INDUSTRIAL RELATIONS IN SOUTH AFRICA

by SONIA BENDIX

B 382470



CONTENTS

ACRONYMSx	cviii
CHAPTER 1: THE LABOUR RELATIONSHIP - A CONCEPTUAL ANALYSIS .	1
DEFINITIONS	3
Emphasis on the Relationship (3); Dynamism and Reciprocity (3); 'Industrial' Versus 'Labour' Relations (3); Ambits of the Relationship (4)	
ANALYSIS OF THE LABOUR RELATIONSHIP	4
The Labour Relationship As A Human Relationship (4); Uniqueness of the Relationship (5); Complexity of the Labour Relationship (6)	
CONTEXTUAL BACKGROUND	6
The Industrial Revolution (6); Traditional Attitudes to Work (9)	
THE PARTIES TO THE RELATIONSHIP	11
Traditional Perspective (11); A Multifaceted Perspective (13); Roles Adopted by the Parties (13)	
INTERACTIONS AND PROCESSES WITHIN THE RELATIONSHIP	14
Commonality, Cooperation and Cooperative Processes (14); Conflict and Collective Bargaining (15); The Power Dynamic (16); The Freedom of the Individual versus Allegiance to the Collective (18); The Interaction Continuum (18)	
FACTORS REGULATING THE INTERACTION	19
Custom and Tradition (19); Legislation (19); Mutual Agreement (20); Ethical Considerations: Trust, Integrity and Fairness (20)	
EXTERNAL INFLUENCES ON THE LABOUR RELATIONSHIP	21
The Sociopolitical System (21); Societal Influences (21); The Economic Dispensation (21); The Influence of Trade Unions (22); Additional Influences (23)	
APPROACHES TO THE LABOUR RELATIONSHIP	23
The Unitary Approach (23); The Radical Approach (24); Pluralism (24)	
CONCLUSION	25
SOURCES	25
CALL DEED A TAID LOCKDALL DEL ARLONG CACCEDAG	26
CHAPTER 2: INDUSTRIAL RELATIONS SYSTEMS	26
THE LABOUR RELATIONS SYSTEM AS A SOCIETAL STRUCTURE	28
THE COMPOSITION OF AN INDUSTRIAL RELATIONS SYSTEM	28
Major Components (28); Variations in the Composition of Different Systems (28)	
IDEOLOGICAL BASIS	29
Definition (29); Individualism versus Communitarianism (29)	
ECONOMIC IDEOLOGY AS A BASIS FOR SOCIETAL STRUCTURING	31
The Advent of the Capitalist System (31); The Mercantilists (32); Adam Smith and the Free Market (33); Thomas Malthus (35); Perpetuation of the Individualist Ideology (36): The Rise of Socialism and the Writings of Karl Marx (36):	

The Reformist and Institutional Economists (38); The Twentieth Century (40) The Twenty-first Century (40)	
THE ROLE OF THE STATE	41
Government and the State (41); Voluntarism and Mandatorism (41); Forms of State Interference (42); Variables Moderating Government Intervention (45); Roles Adopted by the State (45); The Future Role of the State in Industrial Relations (48)	
OTHER VARIABLES INFLUENCING THE COMPOSITION OF A SYSTEM	48
Ideological Basis (48); Democratisation of Political Systems (49); Sociopolitical Forces (50); Economic Forces (50); History and Nature of the Trade Union Movement (50); Employer Organisations (51); Interaction of Variables (51)	
EFFECT OF THE INDUSTRIAL RELATIONS SYSTEM ON SOCIETY	51
CONCLUSION	52
SOURCES	52
CHAPTER 3: THE SOUTH AFRICAN INDUSTRIAL RELATIONS SYSTEM IN SOCIETAL AND HISTORICAL CONTEXT	53
IDEOLOGICAL BASIS AND SOCIETAL COMPOSITION	56
Racial, Economic and Ideological Divides (56); 'Dichotomous' Ideological Approach (56); The 'New' Dispensation (57)	
THE PRE-INDUSTRIAL ERA	57
Discovery of Gold and Diamonds (57); Analysis of Developments (58)	
THE EARLY YEARS OF INDUSTRIALISATION (1880–1924)	58
Immigration and Unionisation (58); Industrial Action and Government Reaction (59); The Rand Rebellion (60); The 'Black' Trade Union Movement (61); The Industrial Conciliation Act of 1924 (62); Subsequent Developments (62); Analysis of Developments (63)	
THE GROWTH OF THE MANUFACTURING AND SERVICE	
INDUSTRIES (1925–1948)	63
The White and Multiracial Trade Union Movements (63); The Influence of Afrikaner Nationalism (64); Developments in Collective Bargaining (65); The Independent Black Trade Unions (66); Analysis of Developments (67)	
THE ASCENT TO POWER OF THE NATIONALIST GOVERNMENT (1948–1970)	68
The Appointment of the Botha Commission (68); The Bantu Labour (Settlement of Disputes) Act of 1953 (68); The Industrial Conciliation Act of 1956 (69); The Multiracial Union Movement (69); The All-White Labour Movement (72); The Independent Black Movement (72); Analysis of Developments (73)	
THE NEW LABOUR DISPENSATION (1970–1990)	74
The Start of a New Era (74); The Revival of Black Employee Interests (74); The 1972–1973 Strike Wave (74); New Unions Emerge (75); The 1973 Black Labour Relations Regulation Act (76); The Wiehahn Commission (77); The Industrial Conciliation Amendment Act (80); The Reaction of the Newer Trade Unions (80); White Opposition (82); TUCSA Disintegrates (83); The Collective Bargaining System (83): Government Reaction (83): Analysis of Developments (84)	

