as the 'internal processes of mass mobilisation and modernisation in many new nations'. This study has followed one aspect of these internal processes over ten years - the attempt to establish a working relationship between the largest mobilized industrial mass of workers in Swaziland (Swaziland Agricultural and Plantation Workers Union) and employers in the largest industry (Sugar Manufacturing and Refining).

Inevitably, all the problems of development (economic, social, political and especially the search for identity and unity) have been reflected in the sub-system of industrial relations. The complexities of negotiation extended over ten years with often long periods of no contact between the parties. An observer may well enquire as to what prevented the conflict from being resolved. Identifiable negotiating issues (Chapter 8,9/10 above) were apparent to both parties. Why, after ten years, was no satisfactory solution reached? Following Mitchell (1981:212) it is apparent that during negotiating sessions both parties continued to use tactics more of a pre-negotiation style particularly those which pertained to the 'wicked behaviour' of the opposing party and to steer negotiation to give a marked disadvantage to the other side (Mitchell :1981:213). Attempts to maintain a dominant position prevailed throughout.

Although some of the specific clauses of the draft Recognition Agreement became resolved through compromise the constantly recurring theme pertained to formal as distinct from 'implied' recognition (Mitchell - 1981:210). It will be recalled that as early as February 1984, the employers rejected recognition because the union had failed to observe strictly the legal requirements necessary to establish an executive committee superior to branch committees at Ubombo Ranches and Mhlume. Again, in February 1985 and against the advice of the personnel executives, the employers insisted upon a cautious (? delaying) approach to recognition. A second count at Ubombo Ranches had shown that the union well exceeded the 40% membership legally required (actually 51.99%) to demand formal recognition. Given the existing legislation, it can be argued that on either of the two dates March 1984 or February 1985 the employers should have accorded recognition. The terms of a recognition agreement could then have been established. The essential negotiation issues of wages and conditions of service would then have followed 'conflict reality'. The real purpose of collective bargaining in industry relates to these issues and not to union recognition itself.

At the request of the Swaziland Government and an ILO Consultant, the Federation of Swaziland Employers' proposed revised amendments (Industrial Relations Act (Amendment Bill 1990), but little notice appeared to have been taken of the proposals by those drafting the 1991 new Industrial Relations Act . The need for a recognition agreement as establishing formal recognition (Section 36 IR Act as amended) and identifying unreasonable delay in concluding an agreement, would have become grounds for declaring a dispute in terms of the employers' amendment. Thus, given enactment of the amendments, delay by either party would be answerable in the Industrial Court. In terms of the draft, however, a union can apply direct to the Industrial Court for recognition, without consulting and without concluding an agreement with an employer. The argument advanced here is that unless there is strict adherence to a set of rules, industrial relations becomes chaotic . The cautious approach manifested by the employers from February 1985 onwards through

insistence on this fact and a negotiated agreement (rules-of-the-game) before formal recognition, however suggests deliberate manipulation of the loophole in the then existing Act in order to block union advancement.

It has been emphasized that this study is based upon conclusions drawn from personal involvement of the writer, and it inevitably contains some subjective assessments. What was apparent throughout the period under review, was the difficulty the personnel executives had in attempting to negotiate with the union, in the absence of any clearly conceived espoused and operational policies or detailed strategy. Towards the end of 1982, a combined meeting of the Sugar Manufacturing and Refining Industry employers and the sugar cane growers' met to determine an approach to trade unionism. The cane growers opted not to join with the three major employers. At only one point thereafter, (June 1983) was any attempt made to define a policy and strategy. In the event, what limited discussion took place then and thereafter, (no more than one or two short meetings per year) was confined to specific, detailed points e.g. size of the annual wages increase.

At no stage was there ever any attempt to convene an Industrial Relations conference of chief and senior executives of all three companies in order to determine strategy and to ensure that there was a common operational approach throughout the industry. The consequences were that each of the personnel executives attempted to pursue within their own companies and when meeting jointly with union representatives what they understood as the policy of their own chief executive. In those circumstances the least effective approach was the norm. Without consciously acknowledging the fact, blocking the union, became the goal. Inevitably, personnel executives found themselves from time to time, arguing against their professional inclinations, in order to present a combined front to the union representatives.

Regular monthly production and technical meetings of the Sugar Millers' Association (the parent body of SSMRI E/A) took place. Only on two

occasions, in early 1983 and early 1985, did the personnel executives attend. Both occasions consisted of short discussions on the immediate union situation and wages review only. Given the industrial relations environment and the overall political developments in Southern Africa during the 1980's, it seems an anomaly that so little attention should have been given to industrial relations matters at a policy making level. It must be concluded that as physical scientists (e.g. Agronomists) as distinct from behavioural scientists, the chief executives and senior operating managers either did not understand the issues involved or considered them of minimal importance relative to production and profit.