DEVELOPMENTS WITHIN THE NEW SOCIOPOLITICAL DISPENSATION (1990 to the Present)	86
The Period of Transition (86); The New Dispensation (87); The Reconstruction and Development Programme (RDP) (87); The Growth Employment and Redistribution Strategy (GEAR) (87); Labour Relations Policy and Legislation (88); The Labour Relations Act of 1995 (88); Labour Action (89); Economic and Social Realities Post 1994 (89); The Trade Union Movement (90); Collective IR Processes (91); Analysis of Developments (92)	
CONCLUSION	94
SOURCES	94
CHAPTER 4: THE LEGISLATIVE FRAMEWORK GOVERNING THE	
EMPLOYMENT RELATIONSHIP	95
RATIONALE OF THE LEGISLATIVE FRAMEWORK	98
INTERNATIONAL LABOUR STANDARDS	98
The Declaration of Philadelphia (99); Convention (No. 87) Concerning the Freedom of Association and Protection of the Right to Organise (1948) (100); Convention (No. 98) Concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (1949) (101)	
	101
GOVERNMENT POLICY AND LABOUR AFFAIRS 1	103
Official Labour Relations Policy (103); Official Policy of the Department of Labour (104)	
THE NATIONAL ECONOMIC DEVELOPMENT & LABOUR COUNCIL (NEDLAC)	105
LEGAL AND STATUTORY REGULATION OF THE EMPLOYMENT RELATIONSHIP	105
Conditions of Service (105); Other Substantive and Procedural Conditions (107); Regulation of the Collective Employment Relationship (107); Elimination of Discrimination, Affirmative Action, Training and Development (107)	
THE CONTRACT OF EMPLOYMENT	109
The Law of Contract (109); Rights and Duties (109); Private Contracts (112); Types of Contract (112); The Written Contract (113); Termination of the Contract (114); Common Law Remedies (114); Common Law and the Employment Relationship (115); Persons Designated as Employees (116)	
	123
The Basic Conditions of Employment Act (Act 75 of 1997) (123); The Occupational Health & Safety Act (Act 85 of 1993) (124); The Compensation for Occupational Injuries & Diseases Act (Act 130 of 1993) (124); The Unemployment Insurance Act (Act 63 of 2001) and the Unemployment Insurance Contribution Act (Act 4 of 2002) (125)	
THE LABOUR RELATIONS ACT (ACT 66 OF 1995)	125
Historical Perspective (125); Exclusions (126); Status of the Act (127); Purpose,	

MAJOR PROVISIONS OF THE LABOUR RELATIONS ACT	128
Chapter Two: Freedom of Association and General Protection (128); Chapter Three Collective Bargaining (130); Chapter Four: Strikes and Lockouts (133); Chapter Five Workplace Forums (134); Chapter Six: Unions and Employers' Associations (135); Chapter Seven: Dispute Settlement (135); Chapter Eight: Unfair Dismissal and Unfa Labour Practise (138); Chapter Nine: General Provisions (140); Schedules (142)	e:
THE EMPLOYMENT EQUITY ACT (ACT 55 OF 1998)	145
Rationale (145); Ambit (145); Discrimination (145); Affirmative Action (146); The Employment Equity Plan (149); Submission of Reports (150); Duty to Inform (150); Assessment of Compliance (150); Monitoring and Enforcement (151) Income Differentials (151); Commission for Employment Equity (152); Protection against Victimisation (152); Temporary Employment Services (152); Evaluation of Provisions (152)	;
THE SKILLS DEVELOPMENT ACT (ACT 97 OF 1998)	153
Purpose of the Act (153); Structures (153); Finances (154); Learnerships (155); Skills Programmes (155); Employment Services (155); Regulations (155); SAQA and the NQF (156)	S
THE SKILLS DEVELOPMENT LEVIES ACT (ACT 9 OF 1999)	156
The Skills Levy (156); Registration for Payment (157); Payment of Levies (157); Use and Recovery of Levy (157); Monitoring and Enforcement (157)	
CONCLUSION	157
SOURCES	158
	159 161
TRADE, UNIONS AS COLLECTIVE ORGANISATIONS	161
Resistance to Power (161); Definitions (161); Characteristics (162)	
THE HISTORICAL DEVELOPMENT OF TRADE UNIONISM	162
Early Industrialisation (162); The First Trade Unions (163) TRADE UNION CLASSIFICATION	164
Occupational Unions (164); General Unions (165); Industrial Unions (166); Representation of Sociopolitical, Racial and Religious Interests (166); The Problem of Multiunionism (167)	101
REGISTRATION OF TRADE UNIONS	167
TRADE UNION OBJECTIVES	168
Overall Objectives (168); Economic Objectives (168); Job Security (169); Social Welfare (169); Job Regulation (170); Individual Development (170); Sociopolitical Aims (170)	
METHODS BY WHICH UNIONS ATTEMPT TO ACHIEVE THEIR OBJECTIVES	172
Power Dynamics (172); Collective Bargaining with Employers (172); Collective Action (172); Representation at Company Level (173); Affiliation with Other Bodies (173); Collective Bargaining with Government (173); Representation on	