But, as indicated in the chapter 10.1 (Intra-union conflict), limited as the contents are by union unco-operativeness for this study, it must also be emphasized that the inevitable consequences of the personal - power infighting which took place within the union movement itself, could only favour the employers, in a situation in which industrial relations was a low level priority.

The cynical conclusion is that in the Swaziland situation, in spite of whatever lip-service employers may have given to the need for Black advancement and for a negotiating stance in industrial relations, the continuing employer behaviour was aimed at maintaining the status-quo rather than resolving conflicts that might arise. The fact was also that Swazi trade unionists, like many of their political counterparts in Southern Africa, were unable to subordinate differences and present a unified front for their dealings with employers through their desire to obtain personal power rather than "Charismatic Leadership" (Robbins P. 1989:329). This simply reinforces the sceptical viewpoint that the Swaziland socio-political and economic system was not yet able to sustain the more sophisticated industrial relations which exists in industrialized countries and within their business organisations. Commenting on Convention NO 144: (Tripartite Consultation (ILS), 1976) a visiting ILO Consultant to Swaziland reported that 'Tripartism is not healthy

here and in need of strengthening. I wonder how much can be done without a firmer commitment by the social partners to sound, communicative and constructive industrial relations. Considering, from a regional standpoint how much is at stake, some constructive management and adult education (aimed at attitudinal change) in collective bargaining and tripartism, could be worked out'¹. (UNDP - July 1990 - III Appx3). Mitchell (1991:258) shows 'attitudes' as one of the three components (attitudes, behaviour, situation) of any basic conflict structure.

Consideration of the theory of conflict management techniques, suggests that sequentially, the conflict analysed in this study never proceeded beyond 'Stage 1 - Conflict situation of Conflict suppression; initiation of undesired behaviour through intimated coercion or threat' (Mitchell 1981:278). There was never overt conflict in terms of a strike or lock-out (until May 992) but there was no commitment to Stage 2 Conflict Resolution. One further question may be posited - did union leaders show any greater commitment? Moreover throughout the period, the Government Department of Labour did little or nothing to enforce either the spirit or the letter of the law.

11.2 THE RESULTS OF CONFLICT "MISMANAGEMENT"

11.2.1 Participant Actions Vis-a-Vis 1988 Survey Results

It is evident that the actions which led to the prolonged low intensity conflict process were in total a reflection of the participants' attitudes revealed in the 1988 survey and summarised in chapter 4. Specifically.

- Employers tolerated trade union existence but did not actively co-operate with the union to establish a mutually acceptable recognised relationship as quickly as possible.
- The union, in accordance with its low political and social action

priority, failed to politicise the issue of recognition as a major socio-political and socio-economic concern. A more militant stance may have ensured a speedier conclusion.

- Both parties believed that conflict management rather than conflict resolution was what was required. Consequently they pursued conflict management rather than conflict resolution tactics, to maintain their respective 'power' capability and status-quo. This contributed to repetitive discussions over a long period without achieving a mutually acceptable union recognition situation.

- The employers viewed union organisation as ineffective and exploited the practical deficiencies in intra-union communications and union leadership disunity. This delayed the effective mobilisation by the union leadership of the power of labour withdrawal; the possible use of the ultimate 'strike' sanction, which actually occurred in 1992.

- The union leadership, somewhat unprofessionally, attempted to gain judicial support on occasion but neither party sought to reach a speedy conclusion through the good offices of either a mediator or arbitrator. The 1988 survey showed that employers and union leaders believed they should deal with the differences between them without recourse to a third party. Such recourse however might have achieved a conclusion more speedily than actually happened.

Added to these factors was the necessity for the participants to develop values, attitudes and actions consistent with and capable of sustaining the Western industrialised type of industrial relations structure. This could only take effect over a considerable period of time.

This was the situation in the Sugar Manufacturing and Refining

Industry, which was identical to the situation in the rest of Swaziland's industry.

11.3 INDUSTRIAL RELATIONS IN SWAZILAND 1990

It is worth stating that even after eight years of employer/union contact the Executive Director² of the Federation of Swaziland Employers in his Annual Report for 1990, highlighted the following as indicative of the disarray in Swaziland's Industrial Relations:-

- No particular policy - reaction (immaturely) to situations;
- Unions reject freedom of association for employers and do not accept that employers' federation or associations have any legitimate place in the industrial relations structure;
- Unions recourse to attorneys from the South African bar (intra-Union contact) at great costs, reflects union unwillingness to accept obligations under their own recognition agreements;
- Attempts at gaining autonomy for in-plant branches of unions (viz the 'personal power' accrual at local level);
- Government Department of Labour not enforcing the 'time-period' in which disputes may be referred (Section 36 (5) - Act).
- Attempts by union officials to interfere in other union affairs by representing members of other unions in the Industrial Court.
- There is a union leadership vacuum developing not in terms of numbers of officials, but through lack of authority and knowledge.