Local and National Bodies (173); Representations to Government and Employer Organisations (173); Political Involvement (174); Benefit Funds (174); Education and Social Programmes (174)	
TRADE UNION STYLES	174
Different Approaches (174); Variables Influencing the Approach(es) Adopted (175); Degrees of Cooperation (176)	
THE ORGANISATION AND MANAGEMENT OF TRADE UNIONS	176
Trade Union Organisation (176); Trade Union Management (178)	
THE SHOP STEWARD	180
The Role of the Shop Steward (180); Qualities of a Good Shop Steward (181); Duties of a Shop Steward (181); Shop Steward Rights (182); Shop-Steward Committees (183); Shop-Steward Power (183)	
IN-PLANT UNIONS AND WORKERS' COMMITTEES	184
Establishment of In-plant Bodies (184); Arguments Against (184); Arguments For (184); Unions Versus In-plant Committees (185)	
TRADE UNIONISM in the 21st CENTURY	185
Towards Greater Cooperation (185); Unions and Globalisation (186); The Way Forward (187)	
EMPLOYERS AND EMPLOYER ORGANISATIONS	187
MANAGEMENT AS REPRESENTATIVE OF EMPLOYERS	187
EMPLOYER GOALS	187
ATTITUDE TOWARDS UNIONS	188
EMPLOYER ORGANISATIONS	188
Types of Employer Organisation (188); Collective Bargaining Associations (189)	
CONCLUSION	192
SOURCES	192
CHAPTER 6: SOUTH AFRICAN TRADE UNIONS AND EMPLOYERS' ORGANISATIONS – THE TRIPARTITE RELATIONSHIP	193
SOUTH AFRICAN TRADE UNIONS	196
THE TRADE UNION MOVEMENT AT THE BEGINNING OF THE 1980s	196
The Overall Position (196); Sociopolitical Orientations (198); Trade Union Policies and Practices (199)	
DEVELOPMENTS DURING THE 1980s	204
The Rise of Community-based Unions (204); The Black Consciousness Unions (205); Unionisation on the Mines (206); Towards Greater Unity (206); The Formation of COSATU (207); Inkatha and the Trade Union Movement (208); The Establishment of NACTU (208); The Demise of TUCSA (209); FEDSAL (209); The Formation of FITU (209); Sociopolitical Orientations (209)	
THE CONGRESS OF SOUTH AFRICAN TRADE UNIONS	210
The Formative Years: 1985–1990 (210); COSATU and the Workerist–populist Debate (216); The Pre-election Period (1990–1994) (218); 1994 and the New Dispensation (222); 1994–2009: The Mandela and Mbeki years (225);	