Early in 1990 following a suggestion by the Swaziland Minister for Labour and Public Service after a Southern African Labour Commission Conference, an attempt was made to arrange a discussion on the industrial relations situation between the employers federation (FSE) and the union federation (SFTU). The Union representatives failed to attend. No reasons were

given.

During that Labour Commission Conference and in the presence of the Assistant Director-General of the ILO and a number of international guests, the union representatives launched a series of critical attacks on the employers to the embarrassment of the guests. In line with political developments in 1990 in South Africa, it may be postulated that rhetorical attacks on authority was one means of attempting or in the case of Swaziland regaining credibility with the rank and file, for the mass movement leaders. The Executive of the Federation of Swaziland Trade Unions lacked credibility with the Union movement in Swaziland at that time (TOS July 1990). During a review in the FSE Annual Report (1989 - 90) employers conduct was also criticised, but 'in general, [they] made a much more determined effort to get their affairs right'. Specific to the Swaziland sugar industry, the Agricultural and Plantation Workers' Union (SAPWU) failed to resolve its domestic affairs.

Action was taken in 1985 by the Commissioner for Labour in a rare attempt to regularise union organization. He referred SAPWU to the Industrial Court for failure to submit annual returns and audited accounts. That still remained open in 1992. The Court had done nothing to enforce its decision that the Union should produce its books for the Court scrutiny. At the end of 1989 SAPWU endeavoured to break the SSMRI Employers' Association by seeking Company only recognition from Ubombo Ranches Limited. Failure to register the dispute in accordance with Sections 50/51 of the Act resulted in dismissal of the case by the Industrial Court. It seemed unlikely that this technical rejection would stop the union from a new attempt following the correct procedure. Once again, as indicated in the chapter on inter-management conflict, the management of Ubombo Ranches acted unilaterally and failed to support its own employers' association membership, by opting to represent itself before the court instead of arranging representation by the employers association. The company itself, again, disrupted employer solidarity. The legal consequences of that act, alone, could have reinforced the union's

demand for company recognition. This was further evidence of the failure by employers to establish policy and strategy.

The largest potential union, SAPWU, had been unable to gain recognition from the largest group of employers for nine years. It could be argued that the leaders had failed to realise their major power-base. Had they cooperated in the functioning of the original Joint Industrial Council within which they could have negotiated amendments to its Constitution in 1983, they might have gained the initial advantage, while the employers were still trying to adjust to the new situation of union power. Thus the union may have steered the situation thereafter. At least focus of the continuing negotiations would have been on the vital bread and butter issues of major concern to the workers rather than the much more nebulous recognition. Was it only the apparent inability to gain internal leadership agreement or was it a much greater strategic plan to be able to show continually that the major employers were not only the enemy of the workers but also the enemy of the Black man?

And the employers? In spite of attitudes shown in the survey outlined in chapter 4 indicating general acceptance of unions it was difficult to ignore the verbal comments commonly expressed during the study period. The law provided for trade unions, but recognition would be on the employers' terms unless they were forced to accept (not negotiate) other terms! In the prevailing situation of minimal employer concern and union disorganization and ineptitude, even the major employers ignored the need for a clear industrial relations policy and strategy. Enactment of a new Act drafted in 1991 however, will compel employers to accept other terms.

At the time the major difficulty lay in trying to change the different attitudes of the parties towards each other. The spectre of power-hungry Marxists on the one hand and Colonial, Capitalist exploiters on the other overshadowed the entire period - not perhaps so blatantly stated, but nevertheless ever present. Employers lacked appreciation of the political nature

of labour relations and the potential for political conflict resolution, as distinct from rejection of Marxist-agitation. There was a failure by the union leaders to recognise that charismatic leadership requires the subordination of personal aspiration in the interests of the common good (Robbins S.P., 1989).

11.4 CONFLICT SUMMARY AND CONCLUSION

While the Industrial Relations Act provided a set of rules within which both employers and unions could operate from the same basic rational considerations, the history of the conflict suggests that both chose to see industrial relations more emotively, as a fight situation in which 'the opponent is merely a nuisance to be eliminated, subjugated, cut down to size' (Frankel J 1973:50). Extreme words, perhaps, to describe an internal industry, and in Swaziland also a national issue as distinct from an international situation, but nevertheless appropriate to the record of interaction between the employers and SAPWU. This approach was the result of a number of influences as practised by the parties which impacted upon the relationship between them. These influences were:-

- Individual attitudes arising from stereotyped perceptions of the role of trade unions within society (see chapters 1 and 4 concerning influential attitudes).
- Perceptions of individual actors (colonialist vs black political activist)
- Outdated management styles (autocratic vs participative)
- Failure to observe the law both in terms of practice and intent
- Lack of understanding by union officials and members,

of the profit concept inherent in a Western-type of industrial society and thus a dichotomy of view about the role of industry in a developing nation.

- A lack of understanding by both parties of the socio-political nature of the conflict.
- Lack of charismatic leadership in the union and the apathy for some eight years of union members towards union action.
- Autocratic political structure in Swaziland which inhibited many of the rank and file union members from challenging the socio-economic status-quo and thus diminishing the strength of the union executives and representatives in the work place.
- Initially a lack of management education among the employers' managers and a lack of education per se among union members.
- Difficulties of physical communications for union officials leading to an inability by the union to organize executive and member meetings sufficient to sustain prolonged recruitment.
- Lack of cross-cultural contact leading to misunderstanding of respective view points
- Divisions between union leaders on the approach to discussions between employers (see Chapter 10)

- The fact that as a small relatively insignificant country with limited natural resources and political influence, Swaziland is of limited interest to the major industrial and politically influential nations. Given, oil, for example, attention focussed upon Swaziland would have forced industrial development and a more realistic appreciation by government, workers and employers of what was necessary for an adequately functioning industrial relations sub-system.

The following and final chapter further discusses these negative influences as they require corrective action by government, industry and unions in a developing state.

The conflict management studied in this survey can be described as a "futile exercise"! It contributed nothing of consequence towards the development of effective conflict resolution.

Or was it, albeit sub-consciously, one more part of the greater conflict for socio-political alignment indicative of Southern Africa during the 1980s and still to be resolved in the 1990's?

END NOTES

1. It must be stated clearly here, that of all the major employers in Swaziland, the Royal Swaziland Sugar Corporation at Simunye, both under the direction of its first Chief Executive Officer, Mr J B Ranger and later CEO Mr M R Boast, constantly pursued a policy of constructive local employee advancement and 'negotiating' industrial relations. This policy accorded with its stated philosophy of participative management. This organisation is one, only, of the three Sugar Manufacturing and Refining Industry employers.

2. Government of Swaziland extended this Executive's temporary residence permit by one year until April 1991 only. Attempts by OAU 'agents' to remove him from representing Swaziland FSE at the 1989 Geneva Conference - through pressure on the Swaziland Government, of a 'racialist' nature caused conflict between the FSE and Minister of Labour. It is believed that the Director's residence permit was 'refused' because of this and only the personal intervention of the monarch, caused the one year extension. His departure in 1991 caused the ILO to comment on the 'Leadership gap which will be left on management's side'. (UNDP July 1990).

CHAPTER 12 BEYOND COMPROMISE

12.1 COLLABORATION

Reference was made in the previous chapter to the concept of collaboration rather than conflict or confrontation as a more satisfying and productive approach to Industrial Relations. This theme will be followed through in more detail here, as indicative of positive efforts which if pursued by employers (and investors) vis-a-vis employer/union relationships might result in industrial productivity levels higher than those generally associated with emergent third world countries. The use of the word 'might' is deliberate. This thesis is not a psychological study in scientific terms of industrial conflict and thus of psychological conclusion from group and intra-group dynamics. Scientific predictions are not posited here. The observation is that for all practical purposes in industrial relations situations, it would be wise to accept that particular behavioural results 'might' occur. What can be stated however, is that a constructive approach to industrial relations rather than an indifferent or negative approach is more likely to produce positive results. 'Effective groups have a learned tolerance of conflict and see it as an opportunity to enhance both task and social-emotional functioning rather than as a personal issue with ego-maintenance properties' (Hall Jay 1988 :322).

In wide terms, it might be said that the concept of collaboration in industrial relations stems from an earlier concept of worker participation in management. Walker (Barrett B et al 1975 : 434) noted that, while the concept is 'plentifully supplied with ideas, institutions and opinions', information on what actually occurs (or does not occur) to give practical effect to the concept is not readily or easily available'. This research might make a minor contribution to the issue. The important point however is that the research does describe one attempt, specifically in a developing country, to gain entry to some of the management decision making in an industry by a worker collective organization - a trade union. Significance lies in the fact

that there must surely be differences between employee collective organisations struggling to gain acceptance in a socially, economically, politically and technologically transitional society and attempts to increase worker involvement in management decision making in the countries of the First World. This is a primary recognition for any investor/employer or managers of an enterprise in the Third World. This final chapter reports the perceptions and observations of one such manager, but it is not a comparative exercise. It deals with Swaziland; it does not suggest a theory for all Third World nations. It states simply 'this is what happened, there might be lessons here for others'.