DEVELOPMENTS IN OTHER FEDERATIONS	232
NACTU (232); FEDUSA (235); UWUSA (235); SACLA and Solidarity (236)	
NEW UNITY MOVES	236
FUTURE DEVELOPMENTS	237
THE LEGAL POSITION	238
Voluntarism as regards Registration (238); The Registration Process (238); Effect of Registration (239); Obligations (240); Change in Name or Constitution (240); Rationale of Registration (240); Additional Provisions Regarding Union Administration (240); Union Federations (241); Union and Shop Steward Rights (241)	
EMPLOYERS' ORGANISATIONS	242
COLLECTIVE BARGAINING ORGANISATIONS	242
Registration (242); Activities (242); Non-Registered Bodies (243)	
OTHER EMPLOYER BODIES	243
Chambers of Business (243); Business Unity South Africa (244)	
THE STATE AS THE THIRD PARTY IN THE RELATIONSHIP	244
The State in Relation to the Other Parties (244); The National Manpower Commission and the National Economic Forum (244)	
CORPORATISM – THE WAY FORWARD?	244
Definition (244); Problems with Corporatism (245); Developments in South Africa (245); The Reality of Corporatism in South Africa (246)	
CONCLUSION	248
SOURCES	248
CHAPTED TO COLLECTIVE BARCAINING	250
CHAPTER 7: COLLECTIVE BARGAININGCOLLECTIVE BARGAINING AS CENTRAL TO THE LABOUR RELATIONSHIP	250 252
COMMONALITY, CONFLICT AND POWER IN COLLECTIVE BARGAINING	252
Commonality as Basis for Bargaining (253); The Role of Conflict in Collective Bargaining (254); Sources of Conflict (254); Power as Regulator of the Bargaining Process (256)	233
THE ESTABLISHMENT OF A BARGAINING RELATIONSHIP	259
Characteristics of a Bargaining Relationship (259); Agreement to Bargain – The Process of Recognition (260); Bargaining within the Relationship (260)	
THE SCOPE AND CONTENT OF COLLECTIVE BARGAINING	262
BARGAINING STYLES	262
Distributive Bargaining (262); Integrative Bargaining (264)	
BARGAINING STRUCTURE	265
Bargaining Units and Bargaining Levels (265); Importance of the Bargaining Structure (265); Types of Bargaining Structure (266); Pattern Bargaining (268); Evaluation of Bargaining Structures (268); Variables Influencing the Type of Structure Established (268)	
PLURALISM AND COLLECTIVE BARGAINING	272
CONCLUSION	273
SOLIBORS	273

CHAPTER 8: COLLECTIVE BARGAINING IN SOUTH AFRICA	2
THE RIGHT TO FREE COLLECTIVE BARGAINING	2
FREEDOM OF ASSOCIATION AND FREEDOM FROM VICTIMISATION	2
ORGANISATIONAL RIGHTS	
Rights in Terms of the Act (279); Definition of Workplace (279); The Right to Access (280); Stop-Order Facilities (280); Election of Shop Stewards (280); Disclosure of Information (280); Right to Establish Thresholds of Representivity (281); Rights of Unions Party to Bargaining Councils (281); Procedure for the Exercise of Organisational Rights (282); Evaluation (282)	
BARGAINING UNITS	4
CLOSED SHOPS AND AGENCY SHOPS	
The Problem (284); Agency Shops (285); Closed Shops (285); Evaluation (286)	
ENFORCEABILITY OF AGREEMENTS	
CENTRALISED BARGAINING STRUCTURES: BARGAINING COUNCILS	-
The Labour Relations Act of 1995 (290); Establishment of a Bargaining Council (291); The Functions of Bargaining Councils (292); Bargaining Council Agreements (293); Bargaining Councils in the Public Service (296); Statutory Councils (296); Evaluation (297)	
DECENTRALISED BARGAINING STRUCTURES	2
The System of Plant-level Recognition (297); The Nature of Recognition (298); The Recognition Agreement (298); Types of Recognition Agreement (298); Contents of a Full Procedural Agreement (299); The Need for a Recognition Agreement (304); Substantive Agreement at Plant Level (304); Other Procedural Agreements (304); Evaluation (304)	
BARGAINING STRUCTURES WITHIN THE PRESENT DISPENSATION	
The Trade Union Stance (305); Employer Responses to the Union Stand (306); Small to Medium Enterprises (306)	
THE DUTY TO BARGAIN: LEGAL PRECEPTS	
Voluntary Nature of Bargaining (307); Compulsion to Bargain (307); Good Faith Bargaining (308); Imposition of Bargaining Levels (308); Establishment of Bargaining Units (308); Bargaining Content (309)	
CONCLUSION	
SOURCES	
CHAPTER 9: LABOUR RELATIONS AT THE WORKPLACE	
THE LABOUR RELATIONSHIP AT COMPANY LEVEL	
LABOUR RELATIONS AS A TOTAL MANAGEMENT FUNCTION	
THE OBJECTIVES OF MANAGEMENT IN LABOUR RELATIONS	
ESTABLISHMENT OF A LABOUR RELATIONS POLICY	
The Need for a Policy (317); Establishment of an Effective Policy (317)	
THE ROLE OF THE LABOUR RELATIONS MANAGER	
Labour Relations Within the HR Function (318); IR Practitioner as Facilitator and Consultant (319); Resolution of Conflicts (319); Labour Relations as a Staff Function (320); Strategic Role of Labour Relations (320)	