It should also be noted in practical everyday operations that not all employers/managers remember that labour relations are part of and take place within and impact upon the wider society. What happens in the work place both reflects that society and reflects upon it. In particular, long-term organisation strategic management must, if it is to be effective, consider the social and political influences emanating from and impacting upon management decisions. There is more to business enterprise, than 'the bottom line'. As was stated in Ch. 11, wrong perceptions relevant to the future and even a failure to consider the wider society other than in platitudinous terms, contributed to the long drawn-out and probably unnecessary conflict in Swaziland.

Collaboration is the theme for this chapter. This involves the idea that industry should move beyond the compromise approach to participation, and develop collaborative enterprises, in which conflict is used to generate productive ideas and successful solutions to the problems of managing enterprise.

There is little or no originality in recording the following perceptions; there is, however, much practical experience by the researcher which motivates the re-emphasizing of what can be found in many text books. The issues are

the subject of comment for two main categories:-

the wider society

the industrial enterprise.

12.2 THE WIDER SOCIETY

For the employers and managers who endeavoured to maintain profitable enterprises in third world countries (and, in this case, Southern Africa), the impact was identified in the common place killings, coups and counter-coups arising from nationalism, perceived as attributable to Marxist/Leninism, or as 'Liberation' which could result in anarchy. For many such managers it would have meant the loss of livelihood if not of their own and families' actual lives. Some had indeed been subject to that direct risk. It was understandable therefore, even if not universally accepted, that initially any possible linkage of organisations to socialist doctrine and thought ensured outright condemnation from many managers. Even for those of moderate persuasion, there was unease at the possibility for development of 'leftist' thought and militant action by the unsophisticated mass population. While many condemned apartheid, the political events and violence of post-colonialism and developing Nationalism did nothing to encourage confidence in pursuing the benefits of a participative society. A simplistic overview perhaps which does not explain in detail the reasons for industrial conflict in Southern Africa, but there was a fundamental difference between reasons and attitudes for anti-unionism in, for example, the United Kingdom and for an anti-union stance in the countries of Africa. In the former, it might have had a political bias but was perhaps more concerned with encroachment upon management/employer perhaps even government prerogatives. In the latter, it was this and much more. Not only was management power seen to be threatened but the very socio-political fabric of society and the livelihood if not the lives, of the managerial class were seen to be at stake. Chapter 4 reported upon a detailed attitudinal survey which revealed a moderate approach by progressive (cautious) managers as being one of the parameters within

which unionisation could occur in Swaziland during the 1980 decade.

What was not foreseen was the dramatic collapse of apartheid and of communist (Soviet) influence and aid to African Nationalist movements. No evidence is offered in this thesis that there ever was any such aid to the Swaziland Trade Union movement. Indeed, it will be recalled from Chapter 4 that, during the survey, the union officials saw political power as a relatively low priority. Nevertheless at the annual conference of the Congress of South African Trade Unions (COSATU) in July 1991, those present, (and this included executives of the Swaziland Federation of Trade Unions), vowed to 'liberate our oppressed brothers in Lesotho and Swaziland'. In elementary terms, it can be stated that if Swaziland's employers and managers, ranging from those who advocated autocratic rejection of unionism to those following a cautious approach, believed their views to be in the interests of the country during a non-militant phase of union activity in Swaziland, what should be the approach for a future, free of apartheid in South Africa, free of Communism but one in which unions could well become more militant in their demands even in Swaziland? As seen by this researcher, the following emphasises (all are important), those matters to which employers and managers in Third World countries must give attention, if they are to reduce industrial conflict situations and consequently encourage productivity. They are not in priority order,

12.2.1 Industrial Relations Legislation

It is true that the embryo Federation of Swaziland Employers commented (1980) upon proposed Industrial Relations legislation before it was enacted in 1982. In 1984, in conjunction with the Federation of Trade Unions and within the Labour Advisory Board, joint amendments to the legislation were proposed - and again in 1989. But this was the work of the Executive Director of FSE and a small number of Industrial Relations specialist managers. During the years 1982-1991, a number of industrial relations seminars/symposiums, sometimes in conjunction with the ILO were held, but

attendance by senior managers and the involvement of such in the proceedings was minimal. At the end of 1982, a joint meeting was convened at the request of one industrial relations specialist manager, between the General Secretary of SFTU, the Executive Director FSE and the Chief Executives and Personnel Executives of SSMRI to discuss co-operative effort vis-a-vis the new legislation permitting trade unions. No joint strategy was developed and no joint follow-up arranged. These employers (and all other employers in Swaziland) simply became negatively reactive to unionism and used the law to protect themselves. No practical attempt was made to utilise the law to facilitate joint socio-economic strategy for Swaziland with the trade union movement. Even early in 1992 a symposium sponsored by ILO and the Swaziland Government to discuss the tripartite nature of industrial relations prior to the presentation of a new draft Act, which was well attended by senior trade union officials, attracted only two senior employer executives. When the draft Act was made generally available to employers, the reaction was shock and anger at many of the provisions, but throughout the years few employers had evinced interest in industrial relations unless compelled by an employee or union to do so. As recently as 1987, the annual report of the Swaziland Sugar Association, contained no reference to labour matters nor to socio-economic, socio-political matters (see Appx. 17).

The author, as an assessor of the Industrial Court (1985-86) for some eighteen months, was constantly reminded of how little effort had been made by employers to understand the law and to use it in a positive manner.

The lesson is obvious. Particularly in countries where there is a comparatively low standard of education, employers have an opportunity, (if not a social responsibility) to influence and utilise industrial relations legislation positively. Simply put, it is socially and morally unacceptable to dismiss an employee and thus deprive him and his family of their livelihood, for some minor misdemeanour, if he did not know the consequences of his action and had no part in formulating a disciplinary code.

The Swaziland Industrial Relations Act (No.4 of 1980) contains a non-mandatory Code of Practice as an annexure . Employers and also trade union officials could do well to study this. In Chapters 1 and 2 it was noted that industrial relations matters have a direct involvement with and impact upon the wider socio-economic and political environment. Industrial Relations law is not criminal law, it exists to facilitate relationships rather than to punish or deter wrongdoers. It is a requirement for effective relationships between industry and the wider society, as well as within the enterprise itself, that all parties recognise this fact.

12.2.2 Institutional Involvement

In Chapter 2 reference was made to Rostow's model of economic development. Although it is recognised that economics must involve the efforts of human beings, the major socio-political concerns are subordinated to the concern with the components of production, land, labour, capital.

For those operating businesses in developing societies, however, equal attention must be given to the socio-political aspects - a 'holistic' approach is required. One such model is that of Beck and Linscott who consider social paradigms 'the basic operating assumptions that hold the social system together' (Productivity : 1991 :22). Collectively held paradigms are expressed by individuals in their personal value systems. 'These find substance in views of religion, human destiny, the future and bottom lines..... reflected in economic, social, political and philosophical theories and attitudes towards sex, marriage, health care, working, sport, social relationships, community development, race, ethnicity and human development' (as reported in Productivity : 1991 :22). One paradigm merges into another in a spiral of higher order development ranging from 'Bands (AN), through Tribal Orders (BO); Empires (CP), Authoritation Systems (DQ), Capitalistic Democracies (ER), Social Democracies (FS), Integrated Networks (GT), Global Structures (HV) and 'each new ring on the spiral produces a different economic and

political system to deal with the unique problems at that level' (Productivity : 1991 :22). There are two issues here:

first, the investors/employers managers are generally operating from ER/FS and GT 'rungs' of Capitalistic Democracies to Social Democracies to Integrated Networks. Second, those they employ are constrained by values within the BO,CP,DQ 'rings'; tribal orders, Empires, Authoritarian systems. From the Swaziland experience, employers and managers, expected the work force to reason from the higher order values, while as managers they continued to maintain as much as possible the authoritarian values inherent in the lower order values. They also omitted to recognise the evolutionary forces at work to produce the new system necessary to deal with the unique problems of the spiralling effect. Both managers and work force, where they sought solutions, attempted to do so from the same level of thinking as produced the problems they were attempting to resolve! (Beck and Linscott, 1991:22). Management almost subconsciously failed to perceive the distinction between conflict management as the preservation of the status quo, to avoid escalation and to retain control and conflict resolution, which 'seeks to resolve the problem, even though this requires change' (Burton John W 1987:8).

Much more so than those in the First World, employers and managers in a developing country must be consciously aware of the impact of their actions upon the wider society, while scrupulously avoiding direct political involvement; they should endeavour to influence the positive development of the wider society through those institutions and direct participation in events and activities available to them.