THE EFFECT OF THE HUMAN RESOURCE MANAGEMENT FUNCTION ON LABOUR RELATIONS	320
Integration with the Labour Relations Function (320); Recruitment and Interviewin (321); Induction, Performance Appraisal and Job Enrichment (321); Wages and Salaries (322); Training (322); Labour Turnover and Absenteeism (322); Employee Wellness (322); Communication and Information (323)	g
THE ROLE OF COMMUNICATION IN THE LABOUR RELATIONSHIP	323
Importance of Communication (323); Definition of Communication (324); The Communication Process (324); Methods of Improving Communication (327); Organisational Communication (330); What Employees Want to Know and How to Transmit Information (332); ILO Recommendation Concerning Communication within the Undertaking (333); Collective Bargaining and Communication (335); Disclosure of Information (335)	
PLANT-LEVEL COMMITTEES	338
Shop-Steward Committees (338); Workers' Committees (339); Workers' Councils (339); Workplace Forums (340); Workplace Forums in Practice (344); Health & Safety Committees (347); Other Workplace Committees (349)	
PLANT-LEVEL PROCEDURES	349
The Need for Procedures (349); Establishment of Procedures (350); The Grievance Procedure (350)	
CONCLUSION	355
SOURCES	355
,	357
	359
ILO Recommendation Concerning the Termination of Employment (359); The Legal Position (360); Definition of Dismissal (361); Reasons for Dismissal (370) Disputes Centering on Unfair Labour Dismissals (371)	,
THE DISCIPLINARY PROCESS	377
The Disciplinary Code and Procedure (377); The Disciplinary Hearing (387); Appeals against the Final Decision (396); Pre-dismissal Arbitration (396); Fairness in Dispensing Discipline (399); Dismissal for Poor Work Performance (403); Disputes Centring on Unfair Dismissals (404)	
UNFAIR LABOUR PRACTICES	405
Possible Unfair Labour Practices (405); Disputes Centring on Unfair Labour	
Practices (405)	
	416
CONCLUSION	416 416
CONCLUSIONSOURCESCHAPTER 11: RETRENCHMENT AND OTHER NO-FAULT TERMINATIONS,	
CONCLUSIONSOURCESCHAPTER 11: RETRENCHMENT AND OTHER NO-FAULT TERMINATIONS, MERGERS AND TRANSFERS	416
CONCLUSIONSOURCESCHAPTER 11: RETRENCHMENT AND OTHER NO-FAULT TERMINATIONS, MERGERS AND TRANSFERS	416 417

Rationale (421); Retrenchment versus Redundancy (421); ILO Recommendations (422); The Legal Position (423); Retrenchment Policy and Process (423); Organisations Employing More than Fifty People (444)	
MERGERS, TRANSFERS AND OUTSOURCING	45
The Current Trend (450); The Pre-1995 Position (450); The Position Post-1995 (451); Section 197 of the Labour Relations Amendment Act of 2002 (452); The Role of the HR/IR Manager (458)	
CONCLUSION	45
SOURCES	46
CHAPTER 12: EMPLOYMENT EQUITY	46
RATIONALE	46
DISCRIMINATION	46
The Legal Position (463); Implications on Policies, Procedures and Practices in General (464); Implications for Recruitment, Selection and Promotion in Particular (464); Pre-employment Testing (465); Harassment (466); The Inherent Requirements of the Job (466); Fair versus Unfair Discrimination (467)	
AFFIRMATIVE ACTION	48
The Nature of Affirmative Action (481); Problems with Affirmative Action (481); Groups Targeted for Affirmative Action (482); The Legal Position (483); Initiating the Affirmative Action Programme (484); The Equity Plan (486); Implementing Affirmative Action (491); Common Problems Experienced in Implementing Affirmative Action (495)	
CONCLUSION	50
SOURCES	50
CHAPTER 13: BASIC PRINCIPLES OF LABOUR ECONOMICS	51
THE IMPORTANCE OF LABOUR ECONOMICS	5
THE NATURE AND SCOPE OF LABOUR ECONOMICS	5
WAGE AND LABOUR MARKET THEORIES	5
THE FUNCTIONING OF THE LABOUR MARKET	5
Characteristics of the Labour Market (514); The Law of Demand and Supply: A Micro-Economic Analysis (515); Market Equilibrium (516); Shifts in Demand (516); Shifts in Supply (517); Movement to Equilibrium (517); Factors Leading to a Shift in Demand (519); Factors Leading to Shifts in Supply (520); Elasticity of Demand and Supply (521); The Law of Diminishing Returns (525); The Marginal Productivity or Utility of Labour (525)	
THE EFFECT OF COLLECTIVE BARGAINING ON WAGE AND	
EMPLOYMENT LEVELS	52
THE EFFECT OF WAGE DETERMINATIONS ON WAGE AND EMPLOYMENT LEVELS	5:
LABOUR MARKET DISCRIMINATION	5
LABOUR MOBILITY	5
CONCLUSION	5
COLTRORO	_