In union/employer relationships, the aim should be conflict resolution, beyond accommodation and compromise, through a collaborative effort. The fact is that 'deep-rooted' conflict becomes magnified in perceived situations of deprivation (Burton, J. 1987:8). By focusing upon the wider society, managers as executive officers have a unique opportunity to influence positive development. One model to follow, is that of Interactive Planning.¹ The

central ideas of this model pertain to the creation of vision, - the sharing of a common vision by parties to the conflict; development of multiple perspectives, to include the perspectives of all interested parties and not only the parties to the conflict; implementation as a major and first step to be considered (the 'law') of planning - not the final step in the process. It is essentially a participative, not an imposed activity. The concept includes the principle of continuity - continuous updating and modification of plans; the holistic principle - no plan can be prepared independent of others; to achieve the vision all parts must be integrated. And for the manager who rejects the centralised bureaucratic planning of extreme socialist societies, interactive planning enables him to participate for the benefit of the wider society and for his enterprise as part of it. For the practical manager - the theme is collaboration. The suggestion is that the collective bargaining approach reinforces entrenched positions and fails to concentrate the conflict participants' attention on conflict resolution.

12.3 THE INDUSTRIAL ENTERPRISE - MANAGEMENT APPROACH TO INDUSTRIAL RELATIONS

References to concepts in industrial relations have been made in previous chapters. In this final section comment will be made upon what the researcher has observed and personally experienced as being of practical management benefit to the handling of industrial relations in the work place, in a developing society.

12.3.1 Culture Change and Trust

It requires little imagination to recognise that for collaborative conflict resolution to succeed, as distinct from a collective bargaining approach to unionism and worker participation, organisation cultures must change. From what may be seen as a generally authoritarian state to a participative

management style requires considerable effort to move individual and collective attitudes of managers and also of workers who have been subjected to authoritarian structures and action. It would be naive to think that in industrial relations 'one big happy family' is a possible scenario, . Conflict, if only arising from differing perceptions of issues, will persist. Trust building in everyday operational activities however can begin to develop a climate of understanding of issues and the socio-economic effects of decisions.

With the collapse of apartheid, the legitimizing of disagreement and acceptance of opposition in South Africa, a tendency developed for progressive business throughout Southern Africa to indulge in mass effort to change their organisation cultures. Many organisations, utilising Organisation Development specialists adopted major, esoteric values-change programmes from top management downwards through the hierarchy, as a beginning of change. It is the perception of this observer that a more effective approach would have been the development of problem-solving, decision-making team activity for everyday issues, at all levels of the organisation. The techniques have been available for at least 25 years, if not longer. This does not require studying Kaizen and the perceived Japanese miracle cures, many of which techniques were already available and used, (but not widely publicised) in the United States, United Kingdom and Western Europe during and immediately following the Second World War.

Such programmes as Management by Objectives, Problem Solving-Decision-Making, Job Evaluation, Competence Analysis and similar procedures if implemented correctly, with full management support, would have a more immediate and meaningful impact at worker/management interface than more conceptual sociological, psychological workshops designed to explore attitudes and values. Trust and mutual understanding might more easily evolve at the interface, in working together on commonly shared and understood working problems.

The lesson becomes clear - Develop trust within the organisation. Do not view unions and union officials as enemies but as those who, while not always agreeing with management, on all decisions, will recognise that some decisions are essentially for management to make, and who have an input to developing productivity agreements acceptable to workers, management and the employer. It is fashionable in industrial personnel and organisation development programmes to embrace constantly the latest package; to be seen to be among the progressive employers. Management per se, is not new. It has been practised, particularly by the world's conventional military organisations, for centuries. It is essentially the management of people and the effective involvement of people in management. Industrial managers must continue to learn and practice effective techniques.

12.3.2 Understanding Industrial Relations

One of the major difficulties attached to labour relations legislation is the misunderstanding pertaining to law. The author has noted that operating managers frequently fail to note that there is an essential difference between the minimum protective nature of labour legislation and the punitive nature of criminal law. Labour law and that part which establishes the parameters for industrial relationships, is concerned with facilitating arrangements for minimising conflict and contributing to conflict resolution in the work place. The requirement is to move from legalism towards proceduralism; (see Appx 29 for a model Grievance Procedure) to recognise that 'rules' define the permissible boundaries. Working within the rules helps to establish perspective on conflict which arises within hierarchical structures based on authoritative power. Within a wider society based upon the democratic process of 'people' power, management and workers while accepting the need for rules (law), should accept that flexibility in application, based on custom and practice is important.

Investors, employers, managers should initiate in-company training

programmes for all structural levels from top management downwards to the lowest levels of supervision. Those responsible for the management of people, including worker representatives and shop stewards, should be well versed in conflict and grievance handling, disciplinary enquiries and appeals, disciplinary investigations and labour law arising from negotiated disciplinary codes and grievance procedures and work stoppages and strike procedures. The long-term strategy however, should be to emphasise to management and workers that education in conflict resolution of immediate work-problems leads to trust and understanding for conflict resolution at major problems.

Constant and regular interaction between management and union officials can clarify the interpretation of a procedural union recognition agreement. Such an agreement should define the bargaining units and the substantive measures pertaining to equity and fair labour practice contained in collective agreements providing for wages and conditions of service. Such interaction demands an understanding that modern industrial relations in its disciplinary mode extends beyond the master/servant contract to equity on the balance of probabilities, not on the establishment of proof or guilt or innocence beyond all reasonable doubt.

Custom and practice based upon:

- (i) what is reasonable in a given set of circumstances;
- (ii) what is clear from the evidence available;
- (iii) what is recognised by the worker community as fair and
- (iv) what has become established over a reasonable period of time, determine effective work place labour relations, rather than any set of laws and regulations.

This thesis and this section do not purport to be a 'Handbook of Do's and Don'ts' for labour relations. Numerous text books and publications exist more erudite and comprehensive than this research, but observations from some 30 years of practical involvement may assist students and practitioners to identify the critical elements in labour conflict.

From a management perspective it behoves those involved in employer/management/union interaction to avoid ideological issues, engage in conflict resolution rather than conflict management and estimate, rather than under-estimate, the economic power of employers and the people power concentration of trade unions. Constant interaction allows for the promoting of conflict resolution as a more enduring solution to industrial relations problem situations, than the more limited concept of the widely pursued collective bargaining approach. Conflict resolution however, requires open and honest interaction and the release of all information pertaining to a problem situation.

12.3.3 A '4-step' Guide to Management Practice

The following four steps are derived from many years involvement by the researcher from post-colonialism to post-apartheid, in Southern Africa, in the field of industrial relations and actively concerned with conflict management and attempts to move towards conflict resolution. The following four steps have proved invaluable as a simple guide to the implementation of labour relations practiced in the work-place.

Developed by Andrew Levy, a Johannesburg based labour relations consultant and emphasized constantly in seminars he conducts, they encapsulate the recommended approach:-

- (i) **LAW - Could I?** - the labour legislation sets the parameters - is the action permissible in law? -

- (ii) MANAGEMENT - Should I? - is the proposed action in the interests of management and integrated with company interests?
- (iii) IMPLICATIONS - Will I? get away with it? - this is essentially the domain of industrial relations - is the action acceptable and will it be supported by employees and management?
- (iv) SURPRISE - Will it? - come as a surprise? - all implementation of action causes problems; the more time given for people to know and talk about it, the less of a surprise it will be, the less resistance there is likely to be.

12.4 CONCLUSION

It might perhaps be stated that this final chapter has been something of a plea for a clear understanding in labour terms by investors, employers and managers of the implications of business enterprise, for operating in developing nations. Experience in Swaziland has shown that invariably enterprise and investment is initiated, planned and established by entrepreneurs assisted by engineers, accountants and primary producer specialists (e.g. geologists, agronomists and sometimes economists) all of whom are essential to the successful progress of the project. What this thesis has perhaps shown, (albeit as a by-product of the research) is that the major factor in implementing any project is the 'people contribution'. No business enterprise can be successful in the long-term if managers ignore the socio-economic and political ambience within which the enterprise operates. Certainly a major investment cost, if not the largest initially and certainly a major on-going cost, is that of labour. In economic terms alone, as well as part of a social and moral responsibility, it is suggested that productivity is a prime consideration. Productivity is greatly dependent upon a productive labour-force which is primarily dependent upon a good people relationship. Loss in revenue terms

of the mishandling of labour relations is not easily calculated, even during strike situations and over a long term it is perhaps even more difficult. Rather than the prolonged exercise of conflict mismanagement in the Sugar Manufacturing and Refining Industry of Swaziland during the 1980's, it is suggested that conflict resolution would have resulted in a more economically and socially satisfied work force, management, investor and nation.

The fact was that employers continued paternalistically to pay good wage increases. The socio-economic and political situation of South Africa resulted in an internationally unfavourable monetary exchange rate for the Swaziland Lilangeni (Rand) vis-a-vis major world currencies during the period of the research (in April 1992 £1= R+/-5). This phenomenon, however, enabled a very profitable sugar industry to operate, in local monetary terms, which enhanced employer power. The 1982 rate of £1=R1.6, rapidly changed. Had it not done so, the long-drawn out low profile union/employer conflict might well have become a much more overt, high-profile, socio-political conflict, with damaging effects for the Swazi Nation not dissimilar to those which obtained in neighbouring South Africa, Zimbabwe, Zambia, Mozambique.

Swazi society does not appear to change quickly. However, a severely disruptive labour relations situation could have accentuated socio-political conflict and in the short term accelerated the same type of violent conflict which occurred in many of the developing African states.

Moreover by 1992 Union Recognition was inevitable. There seemed little purpose to the extended attempt to frustrate unionisation in Swaziland and in the sugar industry.

ENDNOTES

1. An approach pursued at the CODESA talks (1992) in South Africa.

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