CHAPTER 14: THE SOUTH AFRICAN LABOUR MARKET: ISSUES AND PROBLEMS	531
THE LABOUR MARKET: PRINCIPLES OF DEMAND AND SUPPLY	533
BALANCING DEMAND AND SUPPLY	533
Labour Market Perfection (533); Labour Market Imperfection: The Major Causes of Unemployment (534); Capital Mobility and the Labour Market (534); Wages and Employment Levels (535); Productivity and the Labour Market (536); Demography and its Effect on the Labour Market (536); Monopsonist Practices (537); The Government and the Labour Market (537)	
UNEMPLOYMENT	538
The Nature of Unemployment (538); Classification (538); Factors Impacting on Employment Levels (539) #	
THE SOUTH AFRICAN LABOUR MARKET	539
The Economy (539); Total Employment (544); Other Variables Affecting Employment Levels in South Africa (547)	
EMPLOYMENT INITIATIVES	552
The Need for an Effective Strategy (552); Initiatives Undertaken (553)	
CONCLUSION	555
JOB CREATION PROPOSALS	556
Government (556); Business (557); Labour (558); Community (559)	
SOURCES	560
CHAPTER 15: TRADITIONAL NEGOTIATION	561
DEFINING THE CONCEPT	563
THE CONTEXT IN WHICH NEGOTIATION OCCURS	564
Environmental Factors (564); Macro-Economic Forces Regulating Negotiation (564); Micro-Economic Factors (566); Public Policy (567); Political Influences (568); Social Influences (568); The Effect of Technological Progress (568); Demographic Influences (569); The Effect of the Press on Negotiations (570)	
EFFECTS OF COLLECTIVE NEGOTIATIONS ON THE ENVIRONMENT	570
VARIABLES INFLUENCING THE NEGOTIATION PROCESS	571
CONFLICT AND POWER IN THE NEGOTIATION PROCESS	571
Sources of Conflict (571); Methods of Handling Conflict (572); The Conflict Dynamic (572); The Use of Power (573)	
QUALITIES OF A GOOD NEGOTIATOR	576
NEGOTIATION CONVENTIONS	576
PREPARING FOR NEGOTIATION	577
Initiating the Negotiation Process (577); Selection of Negotiators (578); Obtaining a Mandate (579); Setting Objectives (579); Identifying the Issues (580); Intra-Organisational Negotiation (580); Information Gathering (581); Testing the Water (583); Delimiting the Area of Negotiation (583); Costing of Contracts (588); Developing Strategies (588); Administrative Arrangements (589)	

THE CONDUCT OF NEGOTIATIONS	589
Stages in the Negotiation Process (589); Opening and Establishing Climate (590); Establishing Positions (590); Feeling Out the Opponent (591); Argument and Counterargument (591); Displaying Commitment (593); Granting Concessions (593); Caucusing (593); Impasses (594); Final Offers or Demands (594); Threats and Bluffs (595); Deadlock (595); Sanctions (595); Closure (595)	
NEGOTIATION MANOEUVRES	596
Deadlines (596); Limited Authority (596); Statistics and Averages (596); Funny Money' (596); Body Language (596); Shock Tactics and Irritants (597); Fatigue (597); Change of Pace (597); Deliberate Errors (597); Changing Negotiators (597); The 'Bad Cop, Good Cop' Syndrome (597); Addressing the Weakest Member (597); The Defence–Attack Spiral (597); Acted Emotions (597); Killing with Kindness (597); Interruptions (598); Red Herrings or Straw Issues (598)	
PROFILE OF A SUCCESSFUL NEGOTIATOR	598
COLLABORATIVE NEGOTIATIONS	599
The Traditional Approach (599); Preconditions for Collaborative Negotiations (599); Initiating Collaborative Negotiations (600); Evaluation (600)	
AGREEMENTS: THE OUTCOMES OF NEGOTIATION	601
Types of Agreement (601); Monitoring Agreements (603); Enforceability of Agreements (604); Withdrawal from an Agreement (604)	
DISPUTES AND INDUSTRIAL ACTION	606
CONCLUSION	606
SOURCES	607
CHAPTER 16: DISPUTE SETTLEMENT	608
LABOUR DISPUTES	611
THE NATURE AND SCOPE OF LABOUR DISPUTES	611
TYPES OF LABOUR DISPUTE	611
Disputes of Right (611); Disputes of Interest (612)	
DISPUTE SETTLEMENT PROÇEDURES	612
The Use of Procedures (612); Establishing Procedures (613); Legislative Procedures (614)	
THE PARTIES TO A LABOUR DISPUTE	615
METHODS OF DISPUTE SETTLEMENT	616
Conciliation (616); Mediation (616); Arbitration (619); The Use of the Various Dispute Settlement Processes (622)	
DISPUTE SETTLEMENT IN SOUTH AFRICA	622
DISPUTE SETTLEMENT IN THE PREVIOUS DISPENSATION	622
The Position before 1979 (622); Changes Implemented from 1979 Onwards (624); Implications of the Changes Introduced (625)	
DISPUTE SETTLEMENT IN TERMS OF THE LABOUR RELATIONS ACT OF 1995	626
Rationale (626): Types of Dispute and Means of Settlement (628): Remedies (638)	

DISPUTE-SETTLING BODIES	639
The CCMA (639); Accredited Bargaining Councils and Private Agencies (643); The Labour Court (643); The Labour Appeal Court (644); Private Procedures (645)	
	645
	646
CHAPTER 17: INDUSTRIAL ACTION	617
	647 649
	649
STRIKE ACTIONSTRIAL RELATIONS	649
Definition of a Strike (649); The Freedom to Strike (650); The Question of	047
Dismissal: The Right to Strike (651); Reasons for Strike Action (652); Classification of Strikes (654); Factors Contributing to the Incidence and Continuation of Strikes (655); The Cost of Strike Actions (658); Handling Strike Action (659); Issues Related to Strike Action (662)	
OTHER EMPLOYEE ACTIONS	663
Go-Slow Actions (663); Overtime Bans (663); The Work-to-Rule (663); Product and Service Boycotts (664); External Pressures (664)	
LOCKOUTS BY THE EMPLOYER	664
STRIKES AND LOCKOUTS IN SOUTH AFRICA	665
The Legal Position (665); Definitions (665); Prohibitions on Strike Action (666); Essential Services (666); Maintenance Services (667); Strike and Lockout Procedures (667); Replacement Labour (669); Payment During Strike Action (669); Picketing (669); Protection from Dismissal (670); Illegal or Unprotected Strikes (675); Dismissal of Unprotected (Illegal) Strikers (676); Secondary or Sympathy Strikes (684); Protest Actions (684)	
CONCLUSION	685
SOURCES	685
CHAPTER 18: INTERGROUP CONFLICT: ANALYSIS AND FACILITATION THE CONFLICT PHENOMENON	686 688
Conflict as Endemic to Relationships (688); Group Formation (688); Intergroup Relationships (688); Intergroup Conflict (689); Power Realities in Intergroup Conflict (689); The Trigger Incident (690)	
VARIABLES DETERMINING CONFLICT LEVELS	690
Sources of Conflict (690); Number of Issues (690); Recognition of Legitimacy (690); Intra-and Intergroup Dynamics (692); Aspirations (692); Size of Threat (692); Uncertainty (692); Common Norms/Standards (692); Reciprocity (693)	
CONFLICT ESCALATION	693
CONFLICT RESOLUTION	694
Resolution Versus Settlement (694); Third-Party Intervention (694); Forms of Third-Party Intervention (694)	
FACILITATING THE RESOLUTION OF CONFLICTS	695
Understanding the Conflict (695); Differing Paradigms (695); Initiating Facilitation (698); Engaging in Joint Problem-Solving (699)	

CONCLUSION	70
SOURCES	70
CHAPTER 19: INDUSTRIAL DEMOCRACY AND WORKERS' PARTICIPATION	70
THE LABOUR RELATIONSHIP AS A SOCIAL PARTNERSHIP	70
THE PRINCIPLES AND PRACTICE OF INDUSTRIAL DEMOCRACY	70
PRINCIPLES OF WORKERS' PARTICIPATION	70
TRADE UNION REPRESENTATION VERSUS WORKERS' PARTICIPATION	70
LEVELS OF PARTICIPATION	70
FORMS OF WORKERS' PARTICIPATION	70
Direct and Indirect Participation (709); Information-Sharing (709); Independent Work Organisation (710); Plant-Level Committees or Councils (711); Joint Decision-making on Supervisory Boards (713); Profit-Sharing Schemes (714); Share Ownership Schemes (714); Cooperative Enterprises (715)	
REASONS FOR INTRODUCING AND SUPPORTING PARTICIPATION	7
THE DISADVANTAGES OF PARTICIPATION	7
The Managerial Perspective (716); Employee Perspective (716); Union Concerns (717)	
IMPLEMENTING A PARTICIPATION SCHEME	7
THE ROLE OF THE STATE IN PARTICIPATION PRACTICES	7
WORKERS' PARTICIPATION IN SOUTH AFRICA	7
The Position in South Africa (720); Workplace Forums (720); Other Initiatives Towards More Participative Systems (723); Share Ownership Schemes (724)	
CONCLUSION	7
SOURCES	7
CHAPTER 20: ORGANISATIONAL CHANGE AND ORGANISATIONAL DEVELOPMENT	7
THE NEED FOR CHANGE	7
Change in the South African Context (728); Symptoms of a Global Shift in Perspective (728); Changes Required of Managers/Employers (729); Changes in Labour Relations Practice and Systems (731); Complexity Management (731); Co-responsibility for Change (732)	
ORGANISATIONAL DEVELOPMENT IN HISTORICAL PERSPECTIVE: TRADITIONAL APPROACHES TO PEOPLE MANAGEMENT	7
The Early Twentieth Century (732); The Industrial Psychologists and the Development of 'Scientific Management' (733); Welfare Capitalism (734); The Bureaucratic Approach (734); The Human Relations School (735); Neo-Humanism: Emphasis on Interactions and the Needs of Employees (735); Critical Evaluation of the Various Approaches (736)	
THE SPECTRUM OF EMPLOYER–EMPLOYEE RELATIONS: VARIATIONS IN ORGANISATIONAL STYLE	7
Fox's Spectrum of Employer-Employee Relations (737); The Work of Purcell and Sissons (738)	

IMPLEMENTING A CHANGE PROCESS	742
Complex Nature of the Change Process (742); Triggers for Change (743); The Change Process (743)	
THE ROLE OF THE INDUSTRIAL RELATIONS CONSULTANT IN ORGANISATIONAL DEVELOPMENT	747
CONCLUSION	748
SOURCES	748
CHAPTER 21: COMPARATIVE INDUSTRIAL RELATIONS	749
THE PURPOSE OF COMPARING SYSTEMS	751
THE ESTABLISHMENT OF AN INDUSTRIAL RELATIONS SYSTEM	751
The Interaction Continuum (751); Employer and Union Position and Strategy (753); Government Interference: The Legislative Framework (754); Ideology (754); Economic Events, Technology, Product Markets, Social Structures and Employment Levels (754); Historical Development of a System (755)	
THE UNITED STATES OF AMERICA	755
Societal Background (755); Legislation (756); Employers and Employers' Organisations (757); Employees and Employees' Organisations (758); Collective Bargaining (759); Workers' Participation (760); Evaluation (760)	
GREAT BRITAIN	76
Societal Background (761); Legislation (762); Employers and Employers' Organisations (765); Employees and Employees' Organisations (765); Collective Bargaining (766); Workers' Participation (767); Evaluation (769)	
GERMANY	769
Societal Background (769); Legislation (771); Employers (772); Trade Unions (772); Collective Bargaining (773); Workers' Participation (774); Evaluation (777)	
YUGOSLAVIA	77
Societal Background (777); Worker Self-Management (779); Trade Unionism and Collective Bargaining (781); Problems Experienced with the System (782); Evaluation (782)	
ZAMBIA	783
Societal Background (783); Legislation (786); The Trade Union Movement (787); The Employer Party (790); Collective Bargaining (791); Workers' Participation (791); Evaluation (791)	
CONCLUSION	79
SOURCES	79

ANNEXURES	79 4
ANNEXURE 1: THE BASIC CONDITIONS OF EMPLOYMENT ACT (ACT 75 OF 1997)	794
Matters Covered by the Act (794); Basic conditions which may not be varied by bargaining council agreements (801); Monitoring and Enforcement (802)	
ANNEXURE 2: THE OCCUPATIONAL HEALTH & SAFETY ACT (ACT 85 OF 1993)	803
Status of the Act (803); Exclusions (803); Advisory Council on Occupational Safety (803); Duties of Employer (803); Duties of Employees (804); Safety Representatives (804); Safety Committees (805); Reporting of Incidents (806); Prohibitions (806); Doctors (806); Inspectors (806); Formal Inquiries (806); Victimisation (807); Offences and Penalties (807)	
ANNEXURE 3: THE UNEMPLOYMENT INSURANCE ACT (ACT 30 OF 1966) AND THE UNEMPLOYMENT INSURANCE CONTRIBUTIONS ACT (ACT 4 OF 2002)	808
Duties of Employers (808); Contributions (808); Benefits (808)	
ANNEXURE 4: THE COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT (ACT 130 OF 1993)	810
Duties of Employers (810); Assessments (810); Claims for Compensation (810); Dependants (811); Appeals (811)	
ANNEXURE 5: RECOGNITION/RELATIONSHIP AGREEMENT	812
ANNEXURE 6: CONSTITUTION OF A WORKPLACE FORUM	820
ANNEXURE 7: GRIEVANCE PROCEDURE	823
ANNEXURE 8: DISCIPLINARY CODE AND PROCEDURE	826
Purpose of Disciplinary Code (826); Categorisation of Transgressions and Actions to be Taken (826); Progressive Action (829); Duration of Warnings (829); Alternatives to Dismissal (829); Counselling (829); Responsibility for Disciplinary Action (829); Taking Disciplinary Action (830); Hearing Pending Dismissal (830); Appeals Against Final Warnings or Decisions to Dismiss (831); Time Limits (832); General (832)	
DISCIPLINARY RECORD CARD	837
ANNEXURE 9: HANDLING A WORK STOPPAGE OR STRIKE	838
A. Preparation (838); B. Guidelines for Handling Work Stoppage/Strike (839); C. Options (841); D. Follow-up Action (842)	
ANNEXURE 10: PICKETING POLICY AND PROCEDURE	84
Statement of Principles (844); Procedure (844)	
INDEX	847